applied to the Social Security Act as well as to the Occupational Safety and Health Act. The 2015 amendments also ''reset'' the inflation calculations by excluding prior inflationary adjustments under the Inflation Adjustment Act and requiring agencies to identify, for each penalty, the year and corresponding amount(s) for which the maximum penalty level or range of minimum and maximum penalties was established (that is, originally enacted by Congress) or last adjusted other than pursuant to the Inflation Adjustment Act. In accordance with section 4 of the Inflation Adjustment Act, agencies were required to: (1) Adjust the level of civil monetary penalties with an initial ''catch-up'' adjustment through an interim final rulemaking (IFR) to take effect by August 1, 2016; and (2) make subsequent annual adjustments for inflation.

In the September 2016 interim final rule, HHS adopted new regulations at 45 CFR part 102 to govern adjustment of civil monetary penalties for inflation. The regulation at 45 CFR 102.1 provides that part 102 applies to each statutory provision under the laws administered by the Department of Health and Human Services concerning civil monetary penalties, and that the regulations in part 102 supersede existing HHS regulations setting forth civil monetary penalty amounts. The civil money penalties and the adjusted penalty amounts administered by all HHS agencies are listed in tabular form in 45 CFR 102.3. In addition to codifying the adjusted penalty amounts identified in § 102.3, the HHS-wide interim final rule included several technical conforming updates to certain agency-specific regulations, including various CMS regulations, to identify their updated information, and incorporate a cross-reference to the location of HHS-wide regulations.

Because the conforming changes to the Medicare provisions were part of a larger, omnibus departmental interim final rule, we inadvertently missed setting a target date for the final rule to make permanent the changes to the Medicare regulations in accordance with section 1871(a)(3)(A) of the Act and the procedures outlined in the December 2004 document. Therefore, in the January 2, 2020 **Federal Register** (85 FR 7), we published a document continuing the effectiveness of effect and the regular timeline for publication of the final rule for an additional year, until September 6, 2020.

Consistent with section 1871(a)(3)(C) of the Act, we are publishing this second notice of continuation extending the effectiveness of the technical conforming changes to the Medicare regulations that were implemented through interim final rule and to allow time to publish a final rule.

On January 31, 2020, pursuant to section 319 of the Public Health Service Act (PHSA), the Secretary determined that a Public Health Emergency (PHE) exists for the United States to aid the nation's healthcare community in responding to COVID–19. On March 11, 2020, the World Health Organization (WHO) publicly declared COVID–19 a pandemic. On March 13, 2020, the President declared the COVID–19 pandemic a national emergency. This declaration, along with the Secretary's January 31, 2020 declaration of a PHE, conferred on the Secretary certain waiver authorities under section 1135 of the Act. On March 13, 2020, the Secretary authorized waivers under section 1135 of the Act, effective March 1, 2020.[1] Effective July 25, 2020, the Secretary renewed the January 31, 2020 determination that was previously renewed on April 21, 2020, that a PHE exists and has existed since January 27, 2020. The unprecedented nature of this national emergency has placed enormous responsibilities upon CMS to respond appropriately, and resources have had to be re-allocated throughout the agency in order to be responsive. Therefore, the Medicare provisions adopted in interim final regulation continue in effect and the regular timeline for publication of the final rule is extended for an additional year, until September 6, 2021.

Wilma M. Robinson,

Deputy Executive Secretary to the Department, Department of Health and Human Services.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 543

[Docket No. NHTSA–2020–0081]

Exemption From Vehicle Theft Prevention Standard; Clarification of Data Submission Requirement

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notification clarifying content requirement for petitions for exemption from vehicle theft prevention standard.

SUMMARY: NHTSA is issuing this notification to aid manufacturers in understanding what type of information must be submitted when petitioning for an exemption from NHTSA's Vehicle Theft Prevention Standard under agency rules.

DATES: September 8, 2020.

FOR FURTHER INFORMATION CONTACT: For programmatic issues: Carlita Ballard, Office of International Policy, Fuel Economy, and Consumer Standards. Ms. Ballard's phone number is (202) 366–5222. Her fax number is (202) 493–2990. For legal issues: Hannah Fish, Office of the Chief Counsel, (202) 366–2992. National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: This informational notification is to clarify the type of information that can serve as a valid basis for granting a request for exemption from the Federal Motor Vehicle Theft Prevention Standard (Theft Prevention Standard). NHTSA is providing this clarification because it has received a few petitions in which the petitioners have sought to support their request for exemption with data comparing the theft rate of a particular vehicle line to the industry median or average vehicle theft rate for a specific model year (MY)/calendar year (CY), or with the 1990/91 median theft rate that is used to determine whether any new light duty truck line is likely to be a high theft line. As discussed below, NHTSA's regulations at 49 CFR 543.6(a)(5) require petitioners to submit information to support their belief that a line of passenger motor vehicles equipped with the antitheft device is likely to have a theft rate equal to or less than that of passenger motor vehicles *of the same, or a similar, line* which have parts marked in compliance with Part 541. This notification does not impose any new requirements for manufacturers seeking exemptions from the parts-marking requirement or otherwise change Part 541.

Under 49 U.S.C. Chapter 331, the Secretary of Transportation (and NHTSA by delegation) is required to promulgate a theft prevention standard to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft. NHTSA promulgated regulations at Part 541 (Theft Prevention Standard) to require parts-marking for specified passenger motor vehicles and light trucks. Pursuant to 49 U.S.C.

[1] *https://www.phe.gov/emergency/news/healthactions/section1135/Pages/covid19-13March20.aspx.*

33106, manufacturers that are subject to the parts-marking requirements may petition the Secretary of Transportation for an exemption for a line of passenger motor vehicles equipped as standard equipment with an antitheft device that the Secretary decides is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements. That chapter defines a ''line'' as ''a name that a manufacturer of motor vehicles applies to a group of motor vehicle models of the same make that have the same body or chassis, or otherwise are similar in construction or design.'' [1] In accordance with this statute, NHTSA promulgated 49 CFR part 543, which establishes the process through which manufacturers may seek an exemption from the Theft Prevention Standard for lines of passenger motor vehicles.

Part 543, *Exemption from Vehicle Theft Prevention Standard,* of 49 CFR specifies the showing that manufacturers must make in a request for exemption from the parts-marking requirement. In relevant part, 49 CFR 543.6(a)(5) requires the petitioner to submit:

> The reasons for [its] belief that the agency should determine that the antitheft device is likely to be as effective as compliance with the parts-marking requirements of part 541 in reducing and deterring motor vehicle theft, including any statistical data that are available to the petitioner and form a basis for the petitioner's belief that a line of passenger motor vehicles equipped with the antitheft device is likely to have a theft rate equal to or less than that of passenger motor vehicles *of the same, or a similar, line* which have parts marked in compliance with part 541. (Emphasis added.)

As discussed above, pursuant to 49 U.S.C. 33106 and 49 CFR 543.8 (b), the agency grants a petition for exemption from the parts-marking requirements of Part 541, either in whole or in part, if it determines that, based upon supporting evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541.

In order to determine whether an exemption is warranted under Part 543, NHTSA must determine the relative effectiveness of a particular antitheft device versus parts marking in reducing vehicle theft. This is because, to make a valid comparison, petitioners must carefully choose two sets of vehicles that are as nearly similar as possible so that NHTSA can be reasonably certain that any differences or similarities in the theft rates of the two sets of vehicles can be attributed to the presence of an antitheft device or parts marking and not to extraneous, confounding variables.

NHTSA publishes data, by notice and on the agency's website, on vehicle theft rates based on information provided by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation.[2] In the notices, NHTSA publishes theft data available for model year vehicles stolen in a calendar year. The data include the average theft rate for MY vehicles in that CY, how that data compare to data from the prior CY, and how that data compare to the established median theft rate for MYs 1990/91,[3] which is used to designate high-theft vehicle lines (now only for light trucks).[4] Those notices also include theft rate data for individual vehicle lines. These data show that theft rates for different vehicle lines vary widely within a CY.

In the past, NHTSA had considered relative theft rate data of a vehicle that is the subject of an exemption petition and one or more models in the same segment, of a similar size, and equipped with similar equipment as an appropriate comparative basis. NHTSA's Vehicle Theft Rates Search tool is one resource that petitioners may use to reference relative theft rate data for a similar line. In addition, petitioners have referenced data from outside sources that has provided comparative theft rate data for the specific line for which the petitioner is requesting an exemption.[5] NHTSA reaffirms today that such relative theft rate data may be persuasive supporting evidence to enable the agency to make a determination that the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. Again, to make a valid comparison, petitioners must carefully choose two sets of vehicles that are as nearly similar as possible so that NHTSA can be reasonably certain that any differences or similarities in the theft rates of the two sets of vehicles can be attributed to the presence of an antitheft device or parts marking and not to extraneous, confounding variables.

Accordingly, a petitioner citing the industry average theft rate for a CY for purposes of determining whether an antitheft device is likely to be as effective as a same or similar vehicle line that has parts marked in compliance with Part 541 is not particularly meaningful for the agency's comparison considering the range of individual vehicle line theft rates; citing the 1990/1991 median theft rate is even less meaningful considering that median theft rate was based on the range of vehicle lines available almost 30 years ago. For this reason, NHTSA will not consider comparisons of the theft rate of the subject vehicle in a petition to the industry-wide median or average theft rate for a specific MY/CY, or to the 1990/91 median theft rate as persuasive evidence when evaluating a request for exemption under Part 543.

NHTSA believes this information will be helpful for manufacturers contemplating how to petition for exemption from the parts-marking requirements of Part 541.

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.8.

Raymond R. Posten,

Associate Administrator for Rulemaking.

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[1] 49 U.S.C. 33101(5). NHTSA's regulations at 49 CFR 541.4 further elaborate that ''A 'line' may, for example, include 2-door, 4-door, station wagon, and hatchback vehicles of the same make.''

[2] *See* National Highway Traffic Safety Administration, Vehicle Theft Prevention, Vehicle Theft Rates Search, *https://www.nhtsa.gov/vehicle-theft-prevention/vehicle-theft-rates-search.*

[3] *See, e.g.,* 82 FR 28246 (June 21, 2017).

[4] 49 CFR 542.1.

[5] This includes data from the Insurance Institute for Highway Safety's Highway Loss Data Institute or other comparative internal confidential or non-confidential data the manufacturer may have.