

inconsequential to safety. Vermeer says that the subject trailers are “used by professional construction companies, not by the general public.” In support, Vermeer cited several decisions NHTSA has published in the past regarding consideration in evaluating inconsequential noncompliance petitions. Vermeer quotes NHTSA as saying that “the issue to consider is the consequence to an occupant who is exposed to the consequence of that noncompliance”<sup>1</sup> and that NHTSA also considers the “specific facts before it in a particular petition”<sup>2</sup> in addition to “whether an occupant who is affected by the noncompliance is *likely to be exposed to a significantly greater risk than an occupant in a compliant vehicle* [emphasis added by Vermeer].”<sup>3</sup>

According to Vermeer, [t]he purpose of the tire placard is informational and not a substantive performance standard, and the missing information is readily available to operators from other sources.” Vermeer notes that along with the required information being readily available in the owner’s manual, the missing information from the tire placard can also be found on the tire sidewalls and rims installed on the subject trailers. Vermeer also notes that another source of the missing information would be *MyVermeer.com*.

Vermeer observes that NHTSA has previously granted inconsequentiality petitions that pertain to a similar noncompliance as the subject petition. These include:

- See Mercedes-Benz USA, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 84 FR 25118 (May 30, 2019);
- See General Motors, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 84 FR 25117 (May 30, 2019);
- See Mercedes-Benz USA, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 82 FR 5640 (January 18, 2017);
- See Volkswagen Group of America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 81 FR 88728 (December 8, 2016);

<sup>1</sup> See General Motors, LLC, Denial of Petition for Decision of Inconsequential Noncompliance, 85 FR 71713 (Nov. 10, 2020); see also General Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance, 69 FR 19897 (Apr. 14, 2004).

<sup>2</sup> See BMW of North America, LLC; Jaguar Land Rover North America, LLC; and Autoliv, Inc.; Decisions of Petitions for Inconsequential Noncompliance, 84 FR 19994 (May 7, 2019) (citing General Motors, LLC., Grant of Petition for Decision of Inconsequential Noncompliance, 81 FR 92963 (Dec. 20, 2016)).

<sup>3</sup> See Cosco Inc.; Denial of Application of Inconsequential Noncompliance, 64 FR 29408 (Jun. 1, 1999).

- See Volkswagen Group of America, Grant of Petition for Decision of Inconsequential Noncompliance, 81 FR 28935 (May 10, 2016);

- See Chrysler Group, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 81 FR 30607 (May 17, 2016);

- See BMW of North America, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 76408 (December 17, 2013);

- See Chrysler Group, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 38443 (June 26, 2013); and

- See Hyundai-Kia America Technical Center, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 38445 (June 26, 2013).

Vermeer emphasized that the operators of the subject trailers “would be experienced with and knowledgeable about these trailers.” Vermeer says that the granting of an inconsequentiality petition submitted by Chrysler Group supports this assertion.<sup>4</sup>

Last, Vermeer contends that the subject trailers meet all of the other requirements with FMVSS No. 110 and that Vermeer “is not aware of any complaints, claims, or incidents related to the subject noncompliance.”

Vermeer concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject trailers that Vermeer no longer controlled at the time it determined that the noncompliance existed.

However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of

<sup>4</sup> See Chrysler Group, LLC, Grant of Petition for Decision of Inconsequential Noncompliance; 81 FR 30607 (May 17, 2016).

the noncompliant trailers under their control after Vermeer notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

**Otto G. Matheke, III,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2022–13078 Filed 6–16–22; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA–2021–0037; Notice 1]

#### BMW of North America, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

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

**ACTION:** Receipt of petition.

**SUMMARY:** BMW of North America, LLC, a subsidiary of BMW AG, Munich, Germany, (collectively “BMW”), has determined that certain Model Year (MY) 2018–2021 BMW K 1600 motorcycles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 123, *Motorcycle Controls and Displays*. BMW filed an original noncompliance report dated March 18, 2021, and, subsequently, BMW petitioned NHTSA on April 9, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of BMW’s petition.

**DATES:** Send comments on or before July 18, 2022.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- **Mail:** Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- **Hand Delivery:** Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal holidays.

- *Electronically*: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.

- Comments may also be faxed to (202) 493-2181.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at <https://www.regulations.gov/> by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477-78).

**FOR FURTHER INFORMATION CONTACT:** Frederick Smith, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-7487.

**SUPPLEMENTARY INFORMATION:**

**I. Overview**

BMW has determined that certain MY 2018-2021 BMW K 1600 motorcycles do not fully comply with the requirements of paragraph S5.2.5 of FMVSS No. 123, *Motorcycle Controls and Displays* (49 CFR 571.123). BMW filed a noncompliance report dated March 18, 2021, pursuant to 49 CFR part 573,

*Defect and Noncompliance Responsibility and Reports*. BMW subsequently petitioned NHTSA on April 9, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of BMW's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

**II. Motorcycles Involved**

Approximately 4,966 MY 2018-2021 BMW K 1600 GTL, B, and Grand America motorcycles manufactured between April 13, 2017, and February 23, 2021, are potentially involved.

**III. Noncompliance**

BMW explains that the noncompliance is that the subject motorcycles are equipped with passenger footrests that fold upward and slightly forward, but not rearward, when not in use, and, therefore, do not fully comply to the requirements specified in paragraph S5.2.5 of FMVSS No. 123.

**IV. Rule Requirements**

Paragraph S5.2.5 of FMVSS No. 123 includes the requirements relevant to this petition. Footrests shall be provided for each designated seating position. Each footrest for a passenger other than an operator shall fold rearward and upward when not in use.

**V. Summary of BMW's Petition**

The following views and arguments presented in this section, "V. Summary of BMW's Petition," are the views and arguments provided by BMW. They have not been evaluated by the Agency and do not reflect the views of the Agency. BMW describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, BMW submitted the following reasoning:

1. *Passenger Footrest Location*: For the MY 2021 BMW K 1600 GTL, the passenger footrest is attached to the mounting bracket and the bracket is bolted to the motorcycle frame. Similar configurations are applicable to the K 1600 B and K 1600 Grand America. There are slight differences in the geometry and mounting locations for the passenger footrest between the K 1600 GTL and the K 1600 B/Grand America.

The mounting locations for the rider footrest are identical, but for the K 1600 GTL, the mounting location for the passenger footrest is higher.

2. *Lean Angle*: The lean angle is the angle that is subtended by the intersection of a plane passing through the longitudinal axis of the motorcycle when it is upright (vertical), and a plane passing through the longitudinal axis of the motorcycle when the motorcycle is at a specific angle (*i.e.*, the lean angle) from upright (vertical).

3. *Ground Contact of Certain Components/Distance to Passenger Footrest*: During a banked turn, although there is no possibility for ground contact to occur with the passenger footrest, an analysis was performed to determine the distance between the passenger footrest and the ground when other motorcycle components contact the ground.

- a. *K 1600 GTL*: While in a banked turn, the first component that could contact the ground would be the rider's footrest at an angle of approximately 39 degrees. At this lean angle, the passenger footrest would be at a distance to the ground of approximately 95.4 mm (3.8 in) in a left lean angle, and approximately 93.9 mm (3.7 in) in a right lean angle.

If the rider continued to increase the lean angle, other components, such as the engine spoiler, or the engine protection guard (if equipped), at approximately 43 degrees, would contact the ground. At this lean angle, the passenger footrest would be at a distance to the ground of approximately 63.3 mm (2.5 in) in a left lean angle, and approximately 61.8 mm (2.4 in) in a right lean angle. The distance-to-ground measurements for the passenger footrest, if it were even possible for the silencer to contact the ground at a lean angle of approximately 46 degrees (left) and approximately 47.9 degrees (right), was calculated, see Table 1 below.

- b. *K 1600 B/K 1600 Grand America*: Similar to the analysis for the K 1600 GTL, analyses were performed for the K 1600 B and the K 1600 Grand America. In a banked turn, if the rider continued to increase the lean angle, there are a number of components that would contact the ground, and at those points, the passenger footrest would be several inches from the ground.

- c. *K 1600 Grand America*: Please note that for the K 1600 Grand America, the rider floorboard and the engine protection guard are standard equipment. While in a banked turn, the first component that could contact the ground would be the rider's floorboard at an angle of approximately 34.5 degrees. At this lean angle, the passenger footrest would be at a

distance to the ground of approximately 85.1 mm (3.4 in) in a left lean angle, and approximately 83.5 mm (3.3 in) in a right lean angle.

If the rider continued to increase the lean angle, the rider’s footrest could contact the ground at an angle of approximately 39 degrees. At this lean angle, the passenger footrest would be at a distance to the ground of approximately 51.1 mm (2.0 in) in a left lean angle, and approximately 49.5 mm (1.9 in) in a right lean angle. If the rider continued to increase the lean angle, the silencer, at approximately 42 degrees, would contact the ground. At this lean

angle, the passenger footrest would be at a distance to the ground of approximately 24.4 mm (1.0 inches) in a left-leaning condition and approximately 18.8 mm (0.7 inches) in a right-leaning condition.

d. *K 1600 B*: While in a banked turn, the first component that could contact the ground would be the rider’s footrest at an angle of approximately 39 degrees. At this lean angle, the passenger footrest would be at a distance to the ground of approximately 51.1 mm (2.0 in) in a left lean angle, and approximately 49.5 mm (1.9 in) in a right lean angle.

If the rider continued to increase the lean angle, the passenger footrest would

be at a distance to the ground of approximately 24.4 mm (1.0 inches) in a left-leaning condition, and approximately 18.8 mm (0.7 inches) in a right-leaning condition.

e. *Summary Table for All Models*: A summary of the measurements is contained in Tables 1 and 2 below. Table 1 includes the motorcycle models, components that were used in the analyses, and the lean angles for the various components. Table 2 contains the distance to the ground of the passenger footrest when specific components are in contact with the ground.

TABLE 1

Model	K 1600 GTL			K 1600 B		K 1600 GA	
	Std/Opt/Acc	Std/Opt/Acc	Std/Opt/Acc	Lean angle left (deg)	Lean angle right (deg)	Lean angle left (deg)	Lean angle right (deg)
Rider Footrest	Std	Std	Std	39	39	39	39
Engine Protection Guard	Opt	Opt	Std	43	43	43	43
Rider Floorboard	Not available	Acc	Std	N/A	N/A	34.5	34.5
LED Auxiliary Light	Opt	Opt	Opt	43	43	43	43
Engine Spoiler	Std	Std	Std	43.5	43.5	43.5	43.5
Gear Lever	Std	Std	Std	42.5	N/A	42.5	N/A
Foot Brake	Std	Std	Std	N/A	43.7	N/A	43.7
Silencer	Std	Std	Std	46	47.9	42	42
Side Stand	Std	Std	Std	46	N/A	43.8	N/A
Center Stand	Std	Opt	Opt	46	46	42.5	42.5
Engine Protector Pad	Std	Std	Std	48.5	47.9	48.5	47.9

TABLE 2

Model	K 1600 GTL				K 1600 B/K 1600 Grand America			
	Lean angle left (deg)	Distance to ground (mm)	Lean angle right (deg)	Distance to ground (mm)	Lean angle left (deg)	Distance to ground (mm)	Lean angle right (deg)	Distance to ground (mm)
Passenger Footrest	39	95.4	39.0	93.9	34.5	85.1	34.5	83.5
	43	63.3	43.0	61.8	39.0	51.1	39.0	49.5
	46	39.3	47.9	22.5	42.0	24.4	42.0	18.8

4. *Test Rides to Assess Component Contact with Ground*: Test rides were conducted with a K 1600 GTL and with a K 1600 Grand America to evaluate the issue in a dynamic/real-world environment. Brief on-board videos were taken to provide a close-up view of certain components prior to, and at, contact with the Ground.

a. *K 1600 GTL*: When the rider is performing a banked turn and is just starting to increase the lean angle, at this point no component has contacted the ground. As the angle increases, the rider achieves an angle where the rider’s footrest first starts to contact the ground and is evident by white “sparks” as a result of the contact. At this point, the passenger footrest is still approximately several inches from the ground.

b. *K 1600 B/Grand America*: A similar video for the K 1600 Grand America depicts a similar condition. As the rider increases the lean angle in a banked turn, the rider’s footrest will eventually contact the ground and, at that point, the passenger footrest is still approximately several inches from the ground.

5. *Conclusion*: While in a banked turn, there is no possibility for the passenger footrest to contact the ground. If the lean angle is increased, there are a number of motorcycle components that would contact the ground and, at those points, the passenger footrest is still approximately several inches from the ground.

6. *Field Experience*: BMW has not received any complaints from vehicle

owners and is not aware of any accidents or injuries that have occurred as a result of this issue.

7. *Vehicle Production*: Vehicle production has been corrected to conform to paragraph S5.2.25 of FMVSS No. 123.

BMW concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of

inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that BMW no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after BMW notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

**Otto G. Matheke, III,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### Bureau of Transportation Statistics

[Docket ID Number DOT–OST–2014–0031]

#### Agency Information Collection: Activity Under OMB Review; Part 249, Preservation of Records

**AGENCY:** Office of the Assistant Secretary for Research and Technology (OST–R), Bureau of Transportation Statistics (BTS), DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for reinstatement of an expired collection. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 25, 2022 (87 FR page 17136). DOT received a comment from an individual stating that DOT should continue to require air carriers to retain paper complaint forms and submit the forms to DOT's Bureau of Transportation Statistics (BTS) because the online DOT form is insufficient. We note that this PRA action pertains only to how long air carriers must retain certain records, including any complaints received. DOT is not in any way through this PRA

action affecting the ability of persons to file a complaint against an air carrier. The comment has been referred to the DOT Office of Aviation Consumer Protection for evaluation.

**DATES:** Written comments should be submitted by July 18, 2022.

**FOR FURTHER INFORMATION CONTACT:** Jeff Gorham, Office of Airline Information, RTS–42, Room E34–414, OST–R, BTS, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, Telephone Number (202) 366–4406, Fax Number (202) 366–3383 or EMAIL [jeff.gorham@dot.gov](mailto:jeff.gorham@dot.gov).

*Comments:* Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

#### SUPPLEMENTARY INFORMATION:

*OMB Approval No.:* 2138–0006.

*Title:* Preservation of Air carrier Records—14 CFR part 249.

*Form No.:* None.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Certificated air carriers and charter operators.

*Number of Respondents:* 89 certificated air carriers and 280 charter operators.

*Estimated Time per Response:* 3 hours per certificated air carrier, 1 hour per charter operator.

*Total Annual Burden:* 547 hours.

This collection needs a new OMB control number as it was previously and erroneously entered into ROCIS as a generic collection.

*Needs and Uses:* Part 249 requires the retention of records such as: general and subsidiary ledgers, journals and journal vouchers, voucher distribution registers, accounts receivable and payable journals and ledgers, subsidy records documenting underlying financial and statistical reports to DOT, funds reports, consumer records, sales reports, auditors' and flight coupons, air waybills, etc. Depending on the nature of the document, the carrier may be required to retain the document for a period of 30 days to 3 years. Public charter operators and overseas military personnel charter operators must retain documents which evidence or reflect deposits made by each charter participant and commissions received by, paid to, or deducted by travel agents, and all statements, invoices, bills and receipts from suppliers or furnishers of goods and services in connection with

the tour or charter. These records are retained for 6 months after completion of the charter program.

Not only is it imperative that carriers and charter operators retain source documentation, but it is critical that we ensure that DOT has access to these records. Given DOT's established information needs for such reports, the underlying support documentation must be retained for a reasonable period of time. Absent the retention requirements, the support for such reports may or may not exist for audit/validation purposes and the relevance and usefulness of the carrier submissions would be impaired, since the data could not be verified to the source on a test basis.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

*Comments are invited on:* whether the proposed record retention requirements are necessary for the proper performance of the functions of the Department. Comments should address whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 21, 2022.

**William Chadwick Jr.,**

*Director, Office of Airline Information,  
Bureau of Transportation Statistics.*

[FR Doc. 2022–13113 Filed 6–16–22; 8:45 am]

**BILLING CODE 4910–9X–P**