

**. The copy of any such protest must be received in the offices designated above on the same day a protest is filed with the GSBGA, or within 1 day of filing a protest with the GAO.

(End of Provision)

852.236-76 [Amended]

104. In 852.236-76 in the last line in the clause, remove the word "station" and add in its place, the word "facility".

852.236-82 [Amended]

105. In 852.236-82 in the clause titled Supplement I (Jan. 1988), in paragraph (6)(ii), remove the words "the VA" and add in their place, the word "VA".

852.236-83 [Amended]

106. a. In 852.236-83 in paragraph (a)(2)(ii) in the clause titled Payments Under Fixed-Price Construction Contracts (Apr 1984), remove the words "NAS (Network Analysis System)" and add in their place, the words "Network Analysis System (NAS)".

b. In 852.236-83 in paragraph (6)(iii) of the clause titled Supplement I (Jan. 1988), remove the words "the VA" and add in their place, the word "VA".

852.236-89 [Amended]

107. In 852.236-89 in the introductory text, and in paragraphs (b), (c), and (d) of the clause, remove the words "the VA" and "the VA's" wherever they appear and add in their place, the words "VA" and "VA's", respectively.

PART 853—[AMENDED]

853.000 [Amended]

108. In 853.000 remove the words "the VA" wherever they appear and add in their place, the word "VA".

853.107 [Amended]

109. In 853.107 remove the word "obtain" and add in its place, the word "obtained".

PART 870—[AMENDED]

110. In part 870, in the heading of subchapter I, remove the word "AGENCY" and add in its place, the word "DEPARTMENT".

870.111 [Amended]

111. In 870.111-5(a) remove the words "USDA (U.S. Department of Agriculture)" and add in their place, the words "U.S. Department of Agriculture (USDA)", and in paragraph (b) remove the words "USDC (U.S. Department of Commerce)" and add in their place, the words "U.S. Department of Commerce (USDC)".

870.112 [Amended]

112. In 870.112(b) remove the words "Date Management and Telecommunications" and add in their place, the words "Information Resources Operations".

870.113 [Amended]

113. In 870.113(b)(4) remove the words "the VA" and add in their place, the word "VA".

870.114 [Amended]

114. In 870.114-3 in the introductory text, remove the words "Director, Engineering Service (10A4A5)" and add in their place, the words "Director, Facilities Engineering Service (085E)".

870.114-4 [Amended]

115. In 870.114-4 remove the words "Engineering Service (10A4A5)" and add in their place, the words "Facilities Engineering Service (085E)".

PART 871—[AMENDED]

871.101 [Amended]

116. In 871.101 remove the word "chapter" and add in its place, the word "Chapter".

871.201-3 [Amended]

117. In 871.201-3 remove the word "department" and add in its place the word "administration".

871.206 [Amended]

118. In 871.206 remove the word "chapter" and add in its place, the word "Chapter".

[FR Doc. 89-22948 Filed 9-28-89; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107, 171, 172, 173, 174, and 178

[Docket No. HM-189H, Amdt. Nos. 107-21, 171-107, 172-120, 173-219, 174-67, 178-95]

Hazardous Materials Regulations; Editorial Corrections and Clarifications

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This amendment corrects editorial errors and makes minor regulatory changes to the Hazardous Materials Regulations (HMR). This action is necessary to reduce misunderstandings of the HMR. The intended effect is to promote accuracy of the HMR. These amendments are

minor regulatory changes which will not impose any new requirements on persons subject to the HMR.

EFFECTIVE DATE: September 29, 1989.

FOR FURTHER INFORMATION CONTACT: Jacquelyn F. Smith, Standards Division, Office of Hazardous Materials Transportation, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, Telephone (202) 366-4488.

SUPPLEMENTARY INFORMATION: In its maintenance of the HMR, RSPA performs an annual review of the regulations to detect errors which may be causing confusion to users. Inaccuracies detected in title 49, Code of Federal Regulations (49 CFR), parts 100 through 199, revised as of October 1, 1988, include typographical errors, incorrect references to other rules and regulations in the CFR, and misstatements of certain regulatory requirements. Additionally, in response to inquiries which RSPA received concerning the clarity of particular requirements specified in the HMR, changes are made which should reduce uncertainties.

Since these amendments do not impose new requirements, notice and public procedure are unnecessary. For the same reason, these amendments are effective without the customary 30-day delay following publication. This will allow the changes to appear in the next revision of 49 CFR.

The RSPA has determined that this rule, as promulgated, is not a major rule under the terms of Executive Order 12291 or significant under DOT implementing procedures (44 FR 11034). A final regulatory evaluation and environmental assessment were not prepared, as these amendments are not substantive changes to the HMR.

Based on limited information available concerning the size and nature of entities likely to be affected by these amendments, I certify that these amendments will not, as promulgated have a significant economic impact on a substantial number of small entities.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The following is a section-by-section summary of the amendments:

Appendix to Subpart B of Part 107

The title of the contact, name of the office, and daytime telephone number for "Motor Carriers" is changed to read: "Chief, Hazardous Materials Division, Office of Motor Carrier Field Operations, Federal Highway Administration, Department of Transportation, Washington, DC 20590. Day (202) 366-4415 and Night (202) 267-2100".

Section 171.3

In paragraph (b)(1), third line "\$ 397.21" is corrected to read "\$ 390.21".

Section 171.8

In the definition of "Organic Peroxide", the section cite is corrected to read "\$ 173.151a".

Section 172.101

In the Hazardous Material Table, the entries "Isopropyl mercaptan" and "Propyl mercaptan", under column 3(A), the identification number is corrected to read "NA2402". A space is added in the entry "Poisonous liquid organs, flammable, n.o.s" between "or" and "gas". The entry "Sodium Nitrate bags. See Bags, sodium nitrate, empty and unwashed" is removed. The extra hyphen in column 3 of the entry "Sulfur molten". "ORM-C", is removed, and the entry is corrected to read "ORM-C". The entry "Thinner for rust preventive coating. See Rust preventing coating" is corrected to read "Thinner for rust preventive coating. See Paint related material". The first parenthesis in the entry (mono-(Trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetrione, dry" is removed. The entry is corrected to read "mono-(trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetrione, dry". The entry "Ethyl phosphonothioic dichloride, anhydrous" is removed to place the entry in proper alphabetical sequence. The entry "Ethyl phosphonothioic dichloride, anhydrous" is added immediately following the entry "Ethyl phenyl dichlorosilane".

§ 172.101 Appendix, "List of Hazardous Substances and Reportable Quantities"

The asterisk indicating that "hexachlorobutadiene" is also listed in the § 172.101 Hazardous Materials Table is removed.

Part 173, Table of Contents, Subpart H, Section 173.386.

In the heading for § 173.386, the word "Etiologic" is corrected to read "Etiologic".

Section 173.6

In paragraph (c), line 3, one of the "\$" signs before "\$ 172.101" is removed. In paragraph (c), line 3, the word "and" and the cite "173.1020" are removed.

Section 173.104

In paragraph (c), line 7, the words "FUSE, MILD DETONATING, METAL CLAD—HANDLE CAREFULLY or" are added between the words "CAREFULLY" and "or" to read: "CORD, DETONATING—HANDLE CAREFULLY" or "FUSE, MILD DETONATING, METAL CLAD—HANDLE CAREFULLY" or "FLEXIBLE LINEAR SHAPED CHARGES, METAL CLAD—HANDLE CAREFULLY".

Section 173.242

In paragraph (b), line 13, the word "strenght" is corrected to read "strength".

Section 173.247

In paragraph (a), line 11 the word "acetic" is corrected to read "acetyl".

Section 173.249

In the heading, lines 2 and 3, the words "alkaline corrosive battery fluid" are deleted. In paragraph (a), lines 2 and 3, the words "alkaline corrosive battery fluid" are removed.

Section 173.249a

In the heading, line 4, the word "or" is added between the words "compound" and "mixture" to read "compound or mixture".

Section 173.272

In paragraph (b), the "(b)" is corrected to read "(1)", and "(b)" is reserved.

Section 173.306

In paragraph (d)(2), line 3, the word "liqueified" is corrected to read "liquefied".

Section 173.353a

In paragraph (a), line 5, "\$ 173.353a" is corrected to read "\$ 173.353".

Section 173.373

In the heading, "Ortho-nitroaniline and paranitroaniline" is corrected to read "Nitroaniline, ortho or para". In paragraph (a), lines 1 and 2, the words "Ortho-nitroaniline and paranitroaniline" is corrected to read "Nitroaniline, ortho or para".

Section 173.403

In paragraph (i), line 5, the typographical error "wh9ch" is corrected to read "which".

Section 174.104

In paragraphs (c), (d), and (f) all references to "\$ 215.15" are corrected to read "\$ 215.11".

Section 178.51-15

Paragraph (b), line 4, remove the comma between the words "inches, provided" and add a semicolon, to read "inches; provided".

Section 178.115-3

In the table in paragraph (b), under the column entitled "Gauge No.", on the third line, "30" is corrected to read "20".

Section 178.210-12

In paragraph (a), the symbol appearing in the rectangle is corrected to read "DOT-12A***".

Section 178.224-2

Paragraph (d), line 4, the word "as" is corrected to read "at".

List of Subjects**49 CFR Part 107**

Hazardous Materials, Program procedures.

49 CFR Part 171

Hazardous materials transportation, General information, Incorporation by reference, Definitions.

49 CFR Part 172

Hazardous materials transportation, Hazardous materials tables.

49 CFR Part 173

Hazardous materials transportation, Packagings.

49 CFR Part 174

Hazardous materials transportation, Carriage by rail.

49 CFR Part 178

Hazardous Materials, Shipping container specifications.

In consideration of the foregoing 49 CFR parts 107, 171, 172, 173, 174, and 178 are amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 continues to read as follows:

Authority: 49 App. U.S.C. 1421(c); 49 U.S.C. 1802, 1806, 1808-1811; 49 CFR 1.45 and 1.53, and Pub. L. 89-670 (49 App. U.S.C. 1653(d), 1655).

Appendix B—[Amended]

2. Under appendix A to subpart B, in part 107, the paragraph under the heading "Motor Carriers" is revised to read as follows: "Chief, Hazardous

Materials Division, Office of Motor Carrier Field Operations, Federal Highway Administration, Department of Transportation, Washington, DC 20590. Day (202) 366-4415 and Night (202) 267-2100."

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

3. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR part 1.

§ 171.3 [Amended]

4. In paragraph (b)(1) of § 171.3, the citation "§ 397.21" is changed to read "§ 390.21".

§ 171.8 [Amended]

5. In the entry for "Organic Peroxide" in § 171.8, the cite "§ 173.151" is changed to read "§ 173.151a".

PART 172—HAZARDOUS MATERIALS TABLES, HAZARDOUS MATERIALS COMMUNICATIONS REQUIREMENTS AND EMERGENCY RESPONSE INFORMATION REQUIREMENTS

6. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. App. 1803, 1804, 1808; 49 CFR part 1.

7. In § 172.101, the Hazardous Materials Table is amended by revising, in appropriate alphabetical sequence, the entries listed below:

§ 172.101 HAZARDOUS MATERIALS TABLE

(1) +/ A/ W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard Class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging		(6) Maximum net quantity in one package		(7) Water Shipments						
					(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other Requirements				
					REVISED Ethyl phenyl dichlorosilane.	Corrosive material.	UN 2435	Corrosive.....	None	173.280	Forbidden.....	10 gallons	1	5	
					Ethyl phosphonothioic dichloride, anhydrous.	Corrosive material.	NA 1760	Corrosive.....	173.244	173.245 173.245a	1 quart.....	1 quart.....	1	4	
Isopropyl mercaptan.....	Flammable liquid.	NA 2402	Flammable liquid.	None	173.141	Forbidden.....	10 gallons	1,3	5						
mono-(Trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetrione, dry (containing over 39% available chlorine).	Oxidizer	NA 2468	Oxidizer	173.153	173.217	50 pounds.....	100 pounds..	1,3	1,3						
Poisonous liquid or gas, flammable, n.o.s.	Poison A.....	NA 1953	Poison gas and Flammable gas.	None	173.328	Forbidden.....	Forbidden.....	1	5	Segregation same as for flammable gas.					
Propyl mercaptan	Flammable liquid.	NA 2402	Flammable liquid.	None	173.141	Forbidden.....	10 gallons	1,2	5						
Sulfur, molten.....	ORM-C	NA 2448	None.....	173.505	173.1080	Forbidden.....	Forbidden.....	1	1	Stow away from oxidizers and living quarters.					
REVISE Thinner for rust prevention. See Paint related materials.															

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

8. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR part 1.

PART 173—[AMENDED]

9. Under the subpart H heading in the table of contents for § 173.386,

"Etiologic" is changed to read "Etiologic".

§ 173.6 [Amended]

10. In paragraph (c) of § 173.6, one of the "\$" signs before "§§ 172.101" and the reference "and 173.1020" are removed.

§ 173.104 [Amended]

11. In paragraph (c) of § 173.104, in the second sentence, revise the marking to read: "CORD, DETONATING—HANDLE CAREFULLY" or "FUSE.

MILD DETONATING, METAL CLAD—HANDLE CAREFULLY" or "FLEXIBLE LINEAR SHAPED CHARGES, METAL CLAD—HANDLE CAREFULLY".

§ 173.242 [Amended]

12. In paragraph (b) of § 173.242, in the second sentence, the word "strenght" is changed to read "strength".

§ 173.247 [Amended]

13. In paragraph (a) of § 173.247, the words "trimethyl acetic chloride" are

changed to read "trimethyl acetyl chloride".

§ 173.249 [Amended]

14. In the heading of § 173.249, the words "alkaline corrosive battery fluid;" are removed.

a. In paragraph (a) of § 173.249, the words "alkaline corrosive battery fluid;" are removed.

§ 173.249a [Amended]

15. In the heading of § 173.249a, the word "or" is added between the words "compound" and "mixture" to read "compound or mixture".

§ 173.272 [Amended]

16. In paragraph (b), the designation (b) is correctly designated as (1), and (b) is reserved.

§ 173.306 [Amended]

17. In paragraph (d)(2) of § 173.306, the word "liquefied" is corrected to read "liquified".

§ 173.353a [Amended]

18. In paragraph (a) of § 173.353a, the reference "§ 173.353a" is changed to read "§ 173.353".

§ 173.373 [Amended]

19. The heading of § 173.373 is revised to read "Nitroaniline, ortho or para".

a. In the introductory text to paragraph (a) of § 173.373, the words "Ortho-nitroaniline and paranitroaniline" are changed to read "Nitroaniline, ortho or para".

§ 173.403 [Amended]

20. In paragraph (i) of § 173.403, the typographical error "wh9ch" is changed to read "which".

PART 174—CARRIAGE BY RAIL

21. The authority citation for part 174 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR part 1.

§ 174.104 [Amended]

22. In paragraphs (c), (d), and (f) of § 174.104 all references to "§ 215.15" and "49 CFR 215.15" are changed to read "§ 215.11" and "49 CFR 215.11", respectively.

PART 178—SHIPPING CONTAINER SPECIFICATIONS

23. The authority citation for part 178 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR part 1, unless otherwise noted.

§ 178.51-15 [Amended]

24. Paragraph (b) of § 178.51-15, in the first sentence, remove the comma

between the words "inches, provided" and add a semicolon, to read "inches; provided".

§ 178.115-3 [Amended]

25. In the table in paragraph (b) of § 178.115-3, in the third entry under the column entitled "Gauge No.", "30" is changed to read "20".

§ 178.210-12 [Amended]

26. Paragraph (a) of § 178.210-12, the symbol appearing in the rectangle is changed to read "DOT-12A***".

§ 178.224-2 [Amended]

27. Paragraph (d) of § 178.224-2, in the first sentence, the words "taken as random" are changed to read "taken at random".

Issued in Washington, DC, on September 26, 1989, under the authority delegated in 49 CFR part 1.

Travis P. Dungan,
Administrator, Research and Special
Programs Administration.

[FR Doc. 89-23086 Filed 9-28-89; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 591

[Docket No. 89-5; Notice 2]

RIN 2127-AD00

Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards

AGENCY: National Highway Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to adopt procedures that will govern the importation of motor vehicles and equipment subject to Federal safety standards on and after January 31, 1990. This rule supersedes the existing joint regulation of the Departments of Treasury and Transportation on this subject, 19 CFR 12.80, which has been in effect since 1968. In most instances, the new rules are mandated by the Imported Vehicle Safety Compliance Act of 1988, and primarily affect importation of motor vehicles not manufactured to comply with the Federal motor vehicle safety standards. Requirements concerning vehicles and equipment that conform to the Federal safety standards, and nonconforming equipment, remain unchanged.

The Supplementary Information of this notice contains a full discussion of the present regulation, the proposal, and

the changes made in response to that proposal.

DATE: The effective date of the final rule is January 31, 1990.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA, (202-366-5263).

SUPPLEMENTARY INFORMATION: Although NHTSA provided a full discussion of the proposed amendments in its prior proposal, it is repeating much of that discussion in this notice because of the major changes that the rule occasions, and the need that interested persons be fully informed as to the changes and their effect upon importation procedures that have been in effect for over 20 years.

On October 31, 1988, the President signed Public Law 100-562, the Imported Vehicle Safety Compliance Act of 1988 ("the 1988 Act"). Notice of its enactment was published by the agency in the *Federal Register* on December 5, 1988 (53 FR 49003), and a notice of proposed rulemaking to establish Part 591 was published on April 25, 1989 (54 FR 17772). As the notice stated, the 1988 Act amends those provisions of the National Traffic and Motor Vehicle Safety Act of 1966 ("the Vehicle Safety Act") that relate to the importation of motor vehicles subject to the Federal motor vehicle safety standards (section 108(b), 15 U.S.C. 1397(b)).

Specifically, the 1988 Act revokes sections 108(b)(3), and (b)(4) of the Vehicle Safety Act, effective January 31, 1990. These sections authorized the issuance of regulations jointly by the Secretaries of Transportation and Treasury to prohibit the importation of motor vehicles and equipment not complying with the Federal motor vehicle safety standards, except under such terms and conditions as may appear to them appropriate to ensure that a noncomplying vehicle or equipment item will be brought into conformance or will be exported or abandoned to the United States. The temporary admission of nonconforming used vehicles and equipment items by exempted persons was also permitted. Pursuant to this authority, the two Secretaries issued an implementing regulation, 19 CFR 12.80, which has governed the importation of merchandise subject to Federal motor vehicle safety standards since 1968, and will continue to do so through January 31, 1990.

Under the 1988 Act, new sections (c) and (j) are added to section 108 to replace revoked sections (b)(3) and (b)(4). The authority to issue joint regulations is replaced by a rulemaking

authority vested alone in the Secretary of Transportation (and delegated to NHTSA through existing delegations of authority).

The purpose of this notice is to promulgate a final rule to implement the 1988 Act, and to explain how importation of motor vehicles and equipment will be affected by this new authority. First, the existing regulation, 19 CFR 12.80, will continue to be a regulation under the joint authority of the two Departments with respect to the importation provisions of the Motor Vehicle Information and Cost Savings Act under which the Bumper Standard (49 CFR part 581) and the Theft Prevention Standard (49 CFR part 541) were issued. With respect to the Vehicle Safety Act, however, the new NHTSA regulation, 49 CFR part 591, will become the primary importation regulation, and 19 CFR 12.80 will become the conforming regulation of the U.S. Customs Service. In the future, substantive changes to importation procedures will be effected by NHTSA alone, through amendments to part 591, and Customs will make conforming amendments to 19 CFR 12.80, as required.

A similar relationship presently exists between regulations of the Environmental Protection Agency ("EPA") and Customs (*see, respectively*, 40 CFR 85.1501 *et seq.* and 19 CFR 12.73). This relationship has established a precedent for Customs to amend its regulations without notice and opportunity for comment on the basis that full notice and opportunity had been offered by EPA in promulgating its regulations, and that the amendments by Customs were merely conforming in nature (*See* 53 FR 26240).

In establishing part 591, NHTSA has attempted to formulate a program that will ensure that all imported motor vehicles conform to the Federal motor vehicle safety standards without imposing unnecessary burdens on importers. Therefore, NHTSA has tried in this rule to impose only those requirements that are mandated by the 1988 Act, with amplifications only where it appeared necessary to implement the safety intent of the statute.

In response to the proposal published on April 25, 1989, NHTSA received 19 written comments, and, as well, several inquiries by telephone. Seven comments were received from the following motor vehicle manufacturers: BMW of North America, Freightliner Corp., Austin Rover Cars of North America, General Motors Corp., Volkswagen of America, Ford Motor Co., and Chrysler Corp. Five comments were received from the following manufacturing firms in

Canada: Intercontinental Truck Body Ltd., Barber Industries Ltd., Canade Co., Western-Hydro Air Drilling Ltd., and Canterra Equipment Inc. Also commenting from Canada was an import/export consulting firm, All Alta. Agencies Ltd. Two comments were received from importers of vehicles not originally manufactured to conform to Federal motor vehicle safety standards: U.S. Trade Corp. and Auburn Motors/Superior Auto Sales (whose submission was supported by the National Federation of Independent Businesses). Two comments were received from trade organizations: National Automobile Dealers Association and The Dealer Action Association. Written comments were submitted by the State of Texas, and a private citizen, George Ziolo. During the pendency of the rulemaking action, questions were raised in telephone conversations, reported to the Docket, and these will be addressed to this notice where appropriate.

The principal paragraphs of part 591 are those dealing with the importer's declarations (§ 591.5), documents accompanying declarations (§ 591.6), and restrictions upon importation and bond requirements (§ 591.7). As paragraphs 591.6 and 591.7 relate directly to paragraph 591.5, issues that were raised in connection with them will be discussed in the appropriate portions of paragraph 591.5.

Importation of Motor Vehicles

Under existing § 12.80, a motor vehicle offered for importation into the United States is admitted pursuant to one of nine declarations regarding the status of the vehicle in relation to the motor vehicle safety and bumper standards (§ 12.80 is in the process of being amended to incorporate reference to the theft prevention standard). The requirements of the 1988 Act affect some of these declarations, and establish new exceptions. A discussion of these changes follows.

1. The Vehicle is Not a "Motor Vehicle"

Under 19 CFR 12.80(b)(1)(viii), a vehicle is not required to be brought into compliance if it is not a motor vehicle as defined by the Vehicle Safety Act, *i.e.*, if it is not "designed primarily for use on the public streets, roads, and highways" (15 U.S.C. 1391(3)). Because of the uncertainty regarding certain types of vehicles (*e.g.*, golf carts, construction equipment) NHTSA has required that all importers of self-propelled wheeled vehicles execute a declaration, which has allowed the agency to review the status of vehicles for which an exemption is claimed, and to require re-

entry as a nonconforming vehicle when it disagrees with the importer's assessment that the vehicle is not subject to the Federal motor vehicle safety standards. This exemption remains (paragraph 591.5(a)(i)) because this agency has no jurisdiction regarding non-motor vehicles under the Vehicle Safety Act and the 1988 Act makes no jurisdictional change. There were no comments on this issue.

2. The Vehicle Conforms and is So Certified

Under the existing regulation, a motor vehicle is allowed immediate entry without the posting of bond upon a declaration that it conforms to all applicable Federal motor vehicle safety standards and bears a certification label to that effect permanently affixed by the original manufacturer (§ 12.80(b)(1)(ii)). This same paragraph also allows immediate entry if a vehicle is only technically noncompliant, *i.e.*, because readily attachable equipment items are not attached, but will be installed before the vehicle is offered for sale.

The 1988 Act makes no change affecting this category of importation. The agency interprets the new amendments, however, as imposing new restrictions upon the importation of vehicles that may have been conformed prior to entry but bear a certification by a person other than the original manufacturer. The 1988 Act amends 15 U.S.C. 1397(a)(1)(A) to add the words "and is covered by a certification issued under section 114" as an addition to the existing requirement that a vehicle may not be imported "unless it is in conformity". A certification issued under section 114 is that of the "manufacturer", the entity which is responsible for the original assembly of the vehicle, and not that of a converter, whose operations consist of alterations to a previously assembled vehicle. To reflect this amendment, the agency proposed, and is now adopting, a definition of the term "original manufacturer" (paragraph 591.4) which excludes converters outside the United States who certify and conform vehicles to the standards after the vehicles have been manufactured in fully assembled form by a person other than the converter. The agency believes that the 1988 Act justifies this interpretation. The definition was specifically supported by The Dealer Action Association. An interpretation that would allow entry of a vehicle pursuant to a declaration of conformity and a certification by a person other than its original manufacturer could well result in the importation of vehicles for which the

Administrator had made no determination of capability of modification to meet Federal standards, and defeat the purpose of the 1988 Act. However, even if the converted vehicle is one that the Administrator has deemed eligible for entry and is certified as conforming by its converter, under part 591 it must enter the country only through a registered importer (or through one who has a contract with a registered importer), under bond, and its compliance must be established after entry in accordance with the new procedures.

One commenter, U.S. Trade Corp., though headquartered in the U.S., apparently owns a conversion facility in Germany. Assuming that it will become a registered importer, it commented that it ought to be able to import its converted vehicles without bond, provided that it submitted documentation to NHTSA 30 days in advance of the arrival of its vehicles. NHTSA Notes, however, that these are vehicles imported pursuant to 15 U.S.C. 1397(c)(3), and paragraph (c)(2) specifically requires a bond to be furnished "in the case of any motor vehicle imported under paragraph (3) * * *". Though sympathetic to U.S. Trade Corp.'s desire for expedited treatment, NHTSA believes that it is contrary to the 1988 Act for it to receive certification from an importer in advance of the arrival of a vehicle. Section 1397(c)(3)(E)(i) allows a registered importer to release custody of a vehicle 30 days after certification to the Secretary (if the Secretary has not in the interim demanded an inspection of the vehicle). Acceding to U.S. Trade Corp.'s request for early submission of certification could result in the 30-day period expiring before arrival of the vehicle in the U.S., and its immediate release from custody upon entry. NHTSA does not deem it desirable to demand *pro forma* an inspection of each such vehicle to delay its release from custody. Accordingly, it is informing U.S. Trade Corp. and others who are contemplating becoming registered importers that it will not accept certification data in advance of the arrival of a vehicle in the United States, and that the earliest date on which certification documentation may be submitted is the date of the importation declaration. Consequently, a motor vehicle that has been modified by a registered importer after its manufacture and before entry, will be treated as a nonconforming motor vehicle, and subject to the same entry requirements as a nonconforming vehicle.

Although the exclusory language in the definition of "Original manufacturer" remains as proposed, a modification has been made in the preliminary portion which defined the term as "the entity responsible for the original design, engineering, and manufacture of a motor vehicle * * *". Volkswagen commented that the definition was overly restrictive by its inclusion of design and engineering, and recommended a definition that would be consistent with the definition of "manufacturer" in the Vehicle Safety Act (15 U.S.C. 1391(5)). NHTSA concurs with this analysis and recommendation. The agency is aware that on occasion a vehicle manufacturer in one country may contract with a firm in another for design and engineering studies for future production vehicles. Accordingly, the preliminary portion of the final definition reads "the entity responsible for the original manufacture or assembly of a motor vehicle * * *". VW also recommended that the definition include motor vehicle equipment. The agency has not adopted this recommendation, as the amendments of the 1988 Act do not affect motor vehicle equipment.

Other issues regarding interpretations of conformity were raised by commenters. Canadian companies who appeared to be final stage manufacturers, and who were concerned that their vehicles would be treated as "nonconforming" under the amendments, asked for a clarification. The agency wishes to reassure these commenters that the new requirements do not affect final stage manufacturers outside the United States who complete chassis-cabs manufactured and certified in the United States, and certify compliance of the finished vehicle with those U.S. Federal motor vehicle safety standards for which the manufacturer of the chassis-cab has not previously furnished certification. The final stage manufacturer is and remains the "original manufacturer" for purposes of the certification that it furnishes, and vehicles certified by Canadian final stage manufacturers will be admissible as conforming vehicles under new paragraph 591.5(b).

With respect to vehicles certified as conforming to the Canadian motor vehicle safety standards, Auburn Motors/Superior Auto Sales, importers of such vehicles, commented that NHTSA had not addressed the issue of vehicles manufactured to meet the Federal motor vehicle safety standards, but which may not be so certified. In their view, Canadian vehicles do meet the U.S. standards, and special accommodation should be provided for

them. Auburn/Superior cited The Free Trade Act between Canada and the United States in support, as well as a settlement with EPA which was published in the Federal Register on July 8, 1988 (53 FR 25331), which, according to Auburn/Superior recognized the identity of standards. After reviewing Auburn/Superior's comments, NHTSA cannot concur with the conclusion that a special accommodation ought to be made. In many respects, the Canadian standards may be identical, but they also differ in certain other significant respects. For example, the Canadian vehicle lighting standard allows the use of headlamps meeting ECE standards. Federal Motor Vehicle Safety Standard No. 108 does not allow the use of European light sources, or of replaceable bulb headlamps that do not meet stringent environmental standards which are not specified in European regulations. Another example: The Canadian standard on controls and displays requires the use of metric speedometers and odometers; the primary U.S. requirement is that they be in miles per hour, though metric markings are permissible. The fact that similarity exists between the standards of the two nations today does not preclude either the U.S. or Canada from adopting significantly different ones in the future, as allowed by Article 603 of the Free Trade Act, if the demonstrable purpose is to achieve a legitimate domestic objective, such as enhancement of the public safety. The EPA "settlement" cited by Auburn/Superior was, in fact, simply a 3-month conditional stay of the applicability of that agency's new importation regulation, to expire October 1, 1988, based upon a petition for reconsideration of the rule. NHTSA notes that only one Federal standard was involved, engine emissions, and that the Federal safety standards are far greater in number. Even if vehicles certified to the Canadian safety standards do meet U.S. emission requirements, that fact is of no relevance to the quantum of compliance with the U.S. safety standards. A manufacturer's certification attached to a vehicle remains the statutorily approved method of establishing a presumption of compliance with the U.S. safety standards.

A telephone call was received from Barry Wood, a customs broker, about the treatment of reentry into the United States of a used certified vehicle that was driven to Canada for modifications involving the installation of a different load-carrying structure. An associated issue is the treatment of new certified

vehicles sent to Canada for modifications requiring the affixation of an alterer's certificate as required by 49 CFR 567.7. NHTSA replies that the thrust of the 1988 Act is to regulate vehicles that were not originally manufactured to comply with Federal safety standards, and not to ensure continuing compliance of those that were. Assuming that the original manufacturer's certification remains affixed to an altered vehicle, whether that vehicle is new or used, the vehicle should be readmitted to the United States under paragraph 591.5(b) as a conforming vehicle. Of course, the U.S. owner/importer should ensure with the Canadian alterer that its modifications do not result in changes (such as installation of tinted glass that may not conform with Standard No. 205, or an increase in GVWR) that would raise a question of conformity with the U.S. Customs Service, so as to delay reentry, or require its readmission as a nonconforming vehicle in spite of the presence of its certification label.

Ford Motor Company raised the issue of discovery in transit of a noncompliance in vehicles it imports from abroad for sale under its nameplate, but which are manufactured and certified by a second party. Ford stated that part 591 ought to permit importation for modification by Ford as the agent of the foreign manufacturer, and asked that the final rule allow such modifications to be made in the U.S., or confirmation that the rule already allows it. The agency's analysis differs from Ford's although its conclusion should meet Ford's concern. Where a noncompliance is discovered in transit, NHTSA believes that only a technical violation of the Vehicle Safety Act would occur with the importation of a motor vehicle certified as conforming to the safety standards, but in fact known to the importer to be noncompliant with at least one of them. As an importer for resale, Ford becomes the "manufacturer" under the Vehicle Safety Act and responsible for all notification and remedial responsibilities imposed by that Act. Thus, it will be required to file a part 573 Noncompliance Report with NHTSA not later than 5 days after its determination of the existence of the noncompliance. As the Act forbids sale of a nonconforming vehicle, Ford will be under a legal obligation to remedy the noncompliance before it is sold. Provided that the noncompliance is corrected before the vehicles are offered for sale, there would appear to be no harm to the public safety by allowing the importation.

The agency responds similarly to a comment by General Motors. Under the proposal, a technically noncompliant vehicle could be admitted pursuant to the declaration that "the vehicle will conform when readily attachable equipment items carried within it are attached." This represents a slight departure from the current declaration which does not require the equipment items to be carried within the vehicle. GM points out that it may well be that components will be added from domestic sources prior to sale, or arrive from abroad by separate shipments. Because of the importer's legal obligation not to offer a vehicle for sale in a noncompliant condition, it is irrelevant whether or not the equipment items are carried within the vehicle, and NHTSA has eliminated the proposed restriction from the final rule, adopting language virtually identical to that presently existing in § 12.80(b)(1)(ii). GM also suggested that a manufacturer's "agents" be permitted to attach the detached equipment items. Given the fact that the vehicle must fully comply when offered for sale, NHTSA believes that the answer must be a practical one, and that the items may be attached by the manufacturer or the dealer, as appears best.

One further comment regarding paragraph 591.5(b) resulted in minor modifications in the final rule. Under the proposal, the vehicle or equipment item to be imported must bear a certification label or tag affixed by the original manufacturer "to the vehicle or to the equipment item or its container." NADA commented that the language could be construed as allowing certification of vehicles on vehicle containers rather than on the vehicle itself. To meet this concern, NHTSA has placed a comma between the word "vehicle" and the disjunctive "or." In agreement with NADA's suggestion that the paragraph contain an appropriate citation to labeling regulations as is currently done in § 12.80, NHTSA has added the statutory references. This should help clarify that the labeling requirement remains the same in spite of the advent of a new importation regulation.

3. The Vehicle is Intended Solely for Export

A nonconforming vehicle is allowed immediate entry without bond upon the declaration that the importation is solely for purposes of export, and bears a label to that effect § 12.80(b)(1)(iv)). This declaration is allowed pursuant to a specific statutory exclusion in the Vehicle Safety Act, section 108(b)(5). Under the 1988 Act, the section becomes 108(b)(3), but is otherwise unchanged,

and the exclusion remains (Paragraph 591.5(c)). There were no comments on this issue.

4. Nonresident Temporary Importations

If the importer is a nonresident of the United States and is importing the nonconforming vehicle primarily for personal use for a period of 1 year or less, the current regulations allow entry without bond and conformance, but the declaration must also state that the importer will not sell the nonconforming vehicle in the United States during that period § 12.80(b)(1)(v)). There is no similar provision in the 1988 Act.

This provision was intended to benefit two classes of importers. The first class is comprised of U.S. citizens who are between foreign work assignments, and need to use their noncomplying cars while in transit, on home leave, or on temporary assignment in the U.S. The second class of importer is comprised of non-U.S. citizens. They may be Mexican or Canadian residents who use the American roads on an infrequent basis, or citizens of other countries who bring their campers or cars with them to facilitate their vacations in the U.S.

One authority for the previously existing allowance was section 1397(b)(4) which authorized the adoption of regulations allowing the "temporary importation" of noncomplying vehicles or equipment items. This authority has been deleted by the 1988 Act. However, a further authority for the nonresident exemption was the existence of two international treaties to which the United States is a signatory that address the movement of vehicles among various countries (I. Customs Convention on the Temporary Importation of Private Road Vehicles opened for signature June 4, 1954, 8 U.S.T. 2097, T.I.A.S. No. 3943, entered into force December 15, 1957. II. Convention on the Regulation of Inter-American Automotive Traffic, opened for signature December 15, 1943, 61 Stat. 1129, T.I.A.S. No. 1567, entered into force October 29, 1946). NHTSA believes that elimination of the present allowance may be inconsistent with the intent of the treaties, and proposed that it be retained in clarified form, allowing the temporary importation of any vehicle by a nonresident that is registered in a country other than the United States, provided it is for personal use, imported for a period not to exceed one year, will not be resold in the U.S. during that time, and will be exported at the end of that time (Paragraph 591.5(d)).

No commenter disagreed with the concept of temporary importation, though concern was expressed as to the

effect of the requirement. Texas commented that the proposal was unclear whether nonconforming vehicles of Mexican or Canadian registry will continue to be treated as before. This was also the concern of Western Hydro-Air Drilling of Canada, a mineral drilling specialist operating in both the U.S. and Canada using the same units in both countries from time to time. The Dealer Action Association was concerned with the possible sale of nonconforming vehicles by nonresidents, as well as NHTSA's lack of substantive proposals to guard against abuse. It sought to encourage NHTSA to work with Customs to ensure that neither Canada nor Mexico become a "grey market export platform." George Ziolo commented that the phrase "for personal use" should not be adopted as "this includes commercial carriers and may confuse Customs".

The agency believes it must interpret Congressional intent in light of the realities of cross-border traffic, and the existence of treaties and agreements to which the U.S. is a party. Under long-standing NHTSA interpretations, cross-border traffic involved in daily operation in the United States over an extended period of time (as opposed to the casual tourist) is deemed subject to the Vehicle Safety Act and to the Federal motor vehicle safety standards. However, it must defer to the U.S. Customs Service to identify such vehicles, to refuse entry as a nonresident, and then to require entry as a nonconforming vehicle which must be conformed or exported. Because of the substantial nature of cross-border traffic, it is obvious that Customs cannot require a written declaration of every vehicle of Mexican or Canadian registry, and NHTSA's legal interpretation has not been capable of rigorous enforcement. These practical considerations are not changed by the 1988 Act, nor does NHTSA read the 1988 Act as a mandate from Congress to enhance motor vehicle safety by increasing restrictions on the use of Canadian or Mexican vehicles operated in the U.S. To respond to the comment of the Dealer Action Association, the *modus vivendi* with respect to these vehicles has not, as of the present time, resulted in the border countries becoming a grey market export platform to any discernible extent. Given the present low volume of grey market cars expected, less than 3000 per year, it does not appear likely that this is a realistic concern for the near future. As for Mr. Ziolo's comment, NHTSA seeks to retain as much of the presently existing regulatory language as is consistent with

the 1988 Act, and thus has not stricken "for personal use" from the final rule. The agency is not aware of any confusion that use of this term has caused in the existing regulation.

5. The Vehicle Does Not Conform to Federal Safety Standards

This is the category of motor vehicle whose importation is most affected by the 1988 amendments. Under 19 CFR 12.80, a nonconforming vehicle is imported pursuant to a declaration that it will be brought into conformance within 120 days of entry. The importer gives a bond for the production of a statement, after conformance, certifying that the conformance work has been accomplished. The statement describes the conformance work, identifies the conformer, and certifies that the vehicle will not be sold until NHTSA has issued an approval letter to the district director of Customs that the bond may be released. The bond is for the dutiable value of the vehicle § 12.80(b)(1)(iii) and (e).

The 1988 amendments impose criteria which motor vehicles must meet in order to be imported. Under new section 108(c)(3)(A), a vehicle cannot be imported at all (with certain exceptions set out below) unless NHTSA determines that it is capable of modification to meet the Federal safety standards. Determinations may be made on NHTSA's own initiative, or upon petition of any registered importer (see discussion below) or any motor vehicle manufacturer, and will be subject to public comment.

A nonconforming vehicle that is not offered for importation under one of the exceptions discussed herein may be imported under either of the following two scenarios. The first scenario, specified by section 108(c)(3)(A)(i)(I), will involve the making of two determinations: (1) That the nonconforming vehicle is substantially similar to a motor vehicle of the same model year originally manufactured for importation into and sold in the U.S., (and thus in compliance with the safety standards) and (2) that the vehicle is capable of being readily modified to conform.

The second scenario, specified by section 108(c)(3)(A)(i)(II), will arise if the agency does not make a determination of substantial similarity regarding a vehicle. In that case, it will still be permissible to import the vehicle if the agency determines that the vehicle's safety features comply with the U.S. standards, or are capable of being modified to comply with those standards, "based on destructive crash

data or such other evidence" as NHTSA determines is adequate.

Under either scenario, a positive determination regarding a vehicle will permit any registered importer to modify vehicles of the same model covered by the determination.

If the agency makes a negative determination regarding a model's ability to be modified, the agency will be temporarily prohibited from taking up the issue of that model's importability again. If the negative determination was made in response to a petition, section 108(c)(3)(C)(ii) of the Act prohibits the agency from considering a petition regarding the same model of vehicle until at least 3 months after that decision. If the negative determination was made in a proceeding begun at the agency's own initiative, the agency will not be able to make another determination regarding the same model of motor vehicle until at least 3 months after the negative one (section 108(c)(3)(C)(iii)). The agency addresses these matters in companion final rules published simultaneously with this one, part 592, Registered Importers of Vehicles Not Originally Manufactured to Conform to Federal Motor Vehicle Safety Standards, and part 593, Determinations That a Vehicle Not Originally Manufactured to Conform to Federal Motor Vehicle Safety Standards is Eligible for Importation.

Once a vehicle has been determined eligible for importation, it may then be imported by a registered importer who will undertake to conform it with the safety standards (paragraph 591.5(f)(i)). The importer is required by section 108(c)(2) to give a bond to ensure conformance or alternatively to ensure that the vehicle will be exported or abandoned to the United States. The bond is to be not less than the "dutiable value" of the vehicle as determined by the Secretary of the Treasury, and not more than 150 per cent of the "dutiable value." The U.S. Customs Service has recommended that the term "entered value" be used, as under recent changes to its regulations vehicles imported from certain areas may not have duties imposed. It views "entered value" as the equivalent of the statutory term "dutiable value" for purposes of importations of vehicles under part 591. Both NHTSA and Customs view this bond as one that is separate from the general importation bond, which will continue to be required. Further, the statute is interpreted as requiring a separate bond for each vehicle imported. This means that the 1988 Act requires an individual bond to be given for each vehicle imported. A bond is not

blanket in nature, covering any vehicle that may be imported by a registered importer. In other words, the required bond will be of a single entry nature, and not of a continuous nature. The bond is acquired by the vehicle owner. Thus, a Registered Importer may not import a vehicle in which it has no ownership interest.

The new requirements were set forth in proposed § 591.5(f). NADA expressed its general support. General Motors commented that part 591 as proposed did not state the conditions of the bond, nor that the vehicle was being imported under bond for conformance purposes. It recommended eliminating the ambiguity by including a statement of purpose in the declaration required in paragraph 591.5(f), specifically that "the vehicle is being imported under bond to ensure conformance, delivery to the Secretary of the Treasury for export at no cost to the United States, or abandonment to the United States". NHTSA agrees with this comment, and an appropriate addition has been made to the declaration required by paragraph 591.5(f).

Because the bond is given to secure performance to the requirements of the Vehicle Safety Act, rather than to fulfill obligations under Customs' regulations, it will be a bond of the Department of Transportation. No mitigation of the bond is contemplated for vehicles that appear to conform only partially, unlike the practice today. If full conformance is not achieved, the vehicle must be exported, or abandoned to the U.S. If none of these occur, the bond is forfeited. NHTSA has decided that the bond shall be 150% of the entered value of the vehicle, as determined by Customs. The bond must have been obtained prior to, or at the time of, entry of the vehicle, and attached to the declaration form. If the bond is not attached, or in an improper amount, the vehicle will be refused entry.

6. The Vehicle Requires Further Manufacturing Operations

Under new section 108(e), the prohibitions in subsections (a)(1)(A) and (a)(1)(C) shall not apply to any motor vehicle if it requires further manufacturing operations to perform its intended function (as determined under regulations prescribed by the Secretary), and is accompanied at the time of entry by its manufacturer's written statement which indicates the applicable Federal motor vehicle safety standard with which the vehicle does not comply. The corresponding current provision is § 12.80(b)(1)(ix): a vehicle may be imported if it is an "incomplete vehicle" as defined by 49 CFR part 568 Vehicles

Built in Two or More Stages. Under part 568, an incomplete vehicle manufacturer must provide with an incomplete vehicle a document that contains the information specified in paragraph 568.4. With respect to the safety standards, the document must list the specific vehicle types into which the incomplete vehicle may be appropriately manufactured, and, with respect to each standard that applies to each such type, make one of three statements. These statements are (1) that the vehicle when completed will conform to the standard if no alterations are made to the specified components of the vehicle (2) the specific conditions of final manufacture under which the manufacturer specifies that the complete vehicle will conform to the standard, or (3) that conformity with the standard is not substantially affected by the design of the incomplete vehicle, and that the incomplete vehicle manufacturer makes no representation of conformity with the standard. The justification for this exception in § 12.80 has been that the vehicle must conform, and be certified as conforming, upon completion by its final stage manufacturer, and that this is an obligation that exists independent of the importation process which serves to ensure that safety needs are met.

As NHTSA noted in its proposal, the question of the type and extent of manufacturing required for performance of intended function, will, of course, vary. However, the existing requirements for alterers of certified vehicles (paragraph 568.8) afforded a basis for proposing criteria that distinguish between completed vehicles and those that require further manufacturing. Accordingly, NHTSA proposed paragraph 591.5(e), the declaration that "The vehicle or equipment item requires further manufacturing operations to perform its intended function, other than the addition of readily attachable equipment items, or minor finishing operations." By so doing, NHTSA also intended to establish a clear dividing line between entry under the technical nonconformance conditions of paragraph 591.5(b), applicable to completed vehicles, and the greater manufacturing operations required for entry under paragraph (591.5(e)).

Virginia Department of Motor Vehicles asked what are vehicles requiring further manufacturing operations. In commenting on the proposal, The Dealer Action Association found the declaration insufficiently comprehensive to limit its application, and recommended that NHTSA limit this exception to original equipment manufacturers, to enable them to

manufacture vehicles in stages, initially outside the United States, and completion within. NADA commented that the further manufacturing specification should be clearly stated as applying to Part 568-type vehicles which must ultimately comply with Federal safety standards. Freightliner stated that it imports "kits" that are "incomplete vehicles" as defined under part 568, and asked whether it would have to be registered as an importer.

NHTSA has carefully considered these comments. The question raised by Virginia is, of course, fundamental to this provision. The proposal indicated that at a minimum the term included vehicles fitting the definition of "incomplete vehicle" in part 568. This conclusion is reinforced by reading *in pari passu* the definitions of both "completed vehicle" and "incomplete vehicle" established by part 568, definitions that are mutually exclusive. If a vehicle is not incomplete, it is complete. Therefore a vehicle requiring further manufacturing operations to perform its intended function is an "incomplete vehicle" as defined by part 568.

The issue raised by The Dealer Action Association is whether importation under this provision can be limited to original equipment manufacturers. No such limitation appears upon the face of the statute. The thrust of the requirement is towards the vehicle itself: it is one requiring further manufacturing, and it is accompanied by an appropriate document. While the vehicle must ultimately conform, the statute does not impose the obligation of conformance upon the importer. NHTSA is loath to read a restriction of this nature into the 1988 Act that does not appear on its face. Even were it sympathetic to the comment, it believes that such a restriction would have to be formally proposed for comment. However, NHTSA will monitor importations under this section and if remedial action appears required for motor vehicle safety, will propose an appropriate restrictive amendment.

With respect to NADA's comment, NHTSA has decided to clarify that the document accompanying the declaration be a statement in the form specified in part 568. This document in its essential respects complies with the language of section 108(e). If the vehicle is not in compliance with an applicable standard, that fact will be reflected in the statement made with respect to such standard pursuant to paragraph 568.4. As for a description of the further manufacturing operations required for the vehicle to perform its intended

function, NHTSA believes that this must be read within the safety context of the 1988 Act. An incomplete vehicle manufacturer will not in many instances know the manner in which a specific vehicle will be completed, as for example, whether a chassis-cab will be finished with a school bus body, or with a dumping apparatus. But he must make statements relevant to the further manufacturing operations connected with completion of the vehicle in accordance with the Federal safety standards. NHTSA therefore has decided that this document will satisfy the intent of section 108(e). The only new requirement imposed is that the document must accompany the declaration.

Finally, with respect to Freightliner's question whether an importer of a vehicle requiring further manufacturing operations must be registered, the answer is no. There are no safety standards that apply to an incomplete vehicle, and the obligation of conformance arises after importation, upon completion of manufacture. However, if the incomplete vehicle is a chassis-cab and is not certified as required, its importer must be a registered importer who undertakes to bring it into conformance with applicable standards. Where manufacture has been completed before importation and the vehicle was not originally manufactured to conform to the standards, the importer of that type of vehicle is required to be registered.

Finally, NHTSA wants to make plain that it will countenance no importations under paragraph 591.5(e) that appear to be subterfuges to avoid compliance responsibility. Instances have arisen in the past in which an importer offered for importation a motor vehicle without its engine, or other running gear parts, claiming that the merchandise was, in fact, equipment to which no standard applied, and the importer separately imported the engine or parts. The agency has treated these cases as *de facto* importations of noncomplying motor vehicles, and required them to be entered as nonconforming motor vehicles and evidence of conformity to be subsequently submitted. The agency intends to follow this policy, and will not consider such an assemblage to be a vehicle requiring further manufacturing operations.

7. The Importer Has a Contract With a Registered Importer

The primary eligibility requirements placed by the 1988 Act on persons importing nonconforming vehicles are that they will have to be, subject to certain exceptions, registered as

importers, or they will have to have contracts with registered importers to conform the vehicles. A person importing under contract with a registered importer will have to furnish, at the time of entry, an appropriate bond (which, under the 1988 amendments, is not less than 100 percent of the dutiable value of the vehicle and not more than 150 percent), a copy of the contract or other agreement with a registered importer, and certification that an affirmative decision has been made regarding the eligibility of the vehicle for importation. These matters, specified in section 108(f), are covered in paragraph 591.5(f)(ii). Under paragraph 591.6(d), the declaration must be accompanied by a copy of the contract or agreement. The purpose of the new requirements is to increase the likelihood that nonconforming vehicles will be properly modified and actually brought into compliance with the safety standards.

8. The Importer is Eligible To Import Under Present Requirements

Nonresidents are affected in another way by the 1988 Act. Under certain circumstances, and for a limited time, section 108(g) of the Vehicle Safety Act permits a nonresident (including any member of the Armed Forces) to continue to import a vehicle under the present regulation, that is, to have it conformed by a person other than a registered importer. This exception applies to a single vehicle imported, for personal use and not for resale, between January 31, 1990, and October 31, 1992, by an individual whose assigned place of employment was outside the United States for the total period between October 31, 1988, and the date of importation, provided that the vehicle was acquired (or was subject to a binding contract to acquire) before October 31, 1988, and that the individual has not previously imported a nonconforming motor vehicle. This amendment is reflected in paragraph 591.5(g). There were no comments on this subject. However, the Virginia Department of Motor Vehicles asked what standard a vehicle purchased or ordered before October 31, 1988, would have to meet when it is imported. The answer is, those standards that applied to such a vehicle on the day of its manufacture, i.e., assembly. This requirement of the Vehicle Safety Act is unchanged by the 1988 Act.

9. Importation by Diplomats and Foreign Military Personnel

Any person who is a member of the armed forces of a foreign country on assignment in the U.S., or any person who is a member of the Secretariat of a

public international organization so designated under the International Organization Immunities Act and who is within the class of persons for whom free entry of motor vehicles has been authorized by the Secretary of State may currently import a nonconforming vehicle for the duration of their stay pursuant to the declaration that the vehicle is for personal use only (§ 12.80(b)(b)(1)(vi)). Section 108(h) of the Vehicle Safety Act specifically retains this exclusion, but in addition requires NHTSA to ensure that any such vehicle will be exported or abandoned when the importer ceases to reside in the U.S. It also forbids the sale while within the United States of any motor vehicle imported under this provision.

The enforcement of this provision would appear to rest with the Office of Foreign Missions of the Department of State. NHTSA understands that foreign personnel in the exempted categories who import nonconforming vehicles into the United States, are required to register their vehicles with this Office. Under the registration process, the Office takes possession of the foreign title of the vehicle, and issues registration plates to the importer after verifying that the vehicle is insured. The importer does not take repossession of the title until the registration plates are returned to the Office. At that time, the Office asks for an explanation. The usual reason is that the importer's assignment in the United States has ended, and that the importer is leaving the country. Documentary proof is required, such as a copy of the importer's orders. Heretofore, however, no documentary proof has been required that the vehicle is being, or has been, exported. Thus, it is possible that a nonconforming vehicle could be sold between the time the importer repossesses the title and actually leaves the country, but the Office believes that this is only an infrequent occurrence. NHTSA has informally approached the Office as to the possibility that it could require proof of exportation of diplomatic vehicles, and has found the Office amenable to that suggestion. This approach appears less cumbersome than requiring a bond for the exportation of diplomatic vehicles. Accordingly, NHTSA is adopting as one of the declarations a diplomatic importer must make under paragraph 595.5(h) that (s)he will provide the Office of Foreign Missions, at the conclusion of a tour of duty and before departure from the United States, with documentary proof that the vehicle is being, or has been, exported.

Under the existing law and regulations, it has been the practice to allow an exempted diplomatic importer to sell his or her nonconforming vehicle to another person in one of the exempted categories. The justification for this practice is that the exempted buyer is himself eligible to import a nonconforming vehicle. The agency does not construe the 1988 Act as forbidding this type of sale between exempted importers.

However, the 1988 Act has another effect. Heretofore, the agency had no objection if sale of a nonconforming diplomatic vehicle to a nonexempted party occurred after the vehicle had been brought into conformance with applicable Federal safety standards. NHTSA commented in the preamble to the April proposal that if this practice is to continue, it would have to be greatly modified. If an exempted importer wishes to sell a nonconforming vehicle in the United States, NHTSA indicated that the importer be prohibited from doing so unless (1) the vehicle is one which the Administrator has determined is modifiable to conform to the safety standards, and (2) the vehicle will be conformed through a registered importer. In so suggesting, NHTSA believed that this type of transaction was also within the intent of the 1988 Act, and that otherwise, a nonconforming vehicle may not be sold if imported pursuant to the diplomatic exemption. The sole commenter on this declaration. The Dealer Action Association, recommended forbidding this type of transaction, and restricting sales to those between diplomatic personnel. As an alternative, it suggested establishing procedures analogous to those under paragraph 591.5(f)(2) by which an individual would contract with a registered importer.

The agency has reviewed this comment, and has concluded that sales should be restricted to those between diplomatic personnel. After reviewing the 1988 amendments, NHTSA believes that vehicles imported pursuant to the diplomatic exemption should be exported at the end of the diplomat-importer's tour of duty, unless the vehicle is sold to a person who would have been eligible to have imported it under such exemption. If a diplomat wishes to enter a nonconforming vehicle with the intent of selling it in the United States, he must do so outside the diplomatic exception and through either a registered importer, or pursuant to a contract with one. As both a practical and legal matter, NHTSA would find it difficult to enforce a no sale provision against diplomatic personnel, and the

regulation has not been adopted so as to allow this type of sale.

10. The Vehicle is 25 or More Years Old

A motor vehicle is allowed immediate entry under § 12.80(b)(1)(i) if it was manufactured before any applicable Federal motor vehicle safety standards were in effect. All motor vehicles, other than motorcycles, manufactured on or after January 1, 1968, have been covered by safety standards. Accordingly, this declaration has been used only for the entry of vehicles manufactured before January 1, 1968. Under section 108(i), added by the 1988 Act, a motor vehicle may be allowed entry without the necessity of conformance if it is 25 years old or older. Thus, after January 1, 1993, vehicles that were manufactured on or after January 1, 1968, will be relieved of the necessity to conform as they reach 25 years of age. The existing declaration will be retained until January 1, 1993, although clarified by specifying the January 1, 1968 date (paragraph 591.5(i)). This is necessary to prevent the importers of vehicles which are less than 25 years old but manufactured before January 1, 1968, from being inadvertently required to enter their vehicles pursuant to the 1988 amendments. During 1992, the agency will amend paragraph 591.5(i) to implement the 25-year old exclusion effective January 1, 1993. There were no comments on this aspect of the regulation.

11. Importation for Research, Investigations, Studies, etc.

Importation of nonconforming vehicles without bond is presently allowed if the importation is solely for the purpose of show, test, experiment, competition, repair, or alteration (§ 12.80(b)(1)(vii)). If the vehicle is imported for test or experiment, it may be licensed for use on the public roads for a period not to exceed one year, extendable for two successive year periods, or a period of three years in all. Importation for this class of noncomplying motor vehicles has been permitted pursuant to the assumption that motor vehicle safety would not be affected by the temporary importation of noncomplying motor vehicles not generally used on the public roads, and whose appearance on them would be limited.

Section 108(j) of the Vehicle Safety Act modifies these categories. It provides NHTSA with authority to exempt a vehicle from importation and certification violations upon such terms and conditions as may be necessary solely for the purpose of research, investigations, studies, demonstrations

or training, or competitive racing events. It does not include the terms "show" and "repair" currently in use. In the notice of proposed rulemaking, NHTSA observed that prospective importers ought not to be unduly concerned at this. In NHTSA's experience, importation for repair has averaged, perhaps, one vehicle every two years. Manufacturers who have imported nonconforming products for display at auto shows to gauge public reaction to new styling or engineering features will not be precluded from declaring that such importation is for "research" or "demonstrations". And museums will be able to bring in nonconforming vehicles under the 25-year exception. NHTSA proposed to allow importation for the statutory purposes specified, provided that the declaration is accompanied by certain information and statements. If this information indicates that on-road use for a period that is greater than 1 year is required for these purposes, the importer will not be required to petition NHTSA for yearly extensions, as is presently the case. At the end of 3 years, the importer is subject to termination of the Customs Temporary Importation Bond under which the vehicle entered. At that point, the vehicle must be destroyed, exported, or abandoned to the United States. Alternatively, if duty is paid at the time of importation of the nonconforming vehicle, the vehicle must not remain in the United States for a period longer than 5 years after entry. The proposal also prohibited an importer of a vehicle imported for competitive racing events from licensing it for use on the public roads.

NHTSA also stated in the proposal that it envisioned that a registered importer who intends to file a petition under Part 593 for a determination that a vehicle is eligible for importation because it is capable of modification could avail itself of the demonstration exception to import such vehicles as may be necessary in order to develop the documentation needed to demonstrate the vehicle's capability for modification.

Comments to this proposal varied in nature and content. A number of commenters pointed out a contradiction between the blanket prohibition against licensing for on-road use contained in proposed paragraph 591.5(j), and the associated provision in paragraph 591.6(f) requiring submission of certain information if the vehicle is to be licensed for on-road use during its stay in the United States. BMW suggested that NHTSA conform its provisions to accord with similar ones of EPA contained in 19 CFR 12.73(h) and 40 CFR

85.1511(b)(2). General Motors, Volkswagen, and Ford recommended specifying the exceptions, such as allowing on road use when such use is an integral part of the purpose for which it was imported. Austin Rover asked NHTSA to clarify that the licensing for use prohibition applies only to vehicles imported for competitive racing events, and Volkswagen wanted the prohibition struck for this type of vehicle. Barry Wood noted in a phone call that the proposal did not cover vehicles imported from Canada for repair and returned to that country. He observed that this was a not infrequent practice in his part of the United States. Finally, General Motors asked that this exception not terminate after 5 years, but be available for an unlimited period of time, citing the allowance by EPA of unlimited use of vehicles not conforming to Federal emission requirements.

The agency agrees that the proposal appears to present a conflict between paragraphs 591.5(j) and 591.6(f). The comments have caused NHTSA to review closely the new statutory language, and the agency has concluded that it provides sufficient flexibility to respond favorably to many of the comments. The specific language of new section 108(j) is "The Secretary may exempt any motor vehicle or item of motor vehicle equipment from subsections (a)(1) and (c)(1) upon such terms and conditions as the Secretary may find necessary solely for the purpose of research, investigations, studies, demonstrations or training, or competitive racing events." Subsection (a)(1) contains the statutory prohibition against importation of nonconforming vehicles, and their introduction into interstate commerce. Subsection (c)(1) contains the requirement of vehicle certification. In other of the 1988 Act amendments, Congress has flatly stated that subsections (a)(1) and (c)(1) shall not apply provided specified steps are taken. Subsection (j), on the other hand, implies that subsections (a)(1) and (c)(1) do apply, but that NHTSA has the flexibility to determine when they do not. For example, if NHTSA has allowed importation and on-road use for a period of 4 years, and the vehicle is not exported at the end of that time, NHTSA may impose a civil penalty. As a further example, if NHTSA has determined that indefinite on-road use is required to achieve the importer's stated purpose, NHTSA could inform the importer that it would not find that the Vehicle Safety Act had been violated. If licensing for on-road use is an absolute requirement of a competitive event, NHTSA could allow it for a limited period of time, and

under circumstances prescribed in its letter of permission. Thus, the final rule has been modified to reflect the agency's conclusions. Under § 591.6(f), any person seeking to import a motor vehicle under § 591.5(j) must write NHTSA in advance of such importation with a full and complete statement of the purposes of the importation, and whether on-road use is contemplated. NHTSA's reply, if affirmative, will impose such terms and conditions as may seem required for motor vehicle safety. Violations of any of these terms and conditions will be considered a violation of section 108(a)(1)(A) of the Vehicle Safety Act, for which a civil penalty may be imposed. A copy of NHTSA's letter or permission must be provided Customs upon entry of the vehicle, attached to the declaration form. Under § 591.7(f) in its final form, vehicles imported pursuant to paragraph 591.5(j) for which duties have been paid, must be exported not later than 5 years after entry, unless permission has been obtained from NHTSA.

There remains the question raised by Barry Wood, whether a nonconforming vehicle may be imported for "repair" in the absence of any express statutory authority allowing it, or any discussion of it in the legislative history of the 1988 Act. Although the joint regulations have permitted this practice for over 20 years, it was omitted from the categories of vehicles importable pursuant to paragraph 591.5(j). There are really two issues here, rather than one. The situation mentioned by Mr. Wood involves vehicles that are returned to Canada after repair. That is to say, they do not appear to be vehicles temporarily imported by U.S. residents, but vehicles that are temporarily exported by their Canadian owners. As such, they appear to be vehicles involved in international traffic, imported for a limited period of time by nonresidents of the United States. In NHTSA's view, Canadian-owned vehicles that are repaired in the United States and returned to Canada at the completion of repairs are properly entered pursuant to paragraph 591.5(d). The other issue is importation by U.S. residents of nonconforming vehicles for repair. The agency has no knowledge of any importation by U.S. residents of nonconforming vehicles for repair, followed by their subsequent exportation. At most, it appears highly infrequent, so that the failure of Congress to include it in the 1988 Act ought not to work a hardship.

Importation of Motor Vehicle Equipment

Under 19 CFR 12.80, the first seven of the nine declarations applicable to motor vehicles also apply to motor

vehicle equipment. The primary focus of the 1988 Act is upon motor vehicles, however, and some of the new exceptions do not apply to motor vehicle equipment. An analysis of the equipment provisions and final rules follows.

First, the agency has no jurisdiction over an item that does not fit the definition of motor vehicle equipment, as contained in 15 U.S.C. 1391(4). Thus, such an item may be entered pursuant to the declaration that it is not a system, part, or component of a motor vehicle (paragraph 591.5(a)(2)).

The 25-year old exception for motor vehicles does not extend to motor vehicle equipment. This means that equipment covered by an equipment standard continues to be importable without the necessity for conformance (absent other exceptions) only if manufactured on a date before a standard applied to it (paragraph 591.5(i)(2)).

An equipment item that is certified as conforming to applicable equipment standards continues to be admissible upon a simple declaration that it conforms (paragraph 591.5(b)).

Because the importation for export exception is provided for by the Vehicle Safety Act, and not affected substantively by the 1988 Act, nonconforming equipment may continue to be imported for export, provided that it or its container bears a label or tag to that effect at the time of importation. (See section 108(b)(5) of the Vehicle Safety Act, redesignated as 108(b)(3) by the 1988 Act and paragraph 591.5(c)).

Under new section 108(e), an equipment item need not comply upon importation if it requires further manufacturing operations to perform its intended function. In the final rule, the agency has decided to adopt terminology from part 568 to implement this requirement for motor vehicles. Manifestly, part 568 does not apply to "incomplete" equipment, and the agency is adopting the exact language of the 1988 Act as the requirement for entry of motor vehicle equipment subject to section 108(e).

The new provisions regarding importation for purposes of research, investigation, studies, demonstrations or training, or competitive racing events (section 108(j)) expressly include motor vehicle equipment as well as vehicles, and thus supersede existing requirements which make no provision for them. This change is reflected in paragraph 591.5(j).

Because the 1988 Act is specific about the conditions under which nonconforming equipment items may be

admissible, there appear to be certain areas in which a right to import a nonconforming equipment item no longer exists. Although § 12.80(b)(1)(iii) allows importation of a nonconforming equipment item under bond for conformance within 120 days of entry, no similar provisions appear in the 1988 Act; the bond, registered importer, and eligibility determination provisions apply only to importation of motor vehicles. Therefore, as of January 31, 1990, nonconforming equipment may no longer be imported pursuant to a declaration that it will be brought into conformance. Although NHTSA has incorporated nonresident importation procedures for motor vehicles without specific authority in the 1988 Act, it does not believe that is required to extend those procedures to cover nonconforming equipment items (other than those attached and in use on a vehicle), as is presently provided for under § 12.80(b)(1)(v). Similarly, the diplomatic/foreign military exception will no longer cover nonconforming equipment items, as it presently does in § 12.80(b)(vi). Although the agency did not call specific attention to these omissions in the preamble to the proposal, the omissions are readily apparent in the text of the proposed regulation.

Provision of New Declaration Forms

NADA asked that the agency either revise or publish a new HS-7 importation form as part of the final rule, or indicate how that form will be revised as part of a new Customs Service regulation.

Development of a new form in its definitive state must await receipt and action upon petitions for reconsideration, if any, regarding this final rule. However, NHTSA believes that it would be in the public interest to publish the new form in the *Federal Register* at the earliest practicable time, and will endeavor to do so in a further notice under Docket 89-5.

IMPACTS

NHTSA has considered the impacts of this rulemaking action and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation". It implements Public Law 100-562 under which primary authority to establish regulations governing the importation of motor vehicles and equipment into the United States is shifted to NHTSA, rather than being jointly shared with the U.S. Customs Service. As such, it establishes the rights and duties of those who may import nonconforming motor vehicles, and the types of

nonconforming motor vehicles that may be imported. It is not significant under Department of Transportation regulation policies and procedures. Less than 3,000 motor vehicles a year are currently imported, and it is anticipated that this number will not increase. There is no substantial impact upon a major transportation safety program, and the action does not involve any substantial public interest or controversy. There is no substantial effect on state and local governments. The impact upon the Federal Government is that certain present obligations of the U.S. Customs Service are transferred to the Department of Transportation. As discussed previously, many of the new requirements are specified by the 1988 Act, and thus do not reflect any exercise of agency discretion. These include not only importation through or by contract with a registered importer, but also importation of vehicles and equipment requiring further manufacturing to perform their intended function, importation of vehicles by specified foreign diplomatic and military personnel, importation of vehicles more than 25 years old, and importation of vehicles for the purpose of research, investigations, studies, demonstrations or training, or competitive racing events, and importation under a separate performance bond. Nevertheless, a regulatory evaluation analyzing the economic impacts of this and the related final rules required by Public Law 100-562 has been prepared, and is available for review in the docket, as part of the Regulatory Flexibility Analysis.

The agency has also considered the effects of this rule in relation to the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact upon a substantial number of small entities. Although entities that currently modify nonconforming vehicles are small businesses within the meaning of the Regulatory Flexibility Act, there is no restriction prohibiting them from registering as importers and continuing their activities. Although a registered importer will have to pay a fee or fees to the agency, as required by statute, the agency does not view this requirement as resulting in a significant impact. Further, small organizations and governmental jurisdictions will not be significantly affected as they are not generally importers and purchasers of nonconforming motor vehicles. However, a Regulatory Flexibility Analysis has been prepared covering all regulations that implement the 1988 Act, and placed in the public docket.

NHTSA has analyzed this rule for purposes of the National Environmental Policy Act. The rule will not have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles imported under the rule will not vary significantly from that existing before promulgation of the rule.

The declaration requirements in this rule are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. The declarations have been submitted to OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The information collection requirements in this rule become effective when they have been approved by OMB.

The rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 "Federalism", and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 591

Imports, Motor vehicles safety, Motor vehicles.

In consideration of the foregoing, a new part 591, Importation of Vehicles and Equipment Subject to Federal Motor Vehicle Safety Standards, is added to title 49, chapter V, to read as follows:

PART 591—IMPORTATION OF VEHICLES AND EQUIPMENT SUBJECT TO FEDERAL MOTOR VEHICLE SAFETY STANDARDS

- Sec.
- 591.1 Scope.
 - 591.2 Purpose.
 - 591.3 Applicability.
 - 591.4 Definitions.
 - 591.5 Declarations required for importation.
 - 591.6 Documents accompanying declarations.
 - 591.7 Restrictions on importations.
- Authority: Public Law 100-562, 15 U.S.C. 1401, 1407; delegations of authority at 49 CFR 1.50 and 501.8

§ 591.1 Scope.

This part establishes procedures governing the importation of motor vehicles and motor vehicle equipment subject to the Federal motor vehicle safety standards.

§ 591.2 Purpose.

The purpose of this part is to ensure that motor vehicles and motor vehicle equipment permanently imported into the United States conform with, or are

brought into conformity with, all applicable Federal motor vehicle safety standards issued under part 571 of this chapter, and to ensure that vehicles and equipment items imported on a temporary basis are ultimately either exported or abandoned to the United States.

§ 591.3 Applicability.

This part applies to any person offering a motor vehicle or item of motor vehicle equipment for importation into the United States. Regulations prescribing further procedures for importation of motor vehicles and items of motor vehicles equipment into the Customs territory of the United States, as defined in 19 U.S.C. 1202, are set forth in 19 CFR 12.80.

§ 591.4 Definitions.

All terms used in this part that are defined in section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391) are used as defined in the Act.

Administrator means the Administrator of NHTSA.

NHTSA means the National Highway Traffic Safety Administration of the Department of Transportation.

Original manufacturer means the entity responsible for the original manufacture or assembly of a motor vehicle, and does not include any person (other than such entity) who converts the motor vehicle after its manufacture to conformance with the Federal motor vehicle safety standards.

§ 591.5 Declarations required for importation.

No person shall import a motor vehicle or item of motor vehicle equipment into the United States unless, at the time it is offered for importation, its importer files a declaration, in duplicate, which declares one of the following:

(a)(1) The vehicle was not manufactured primarily for use on the public roads and thus is not a motor vehicle subject to the Federal motor vehicle safety standards; or

(2) The equipment item is not a system, part, or component of a motor vehicle and thus is not an item of motor vehicle equipment subject to the Federal motor vehicle safety standards.

(b) The vehicle or equipment item conforms with all applicable safety standards (or the vehicle does not conform solely because readily attachable equipment items which will be attached to it before it is offered for sale to the first purchaser for purposes other than resale are not attached), and bears a certification label or tag to that

effect permanently affixed by the original manufacturer to the vehicle, or to the equipment item or its delivery container, in accordance with, as applicable, 49 CFR parts 555, 567, 568, or 571 (for certain equipment items).

(c) The vehicle or equipment item does not comply with all applicable Federal motor vehicle safety standards, but is intended solely for export, and the vehicle or equipment item, and the outside of the container of the equipment item, if any, bears a label or tag to that effect.

(d) The vehicle does not conform with all applicable Federal motor vehicle safety standards, but the importer is eligible to import it because:

(1) (S)he is a nonresident of the United States and the vehicle is registered in a country other than the United States,

(2) (S)he is temporarily importing the vehicle for personal use for a period not to exceed one year, and will not sell it during that time,

(3) (S)he will export it not later than the end of one year after entry, and

(4) The declaration contains the importer's passport number and country of issue.

(e) The vehicle or equipment item requires further manufacturing operations to perform its intended function, other than the addition of readily attachable equipment items such as mirrors, wipers, or tire and rim assemblies, or minor finishing operations such as painting, and upon completion of such further manufacturing operations will comply with all applicable Federal motor vehicle safety standards.

(f) The vehicle does not conform with all applicable Federal motor vehicle safety standards, but the importer is eligible to import it because:

(1) The importer has furnished a bond, which is attached to the declaration, in amount equal to 150% of the entered value of the vehicle as determined by the Secretary of the Treasury, to ensure that the vehicle will be brought into compliance with all applicable Federal motor vehicle safety standards, or, in the absence of such compliance, that it will be delivered to the Secretary of the Treasury for export, or abandoned to the United States, and that if the Administrator determines that the vehicle has not been brought into compliance with all such standards, the importer states (s)he will deliver to the Secretary of the Treasury for export, or abandon to the United States, such vehicle within the time limit imposed by the Administrator; and

(2)(i) The importer has registered with NHTSA pursuant to part 592 of this chapter, and such registration has not

been revoked or suspended, and the Administrator has determined pursuant to part 593 of this chapter that the model and model year of the vehicle to be imported is eligible for importation into the United States; or

(ii) The importer has executed a contract or other agreement with an importer who has registered with NHTSA pursuant to part 592 of this chapter and whose registration has not been suspended or revoked; and the Administrator has determined pursuant to part 593 of this chapter that the model and model year of the vehicle to be imported is eligible for importation into the United States;

(g) The vehicle does not conform with all applicable Federal motor vehicle safety standards, but the importer is eligible to import it because:

(1) The importer's assigned place of employment has been outside the United States at all times between October 31, 1988, and the date the vehicle is entered into the United States;

(2) The importer has not previously imported a motor vehicle into the United States that was subject to the Federal motor vehicle safety standards;

(3) The importer had acquired (or entered into a binding contract to acquire) the vehicle before October 31, 1988; and

(4) The vehicle will be entered into the United States not later than October 31, 1992.

(h) The vehicle does not conform with all applicable Federal motor vehicle safety standards, but the importer is eligible to import it because:

(1) (S)he is a member of:

(i) The armed forces of a foreign country on assignment in the United States; or

(ii) The Secretariat of a public international organization so designated under the International Organizations Immunities Act (22 U.S.C. 288) on assignment in the United States; or

(iii) The personnel of a foreign government for whom free entry of vehicles has been authorized by the Department of State; and

(iv) The motor vehicle is being imported on a temporary basis, and for the personal use of the importer.

(2) (S)he will not sell the vehicle to any person in the United States, other than a person eligible to import a vehicle under this subsection; and

(3) (S)he will provide the Office of Foreign Missions of the State Department, before departing the United States at the conclusion of a tour of duty, with documentary proof that the vehicle is being, or has been, exported.

(i)(1) The vehicle was manufactured before January 1, 1968, or, if a motorcycle, before January 1, 1969; or

(2) The equipment item was manufactured on a date when no applicable safety standards were in effect.

(j) The vehicle or equipment item does not conform with all applicable Federal motor vehicle safety standards, but is being imported solely for the purpose of:

- (1) research;
- (2) investigations;
- (3) studies;
- (4) demonstrations or training; or
- (5) competitive racing events;

and the importer has received written permission from NHTSA.

§ 591.6 Documents accompanying declarations.

Declarations of eligibility for importation made pursuant to § 591.5 must be accompanied by the following certification and documents, where applicable.

(a) A declaration made pursuant to § 591.5(a) shall be accompanied by a statement substantiating that the vehicle was not manufactured for use on the public roads, or that the equipment item was not manufactured for use on a motor vehicle or is not an item of motor vehicle equipment.

(b) A declaration made pursuant to § 591.5(e) shall be accompanied by:

(1) (For a motor vehicle) a document meeting the requirements of § 568.4 of part 568 of this chapter.

(2) (For an item of motor vehicle equipment) a written statement issued by the manufacturer of the equipment item which states the applicable Federal motor vehicle safety standard(s) with which the equipment item is not in compliance, and which describes the further manufacturing required for the equipment item to perform its intended function.

(c) A declaration made pursuant to § 591.5(f) shall be accompanied by a bond in an amount equal to 150% of the entered value of the vehicle as determined by the Secretary of the Treasury for the conformance of the vehicle with all applicable Federal motor vehicle safety standards, or, if conformance is not achieved, for the delivery of such vehicle to the Secretary of the Treasury for export at no cost to the United States, or for its abandonment.

(d) A declaration made pursuant to § 591.5(f) by an importer who is not a Registered Importer shall be accompanied by a copy of the contract or other agreement that the importer has with a Registered Importer to bring the vehicle into conformance with all

applicable Federal motor vehicle safety standards.

(e) A declaration made pursuant to § 591.5(g) shall be accompanied by certification, including appropriate documentary proof that the vehicle for which declaration is made had been acquired by the importer as of October 31, 1988, or, if not so acquired, by a copy of a contract to acquire the vehicle, dated before October 31, 1988, which was binding upon the importer.

(f) A declaration made pursuant to § 591.5(h) shall be accompanied by a copy of the importer's official orders, or, if a qualifying member of the personnel of a foreign government on assignment in the United States, the name of the embassy to which the importer is accredited. A declaration made pursuant to § 591.5(j) shall be accompanied by a letter from the Administrator authorizing importation pursuant to that paragraph. Any person seeking to import a motor vehicle or item of motor vehicle equipment pursuant to § 591.5(j) shall submit in advance of such importation, a written request to the Administrator containing a full and complete statement identifying the specific purpose(s) of importation, which describes the use to be made of the vehicle or equipment item. If use on the public roads is an integral part of the purpose for which the vehicle or equipment item is imported, the statement shall request permission to license the vehicle for use (or use the equipment item) on the public roads, describing the purpose for which such use is necessary, and stating the estimated period of time necessary to use the vehicle or equipment item on the public roads. The statement shall also state the intended disposition to be made of the vehicle or equipment item after completion of the purpose for which it is imported. Any violation of a term or condition imposed by the Administrator shall be considered a violation of 15 U.S.C. 1397(a)(1)(A) for which a civil penalty may be imposed.

§ 591.7 Restrictions on importations.

(a) A vehicle or equipment item which has entered the United States under a declaration made pursuant to § 591.5(j), and for which a Temporary Importation Bond has been provided to the Secretary of the Treasury, shall not remain in the United States for a period that exceeds 3 years from its date of entry.

(b) A vehicle or equipment item which has entered the United States under a declaration made pursuant to § 591.5(j), and for which duty has been paid, shall not remain in the United States for a period that exceeds 5 years from its date of entry, unless written permission has

been obtained from the Administrator, NHTSA.

(c) An importer of a vehicle which has entered the United States under a declaration made pursuant to § 591.5(j) may license it for use on the public roads only if written permission has been granted by the Administrator, NHTSA, pursuant to § 591.6(f).

Issued on: September 26, 1989.

Jeffrey R. Miller,

Acting Administrator.

[FR Doc. 89-23080 Filed 9-27-89; 11:07 am]

BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 88-03, Notice 2]

RIN 2127-AC 76

Federal Motor Vehicle Safety Standards; Hydraulic Brake Systems; Air Brakes

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

ACTION: Final rule.

SUMMARY: Standards No. 105, *Hydraulic Brake Systems*, and No. 121, *Air Brake Systems*, specify procedures for the burnishing or "breaking-in" of a vehicle's brakes. Under the two standards' test procedures, a vehicle's brakes are burnished prior to conducting some of the performance tests for vehicle braking. Today's notice amends these standards to specify, for all types of vehicles, that automatic brake adjusters on vehicles so equipped must remain operational during the burnish procedures and subsequent brake tests.

DATES: This rule will become effective September 1, 1991. Optional compliance is permitted October 30, 1989.

ADDRESSES: Petitions for reconsideration should be submitted to the Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Carter, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC (202-366-5274).

SUPPLEMENTARY INFORMATION: Standards No. 105, *Hydraulic Brake Systems*, and No. 121, *Air Brake Systems*, specify procedures for the burnishing or "breaking-in" of a vehicle's brakes. Under the two standards' test procedures, a vehicle's brakes are burnished prior to conducting