

(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

some of the performance tests for vehicle braking.

On July 27, 1983, NHTSA published in the *Federal Register* (48 FR 29560) a notice of proposed rulemaking (NPRM) to amend the burnish procedures of Standards No. 105 and No. 121, as they apply to heavy vehicles. One of the proposed changes concerned automatic adjusters. The agency noted that Standard No. 105 specifies for hydraulic-braked vehicles that automatic adjusters can be disconnected prior to the burnish procedure, but if disconnected, they must remain disconnected throughout the brake tests. If the devices are not disconnected, a brake adjustment is permitted at the end of the burnish and all remaining tests are performed with the adjusters connected. On the other hand, NHTSA has interpreted Standard No. 121 to require for air-braked vehicles that automatic adjusters not be disconnected. Today's final rule affirms that interpretation. The July 1983 NPRM proposed to specify in both standards, for heavy vehicles, that automatic adjusters remain operational during brake tests. Under that proposal, vehicles with gross vehicle weight ratings (GVWR's) of 10,000 pounds or less would continue to have been permitted to be tested with automatic adjusters deactivated.

Some of the commenters on the June 1983 NPRM argued that there is no reason to treat vehicles with a GVWR in excess of 10,000 pounds differently from vehicles with a GVWR of 10,000 pounds or less. These commenters stated that if deactivation of automatic adjusters is permitted for light vehicles, heavier vehicles should be offered the same option.

On May 23, 1985, NHTSA published in the *Federal Register* (50 FR 21313) a supplemental NPRM (SNPRM) concerning a number of the issues raised by commenters in response to the June 1983 notice. With respect to automatic adjusters, the agency stated that it agreed with the implicit point that the reasons for and against permitting the deactivation of automatic adjusters apply equally to all vehicles with those adjusters, regardless of size. NHTSA announced in that notice that rather than address the question of the deactivation of automatic brake adjusters in a piecemeal fashion, it would instead issue a notice addressing that issue for all vehicles.

On January 14, 1988, NHTSA published in the *Federal Register* (53 FR 934) an NPRM proposing to amend Standards No. 105 and No. 121 to specify, for all types of vehicles, that automatic brake adjusters remain

operational during the burnish procedures and subsequent brake tests. The proposal allowed for a post-burnish brake adjustment in accordance with the manufacturer's recommendations as furnished to the purchaser (i.e., in the owner's manual). Nine comments were received. Of these, seven commenters expressed general concurrence with the proposed approach, and two objected to it.

Austin Rover, Volkswagen of America, the Heavy Duty Manufacturers Association, and Bendix Heavy Vehicle Systems (commenting on Standard No. 121 only) expressed support for the proposal.

General Motors and Chrysler supported the proposal, but felt it was inappropriate to require the specific brake adjustment information in the owner's manual. NHTSA agrees that requiring this technical information in the owner's manual serves little or no useful purpose to the consumer. The final rule has been revised to specify that after burnishing, the brakes are to be adjusted in accordance with the manufacturer's recommendation. This will provide manufacturers with flexibility to specify recommended adjustments in service literature, rather than being required to provide that information in the owner's manual.

General Motors, in a comment that is beyond the scope of today's rulemaking, also suggested that NHTSA issue an SNPRM to clarify the provisions of Standards No. 105 and No. 121 that are applicable to various types of vehicles. Chrysler recommended that the wording of S7.4.1.2 and S7.4.2.2 in Standard No. 105 be revised to eliminate language addressing the lock out of automatic adjusters. NHTSA eliminated the language in S7.4.2.2 in a March 14, 1988, final rule, *Burnish Procedures for Heavy Duty Vehicles*, (53 FR 8190). Today's final rule eliminates the language referring to adjuster lock out contained in S7.4.1.2.

Rockwell International and Bendix Heavy Vehicle Systems both recommended that NHTSA allow manual adjustment of automatic adjusters during burnish procedures under Standard No. 121. Although these comments are outside the scope of today's rulemaking, NHTSA notes that such adjustments are not precluded by the existing regulatory language. The March 1988 rule provides, with regard to heavy vehicles, that the brakes be adjusted in accordance with the manufacturer's recommendations at specified intervals during the burnish procedure, as well as at the end of the procedure. Under that rule, automatic

adjusters are permitted to be manually adjusted at the same times as other types of brake adjustments during burnish. See, 53 FR 8201-2. That requirement is not being changed by today's rule.

Rockwell also suggested that S5.3 of Standard No. 121 be revised to allow the readjustment of brakes prior to each test sequence. This comment is beyond the scope of today's rulemaking.

Freightliner Corp. indicated that permitting different standards for vehicles with automatic, as opposed to manual, brake adjusters unfairly penalizes manufacturers using automatic adjusters. Freightliner also provided a comment outside the scope of today's rulemaking, relating to brake adjustment intervals during brake burnishing. This issue was addressed in the March 1988 final rule.

Ford and Bendix Chassis and Brake Division (a supplier of passenger car brake components to Ford) submitted comments opposing the proposal to prohibit the deactivation of automatic adjusters during burnishing and testing under Standard No. 105. Ford believed that the proposed revisions had no relation to improved safety, would provide no benefit to Ford's customers, and would require the redesign of brakes on various Ford vehicles, resulting in additional costs. Bendix pointed out that its brakes are subject to over-adjustment when the automatic adjusters are activated during burnishing and testing, although it is not aware of any over-adjustment problems occurring during actual use by consumers. Bendix also explained that redesign of its brakes to include an automatic adjuster that would be insensitive to the type of stops required by Standard 105 would require a major retooling effort and a substantial test and development program. Finally, Bendix stated that the increased costs of such an effort were not justified, and that the proposal should not be adopted because it results in no benefit to the public, or improvement in safety.

Since the close of the public comment period on the NPRM, NHTSA has been advised by Ford that it is changing the designs of its brake systems so that they will no longer require deactivation of the automatic adjusters during burnishing and testing. As a result, Ford has indicated that it no longer objects to the revised standard as proposed as long as adequate lead time is provided. The final rule provides a lead time which NHTSA believes should be adequate for all manufacturers, including Ford.

In the past, problems were sometimes experienced with automatic brake

adjusters during burnish procedures. For some vehicles, the swelling of linings at high temperatures made it difficult to complete the burnish procedures, an occurrence which led the agency to permit automatic adjusters to be disconnected during testing under Standard No. 105. However, newer designs for linings and automatic adjusters have essentially eliminated these problems, particularly for lighter vehicles. NHTSA is aware of only one manufacturer, Ford, which currently specifies that the automatic adjusters on any of its vehicles with a GVWR of 10,000 pounds or less be deactivated for purposes of brake testing. However, as noted above, Ford has notified NHTSA of its intention to modify the brakes on these models to eliminate the need for deactivation.

One of the purposes behind the various test conditions and procedures specified in Standards No. 105 and No. 121 is to test vehicles as they will perform when used on the road. Since automatic brake adjusters are operational during normal use, specifying that they be operational during brake testing helps approximate real-world conditions and provides a better test of real-world performance.

While it may not be considered normal or typical, the potential exists for motorists to drive their vehicles in a manner that could result in the automatic adjusters over-adjusting, an occurrence which could lead to unexpected brake overheating and thus fade. NHTSA believes it is important to amend the rule to reduce the possibility of over-adjusting.

As indicated above, the March 1988 final rule did not cover burnish procedures for vehicles with a GVWR of 10,000 pounds or less. Under today's rule, manual adjustment for vehicles with a GVWR of 10,000 pounds or less is permitted only at the end of the burnish procedure. This is consistent with Standard No. 105's current requirements for vehicles whose automatic adjusters are not deactivated. It is also consistent with the agency's proposal for an internationally harmonized passenger car brake standard. See 52 FR 1474, January 14, 1987.

NHTSA believes that compliance with today's rule will not impose an unreasonable burden upon Ford or any other manufacturer. The necessary designs and technology needed to overcome any tendency toward over-adjusting are available inexpensively and are in use by virtually all other manufacturers. NHTSA has estimated the cost of adding the improved adjuster design to be no more than 60¢ per vehicle. In addition, neither Ford nor

Bendix submitted any data showing that over-adjustment problems during burnish and testing still exist with the Ford brake systems. NHTSA believes that requiring adjusters to be activated during testing and burnishing procedures is appropriate and promotes the agency's goal of improved motor vehicle safety. Finally, as discussed above, Ford has indicated its intention to change its existing brake designs voluntarily so as to eliminate the need for deactivation of the adjusters. Since Ford has been the last manufacturer to avail itself of the provisions allowing lockout of adjusters, there appears to be no reason to retain these provisions.

Today's rule will become effective on September 1, 1991. Optional compliance will be permitted effective 30 days after publication in the *Federal Register*. The time period will enable manufacturers to conduct compliance testing, as well as make any minor changes to their vehicles that might be necessary in order to ensure compliance.

The agency has considered the costs and other impacts of this rule and has determined that it is neither major within the meaning of Executive Order 12291 nor significant within the meaning of the Department of Transportation's regulatory procedures. This rule should have little effect on the cost or design of the vehicles to which it is applicable. The rule makes only minor changes in the test procedures for Standard No. 105, which will require few, if any design or manufacturing changes. Since the effects of the final rule are minimal, a full regulatory evaluation has not been prepared.

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. The effect of this final rule on any small manufacturers of vehicles or brake systems would be minimal, since it makes only minor changes in the test procedures for the braking standards. Few, if any, design or manufacturing changes are required of these manufacturers. Small organizations and governmental units will not be significantly affected, since any price impacts associated with this action are so minimal as not to affect the purchasing of new motor vehicles by these entities.

Finally, the agency has considered the environmental implications of this final rule in accordance with the National Environmental Policy Act of 1969 and

determined that the proposed rule would not significantly affect the human environment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.105 [Amended]

2. S7 is revised to read as follows:

* * * * *

S7. Test procedures and sequence.
Each vehicle shall be capable of meeting all the applicable requirements of S5, when tested according to the procedures and in the sequence set forth below, without replacing any brake system part or making any adjustments to the brake system other than as permitted in burnish and reburnish procedures and in S7.9 and S7.10. (For vehicles only having to meet the requirements of S5.1.2 and S5.1.3 in section S5.1, the applicable test procedures and sequence are S7.1, S7.2, S7.4, S7.9, S7.10 and S7.18. However, at the option of the manufacturer, the following test procedures and sequence may be conducted: S7.1, S7.2, S7.3, S7.4, S7.5, S7.6, S7.7, S7.8, S7.9, S7.10 and S7.18. The choice of this option shall not be construed as adding to the requirements specified in S5.1.2 and S5.1.3.) For vehicles manufactured before September 1, 1991, automatic adjusters may be locked out, at the option of the manufacturer, when the vehicle is prepared for testing. If this option is selected, adjusters must remain locked out for the entire sequence of tests. For vehicles manufactured on or after September 1, 1991, automatic adjusters must remain activated at all times. A vehicle shall be deemed to comply with the stopping distance requirements of S5.1 if at least one of the stops at each speed and load specified in each of S7.3, S7.5, S7.8, S7.9, S7.10, S7.15, or S7.17 (check stops) is made within a stopping distance that does not exceed the corresponding distance specified in Table II. When the transmission selector control is required to be in neutral for a deceleration, a stop or snub shall be obtained by the following procedures: (1) Exceed the test speed by 4 to 8 mph; (2) close the throttle and coast in gear to approximately 2 mph above the test

speed; (3) shift to neutral; and (4) when the test speed is reached, apply the service brakes.

3. S7.4.1.2 is revised to read as follows:

S7.4.1.2 Brake adjustment—post burnish. After burnishing, adjust the brakes in accordance with the manufacturer's published recommendations.

4. S7.4.2.2 is revised to read as follows:

S7.4.2.2 Brake adjustment—post burnish. After burnishing, adjust the brakes in accordance with the manufacturer's published recommendations.

§ 571.121 [Amended]

5. S6 is revised to read as follows:

S6. Conditions. The requirements of S5 shall be met by a vehicle when it is tested according to the conditions set forth below, without replacing any brake system part or making any adjustments to the brake system except as specified. Unless otherwise specified, where a range of conditions is specified, the vehicle must be capable of meeting the requirements at all points within the range. On vehicles equipped with automatic brake adjusters, the automatic brake adjusters must remain activated at all times.

Issued on September 25, 1989.

Jeffrey R. Miller,

Acting Administrator.

[FR Doc. 89-22970 Filed 9-28-89; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 580

[Docket No. 87-09 Notice 11]

RIN 2127-AC42

Odometer Disclosure Requirements

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

ACTION: Final rule; correction.

SUMMARY: On August 30, 1989, this agency published a Final Rule clarifying the responsibilities imposed on all parties in conjunction with the disclosure of mileage information in connection with the transfer of motor vehicle ownership. Among other things, the final rule set forth the circumstances

under which a secure power of attorney may become void. It has come to NHTSA's attention that there is an error in the text of the final rule which inadvertently mischaracterizes the situation in which the power of attorney is voided. This notice changes the final rule to correct this mistake.

DATE: This amendment is effective September 29, 1989.

FOR FURTHER INFORMATION CONTACT:

Mattie Cohan, Office of the Chief Counsel, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-1834).

SUPPLEMENTARY INFORMATION: The last sentence of § 580.13(f), disclosure of odometer information by power of attorney, appearing on page 35888 of the August 30, 1989 issue of the *Federal Register*, reads "If the mileage disclosed on the power of attorney form is higher than the mileage appearing on the title, the power of attorney is void and the dealer shall not complete the mileage disclosure on the title." As is clear from the preamble to the final rule, the power of attorney is voided when the mileage disclosed on the power of attorney form is lower than the mileage appearing on the title. This amendment corrects the mistake in the text of § 580.13(f).

This change represents only a technical correction to the agency's odometer disclosure requirements. Accordingly, the agency finds for good cause that notice and opportunity for comment are unnecessary, and this change is effective as soon as this notice is published.

PART 580—[AMENDED]

In consideration of the foregoing, § 580.13(f) of 49 CFR 580.13 is revised to read as follows:

§ 580.13 [Amended]

(f) Upon receipt of the transferor's title, the transferee shall complete the space for mileage disclosure on the title exactly as the mileage was disclosed by the transferor on the power of attorney form. The transferee shall submit the original power of attorney form to the State that issued it, with the application for new title and the transferor's title. If the mileage disclosed on the power of attorney form is lower than the mileage appearing on the title, the power of attorney is void and the dealer shall not complete the mileage disclosure on the title.

Issued on September 25, 1989.

Jeffrey R. Miller,

National Highway Traffic Safety, Acting Administrator.

[FR Doc. 89-22965 Filed 9-28-89; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 592

[Docket 89-6; Notice 2]

RIN 2127-AC97

Registered Importers of Vehicles Not Originally Manufactured to Conform to Federal Motor Vehicle Safety Standards

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

ACTION: Final rule.

SUMMARY: With certain exceptions, the National Traffic and Motor Vehicle Safety Act, as amended by the Imported Vehicle Safety Compliance Act of 1988, will permit a motor vehicle not originally manufactured to conform to Federal motor vehicle safety standards to be imported only by a person who has registered with this agency, or by an individual who has a contract with a registered importer for making the modifications necessary for bringing the vehicle into conformance with applicable safety standards.

In partial implementation of the 1988 amendments, this rule adopts procedures and requirements regarding the registration of importers and the duties and obligations of registered importers. In most instances, the particular provisions of these procedures and requirements are mandated by the 1988 amendments.

Part 592 establishes eligibility requirements for persons wishing to acquire and maintain registration. Among the requirements are ones regarding recordkeeping, allowance of inspection of records and facilities relating to the motor vehicles which the importer has imported and/or modified, certification to the Administrator that the vehicles have been brought into compliance, and insurance to ensure that the importer will be able technically and financially to carry out noncompliance and defect notification and remedy responsibilities should they arise. Part 592 also adopts procedures for revocation or suspension of importer registration (and reinstatement) for failures to pay required fees or comply with regulations, or for filing a misleading or false certification. The rule also adopts post-modification

vehicle inspection and bond release procedures.

DATE: The effective date for the rule is October 30, 1989.

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

SUPPLEMENTARY INFORMATION: 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 in the Federal Register on December 5, 1988 (53 FR 49003), and a notice of proposed rulemaking with respect to part 592 was published on April 25, 1989 (54 FR 17780). 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") (15 U.S.C. 1381, at 1397) that relate to the importation of motor vehicles subject to the Federal motor vehicle safety standards. Specifically, the amendments strike paragraphs (b)(3) and (b)(4) of 15 U.S.C. 1397, (section 1397 may also be cited as section 108 of the Vehicle Safety Act), redesignates paragraph (b)(5) as paragraph (b)(3), redesignates paragraph (c) of 15 U.S.C. 1397 as paragraph (k), and adds new paragraphs (c) through (j).

As the agency explained in its proposal, and now repeats so that readers will have an overview of part 592, the category of importer primarily affected by the 1988 Act is the importer of motor vehicle that was not originally manufactured to conform to the Federal motor vehicle safety standards that applied to vehicles of its type at the time of its original manufacture. Under the current regulation, 19 CFR 12.80(b)(1)(iii), a nonconforming vehicle may be imported by any person. Under the 1988 Act, an importer will have to be, subject to certain exceptions, a "registered importer" (one who meets the statutory criteria and has registered with the agency pursuant to the terms and conditions of the regulation that this notice adopts), or an individual who has contracted with a registered importer. The principal obligations of the Registered Importer with respect to the vehicles it imports are (1) to bring those vehicles into compliance, or to demonstrate that they have been brought into compliance before importation, (2) to provide the Administrator with certification that the vehicles conform, and (3) in the event that noncompliances or safety related defects occur in vehicles it certifies, to notify owners, and provide a remedy. With respect to those vehicles it imports for resale, a Registered Importer falls within the long-standing definition of

"manufacturer" under the Vehicle Safety Act and is responsible for notification of purchasers and remedy of noncompliances and safety related defects determined to exist in those vehicles. The 1988 Act adds a further responsibility: it makes the Registered Importer responsible for notification and remedy covering any vehicle covered by its certificate of conformity to the standards, including vehicles imported by individuals who have contracted with the Registered Importer, if a noncompliance or defect is determined to exist in substantially similar vehicles originally manufactured and certified for sale in the United States. However, the manufacturer or Registered Importer would be afforded an opportunity to demonstrate to NHTSA that the vehicles covered by the certification do not contain the noncompliance or defect.

NHTSA is attempting in this rulemaking action 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 part 592 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.

There were 10 substantive comments on the proposed rule, including questions raised by telephone or letter. Four were received from manufacturers or authorized importers (General Motors Corporation, Volkswagen of America, Mercedes-Benz of North America, and IVECO), and one each from a foreign converter (Gerhard Feldevert), authorized import dealer association (The Dealer Action Association), an importer of Canadian vehicles (Auburn Motors, Inc.), a dealer association (National Automotive Dealer Association), a truck importer (LaPine Truck Sales and Equipment Co.), and a member of the public (George Ziolo). General comments and questions to other dockets by the States of Texas and Virginia, and U.S. Trade Corp. appeared relevant, and will be discussed.

Requirements for Registration as Importer

The requirements for registration as an importer and maintenance of registration are established by paragraph 592.5. Under the regulation adopted by this notice, any person who wishes to become a Registered Importer, and who has not previously had a registration revoked, may file an application with the Administrator (new section 108(c)(3)(D)(i)). Comments to the docket raised basic questions as to who

is permitted to register, and under what circumstances registration is required. IVECO, a manufacturer, asked whether it is required to register when its activities include importing nonconforming vehicles for test purposes, or vehicles requiring further manufacturing operations. Volkswagen raised the possibility that it might import nonconforming cars, and conform them before sale in the United States. While seemingly recognizing that it would have to acquire registered status, it nevertheless argued that insurance and recordkeeping requirements that NHTSA proposed for Registered Importers would be unnecessary, and it recommended that the final rule exempt original manufacturers from insurance and recordkeeping requirements. A letter from a foreign national, Gerhard Feldevert, expressing a wish to become a Registered Importer, raises the question whether the 1988 Act permits a Registered Importer to be located outside the United States.

The principal obligation of a Registered Importer is to certify that a vehicle not originally manufactured in conformance with the Federal motor vehicle safety standards has been brought into conformity with them before it is licensed for use on the public roads. Since a vehicle requiring further manufacturing operations is a vehicle whose original manufacture is incomplete, its importer need not be a Registered Importer. This type of importation is governed exclusively by the special provision for it in section 108(e), thus excluding it from vehicles subject to the Registered Importer provision of section 108(f). Similarly, vehicles imported for test purposes are governed by section 108(j), not section 108(f) and IVECO need not be a Registered Importer for these types of importations. On the other hand, Volkswagen correctly surmises that its hypothetical importation of nonconforming vehicles which it intends to conform before sale subjects it to the Registered Importer requirements. The 1988 Act does not distinguish between U.S. subsidiaries of major foreign automotive corporations and corner garages; any person wishing to import a nonconforming motor vehicle for sale in the United States must be a Registered Importer, or have a contract with a Registered Importer. Furthermore, the vehicle itself is subject to a determination by NHTSA of its eligibility for importation, and Volkswagen is required to petition for an agency decision under part 593. To be sure, the sheer size of a company such as Volkswagen may justify a

different treatment of the issue of financial capability. Although NHTSA cannot adopt a different requirement in this final rule, it will study the matter with a view towards proposing, at an early date, an alternative method for factory-authorized importers, or corporations of a certain size, to demonstrate their financial capability to fulfill notification and remedy responsibilities.

Finally, it seems clear from the obligations imposed by statute upon Registered Importers that they must be resident in the United States. The ability of NHTSA to inspect vehicles, records, and facilities to verify conformance and the capabilities of Registered Importers would be severely hampered if those entities were located beyond the direct jurisdiction of the Department of Transportation and subject to the laws of another country. Accordingly, NHTSA will consider and grant applications only from Registered Importers who are residents of, and whose facilities are located in a "State" as defined by 15 U.S.C. 1391(8): The 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Marianas.

Because section 108(c)(3)(D)(i) also provides that registration may be denied "to any person who is or was, directly or indirectly, owned or controlled by, or under common ownership or control with, a person who has had a registration revoked * * *", as part of its application, an applicant will be required to disclose the names of its owners, shareholders, or partners (paragraph 592.5(a)(4)). In the opinion of Mercedes-Benz, the agency should define "common ownership" to include any ownership interest, no matter how small, in order to identify an importer whose registration has been revoked and who may hold a minority interest. The agency believes that its requirements will accomplish this, and that a definition is not required. If any of the owners are corporations, a requirement to provide the names of all shareholders might be unduly burdensome, and the regulation requires only that the names of shareholders whose ownership interest is 10% or more be supplied (paragraph 592.5(a)(5)). If the agency discovers that a revoked registrant has an ownership position in a Registered Importer or applicant, and may profit by the actions of the Importer (such as providing the facilities where the conversion work will occur), the agency will take this fact into

consideration when it is reviewing applications or their renewals.

Chief among the registration requirements stated in section 108(c)(3)(D)(ii) is proof of financial ability to carry out notification and remedy responsibilities should a noncompliance or safety related defect be found in any vehicle the Registered Importer has imported and/or for which it has furnished a certificate of conformity. In developing a provision addressing the financial ability of a Registered Importer to carry out its notification and remedial obligations, the agency was guided by the experience of the Environmental Protection Agency ("EPA") in developing and promulgating regulatory provisions addressing the financial ability of Independent Commercial Importers ("ICI's") to honor emissions warranties. (40 CFR 85.1510(b)(2)(i), 52 FR 36136). ICIs are importers of motor vehicles and engines, and have registered with the EPA. Some of them may register with NHTSA. Thus, a NHTSA requirement that parallels the EPA one is not likely to add significantly to the regulatory burden of those who import nonconforming vehicles subject to Federal regulations.

Commenters on EPA's regulations at the proposal stage, principally original equipment vehicle and engine manufacturers, and the State of California, suggested that ICIs acquire prepaid insurance and/or bonds to cover ICI warranty and recall liability for the useful life of each vehicle. There was no opposition from ICIs regarding this concept. Based on its experiences under the California emissions standards for motor vehicles, the California Air Resources Board (CARB) noted that the modification industry is composed of small businesses, and argued that it is likely that a number of firms will fail over time. Without a requirement for an insurance policy or bond to cover warranty and recall repairs, owners of vehicles obtained from firms that are no longer in business would have to bear the warranty costs. CARB offers modifiers a choice between obtaining insurance or a bond.

EPA decided to require a prepaid mandatory service insurance policy that, in effect, assures effective warranty coverage. That agency reasoned that it was unnecessary to require a bond to assure an effective recall and warranty program. Because the prepaid mandatory service insurance policy seemed acceptable to modifiers as a means of assuring their performance regarding recalls and warranties, NHTSA proposed in paragraph

592.5(a)(8) that the application contain "a copy of a contract to acquire, effective upon its registration as an importer, a prepaid mandatory insurance policy underwritten by an independent insurance company, in an amount sufficient to ensure that the applicant will be able financially to remedy any noncompliance or safety related defect determined to exist in any vehicle for which it has furnished a certificate of conformity to the Administrator * * *". However, NHTSA had no knowledge of the burden the insurance requirement might impose upon an applicant, and requested comments on this point. NHTSA also requested comments upon alternate appropriate means of assuring financial ability to carry out notification and remedial activities. Finally, NHTSA requested comments on the amount of insurance that would be necessary to demonstrate "sufficient financial responsibility." (section 108(d)(2)). The premium paid for such a policy would appear to encompass the relatively low costs of notification (i.e., discerning, through records or R.L. Polk, the names and addresses of vehicle owners), and the somewhat higher costs of remedy (through repair, repurchase, or replacement), as affected by the yearly number of vehicles for which the registered importer estimates it will submit certification. NHTSA understands that one company is currently insuring ICIs under EPA's program, but given the difference between Federal safety and emission standards the cost experience is not directly comparable.

Substantive comments were received on this issue from Mercedes-Benz, the Dealer Action Association, National Automotive Dealers Association, and U.S. Trade Corp. Mercedes stated that its remedial experience indicated that a prepaid insurance policy in an amount equal to \$2000 per vehicle should be sufficient (adjusted annually for inflation), or 5% of the dutiable value of the vehicle), whichever is the lesser. A similar comment was forthcoming from the Dealer Action Association, which suggested a surety bond as an alternative to the prepaid insurance policy, but for 5% of the dutiable value of the vehicle. It also commented that \$2000, self-adjusting for inflation, seemed a fair estimate of remedial costs. U.S. Trade Corp., a potential applicant to become a Registered Importer, commented that a financial ability requirement parallel to that of EPA would probably not add much to the Registered Importer's burden, but would add to the costs to the consumer. It

argued that possession of standard liability insurance that covers the work of each Registered Importer should be sufficient to cover the vehicle owner.

The agency has reviewed these comments. Given the historical fact that a large portion of nonconforming vehicles have been originally manufactured by Mercedes-Benz, NHTSA has carefully considered the comments of Mercedes-Benz of North America. The figure of \$2,000 per vehicle was supported by the Dealer Action Association, and, to NHTSA, appears a reasonable estimate of the costs to repair or replace a major component of a motor vehicle. The agency will review campaigns involving Registered Importers to determine whether this figure requires adjustment for inflation or other factors, but is not requiring a self-adjusting feature. Although a Registered Importer would be required, when repair is impossible, to replace the vehicle with an equivalent one, or repurchase the vehicle, at a cost that might well exceed \$2,000, such a contingency has occurred so infrequently in NHTSA's history that, for the present, the agency has concluded that it need not be part of a Registered Importer's showing of financial capability. With respect to the alternative suggestion that the policy amount be 5% of the entered value of the vehicle, the agency observes that repair costs for older vehicles of low value could be as expensive as for newer models. Further, percentage calculations would appear to add variables into the process whereas a flat figure of \$2,000 per vehicle treats all vehicles on an equal basis.

Additional comments were offered. The Dealer Action Association recommended that the policy be sufficient to compensate authorized dealers when Registered Importers are unable to perform recall work. NADA suggested that NHTSA consider EPA's approach toward vehicle repair in the final rule, to ensure that repairs are adequately performed and paid for, if not performed by, the Registered Importer. It recommended that the vehicle owner be provided with a transferable copy of the service insurance contract to facilitate repairs at facilities other than those of the Registered Importer. Although oriented towards compensation of authorized dealers, these comments are directed towards situations where it may not be practicable for the owner of a vehicle to return the vehicle to the facilities of the Registered Importer, such as when the Registered Importer is located at a great distance from the vehicle owner.

This possibility is a likely one, and of concern to NHTSA. In the agency's opinion, the Registered Importer's obligation to remedy without charge is an absolute one, and cannot be contingent upon the Importer itself performing the repairs, even for defects or noncompliances it has introduced in the conversion process. Thus the question is, how may NHTSA best ensure that repairs without charge be furnished a vehicle owner when repairs are performed by persons other than the Registered Importer. It was suggested that NHTSA consider EPA's approach, but the agency does not find this exactly on point. Under the provisions of the Clean Air Act, converters are required to supply owners with engine performance warranties. The warranties are required to be insured, transferable, and provide that warranty work may be performed anywhere if the converter's facility is not reasonably available (i.e., within 50 miles) 40 CFR 85.1510(b)(2). The regulation thus does not touch upon the mechanics of compensation for warranty work performed elsewhere. In the absence of regulatory guidance, NHTSA assumes that an owner pays for the repairs at the non-converter service facility, and presents the bill to the converter for reimbursement. If such a course were followed by owners of vehicles converted to meet the safety standards, it would meet the statutory requirement of remedy without charge, although the owner would be temporarily out of pocket for the repair expenses. However, a Registered Importer should have the right to impose reasonable restrictions upon the type of facility to which a vehicle for which it has remedial responsibility may be taken. A reasonable restriction would be that the vehicle must be repaired at a factory-authorized dealership for its make (e.g., a gray market Jaguar must be repaired by the service facilities of a Jaguar new-car dealership). Because the remedial obligation exists with respect to the vehicle and not the owner, no specific requirement for transferability of insurance is required. Some of the comments indicate that a form of insurance may be available under which a claim for compensation may be made by a non-converter repair facility directly to an insurance company. Remedy without charge through this mechanism would also fulfill the statutory requirement. The agency believes that the method of ensuring remedy without charge should be the choice of the person who is required to provide it. The requirement it is adopting in response to these comments is one that follows the EPA specification

for allowance of repairs at alternative locations when the Registered Importer's facility is not reasonably available, and one which requires an explanation of how remedy without charge will be ensured. The agency notes that the Registered Importer must provide NHTSA with copies of its communications to vehicle owners, and must supply the owner with NHTSA's address for complaints in the event remedy without charge is not provided. NHTSA therefore anticipates that no serious problems will arise. Further it expects that authorized dealers, or others performing campaign repairs, will be adequately compensated.

In developing part 592, the agency proposed that the application contain a statement whether the Registered Importer would modify the vehicles for which it will furnish certificates of conformity, and if not, to provide the names and address of all agents who would be the actual modifiers.

The concept that a Registered Importer could delegate actual conformance work was opposed by Mercedes-Benz and The Dealer Action Association. Both commenters argued that this did not fulfill the statutory purpose of increased accountability for conversions, and cited statements from the Congressional Record in support. In Mercedes' opinion, NHTSA would open an area of potential dispute when the object of the 1988 Act was to clarify NHTSA's jurisdiction. Conformance operations must be carried out by Registered Importers, their employees, or subsidiaries. The legal line between an "agent" and an "independent contractor" is not always clear, raising the possibility that a Registered Importer might structure a relationship to avoid acts of a modifier, including fraud.

NHTSA has carefully considered these comments. It believes that the provisions of the 1988 Act are complex enough that regulations should not be adopted that open additional avenues of potential dispute or complications with Registered Importers that might dilute the responsibility imposed by the 1988 Act, and which might result in less than full achievement of the intent of Congress when these approaches have not been specifically directed by Congress. Therefore, it agrees with the comments of Mercedes and the Dealer Action Association, and has not adopted those aspects of the proposal that countenanced delegation of conformance responsibilities to an agent.

The 1988 Act also requires that the regulation contain "provision for

ensuring that the importer (or any successor in interest) will be able . . . to carry out the importer's responsibilities . . . relating to discovery, notification, and remedy of defects." Paragraph 592.5(a)(9) requires that the applicant show that it will maintain a system of VINs, and names and addresses of owners of vehicles for which it provides certifications. Although the 1988 Act contemplates that a Registered Importer could have a "successor in interest", NHTSA proposed that registrations not be transferable. Such a prohibition appears the most feasible way to ensure that notification responsibilities are met, as well as ensuring that transfers do not occur to Importers whose registration may have been revoked or suspended. There was no comment on this point, and, accordingly, the agency has adopted paragraph 592.5(g) which states that registrations are not transferable. If there is a change in ownership interest, such as a transfer resulting in a new person acquiring more than 10% of ownership, a Registered Importer must notify NHTSA (paragraph 592.5(f)). This paragraph requires notification of changes in any of the information supplied with the application. A registration will continue indefinitely until revoked or suspended. However, a Registered Importer, in order to maintain its registration, will be required to affirm annually that there has been no change in previously provided information (paragraph 592.5(e)). This should ensure that the financial ability of a Registered Importer can be monitored, and that fees are received in a timely manner.

Duties of a Registered Importer

Paragraph 592.6 sets forth the duties of a Registered Importer. The first duty specified is to provide a bond for each vehicle that it imports to ensure that it will bring the vehicle into conformance, or that it will be exported or abandoned to the United States (paragraph 592.6(a)).

The second duty required for a Registered Importer is that it establish, maintain, and retain for 8 years from the date of entry of a vehicle for which it furnishes a certificate of conformity the records specified in paragraph 592.6(b) (1) through (5), generally relating to substantiation of conformance work and vehicle ownership. Eight years was proposed because it is the period specified in the National Traffic and Motor Vehicle Safety Act for which a manufacturer is obliged to remedy a noncompliance or safety related defect at no cost to the vehicle owner (15 U.S.C. 1414(a)(1)(4)). For a fuller interpretation as to how the 8-year limit

affects the obligations of a Registered Importer, the reader should consult the section of this notice discussing paragraph 592.6(f).

Comments on record-keeping were submitted by NADA and Mercedes-Benz. NADA commented that the final rule should emphasize the continuing duty of Registered Importers towards the vehicle, by requiring that they continually update their owner lists since notification obligations extend beyond first purchasers. It is true that there is a continuing obligation towards the vehicle, but NHTSA believes that existing notification procedures, which will be applicable to Registered Importers, sufficiently meet the need for safety. To require an updated list of owners would create an obligation that does not exist with respect to original manufacturers, and would be of questionable success should an owner fail to respond to a Registered Importer's query. Such a requirement would impose an unnecessary burden upon a Registered Importer. The vehicle is identifiable through its VIN and in the event of notification, the Registered Importer is required by 15 U.S.C. 1413(c)(1) to notify owners "whose named and address is reasonably ascertainable by the manufacturer through State records or other sources available to him." Mercedes-Benz commented that based upon past experience it is not likely that many gray market importers will remain in business for the normal useful life of the vehicles they certify. It recommended that the final rule address the issue of retention of records on dissolution of a business, and that Registered Importers be required to deliver all vehicle conformance records to NHTSA in this event in order to assure the ability to reach gray market owners. NHTSA believes that one effect of the 1988 Act will be that the number of gray market importers will be substantially reduced, and that those which remain will be relatively stable financially. Mercedes' comment appears based upon the assumption that, in the absence of a Registered Importer *qua* manufacturer, NHTSA must make its own determinations of noncompliance or safety related defect, and that its ability to notify owners in the aftermath of such determinations will be impaired without such records. This assumption is based upon an erroneous understanding of NHTSA's procedures. The statutory purpose of NHTSA's determinations is to order the manufacturer to notify and remedy when the manufacturer fails to make its own determination. If there is no viable manufacturer (or Registered

Importer), NHTSA will not proceed to such a determination. Should safety considerations warrant, NHTSA may issue a press release advising owners of the conditions giving rise to concern and advise precautions to be taken. Thus, NHTSA has not adopted this suggestion.

The third major responsibility of a Registered Importer is to affix a certification label to each vehicle it conforms in the manner required of original vehicle manufacturers, which identifies the Registered Importer (paragraph 592.6(c)). NADA recommended that the certification label specifically designate the vehicle as "Nonconforming Import", consistent with labels required for incomplete or intermediate vehicle manufacturers, that it include specific reference to conformance with Theft Prevention Act requirements, as well as language consistent with certification by alterers pursuant to 49 CFR 567.7(a). The agency declines to adopt the suggestions. The imported vehicle will presumably no longer be "Nonconforming" after its modification. Under existing regulations, certification to Theft Prevention requirements must be provided separately from certification to other standards (paragraph 567.4(k)), and no good reason has been advanced to require otherwise. Unlike the alterer, who supplements an existing certification, a Registered Importer certifies *de novo*, and thus must certify according to 49 CFR 567.4. As the person affixing the label to the vehicle under that regulation, the Registered Importer will be clearly identified, as will the original manufacturer or assembler of the vehicle.

The fourth duty of a Registered Importer is to provide NHTSA with certification upon completion of modifications that the vehicle conforms and that it is the party responsible for conformity (paragraph 592.6(d)). NHTSA proposed that substantiation of certification through photographic and documentary evidence be submitted for the initial certification provided for a specific model and model year only, and with subsequent certifications of that model and model year only if requested by NHTSA. The proposal has been adopted as written (paragraph 592.6(e)), although the Dealer Action Association argued that NHTSA should require full documentary evidence for each vehicle. In essence, NHTSA does: paragraph 592.6(b)(4) requires the Registered Importer to keep records both photographic and documentary reflecting the modifications made and submitted to NHTSA pursuant to paragraph 592.6(e), which must be made

available to NHTSA to inspect (paragraph 592.6(g)). NHTSA does not wish to create unnecessary burdens upon either a Registered Importer or itself by requiring excessive documentation. If a Registered Importer fails in its obligations to conform the vehicle (not always apparent through photographic evidence), its registration may be suspended or revoked, and civil penalties imposed.

A Registered Importer also has notification and remedial obligations imposed by the 1988 Act. These obligations have been incumbent upon manufacturers of motor vehicles since enactment of the Vehicle Safety Act. Although a "manufacturer" includes any person importing motor vehicles for resale, these obligations have not always been understood or followed by importers for resale of nonconforming vehicles, nor have they always been enforced by NHTSA. However, Congress has specifically indicated its intent that these importers fulfill this sometimes dormant responsibility (section 103(d)), and broadened its applicability. For purposes of notification and remedy, the Registered Importer shall be treated as the manufacturer with respect to any motor vehicle that it imports (regardless of whether or not it imports the vehicle for resale), or brings into conformity on behalf of an individual importer who has a contract with it. Furthermore, if the vehicle is one that is substantially similar (as determined under part 593) to one certified for sale in the United States by its original manufacturer, and a noncompliance or safety related defect is determined to exist in the substantially similar vehicle, the 1988 Act deems it to exist in the conformed vehicle as well, unless the manufacturer or Registered Importer can show otherwise. These obligations are reflected in paragraphs 592.6(f). NADA commented that the final rule should emphasize that this responsibility encompasses conditions created by the modification process, as well as incorporated into the vehicle by its original manufacturer. NHTSA regards this suggestion as well made, and paragraph 592.6(f)(2) incorporates it.

In reviewing the relationship of the notification/remedial requirements of the 1988 Act to those already existing in the Vehicle Safety Act, NHTSA has identified an ambiguity as to the length of time for which remedy without cost must be provided. According to 15 U.S.C. 1414(a)(4), the requirement shall not apply "if the motor vehicle * * * was purchased by its first purchaser more than 8 years * * * before * * *

notification is furnished * * *." The general intent of Congress appears to be that manufacturers should not be required to provide free remedy for vehicles whose age exceeds 8 years, even if no corresponding limitation is imposed upon notification. If the date of first purchase is known for used imported nonconforming vehicles (such as through title documents accompanying it), there will be no difficulty determining when the 8-year period begins. However, if the date of first purchase is not known, NHTSA believes that any vehicle manufactured within 8 years of the date of notification should be eligible for remedy without charge. However, noncompliances or safety related defects could be created by a Registered Importer in the conformance process, and they may be introduced in an imported vehicle approaching or beyond an age of 8 model years. It seems fairest in this instance to regard conformance operations as a "manufacturing" process, and to commence the 8-year period with the sale of the vehicle to its first purchaser, regardless of its age. Disagreements may arise as to whether a safety related defect is attributable to the manufacturer or the Registered Importer, but these will simply have to be handled on an *ad hoc* basis.

The agency also notes that one duty of a Registered Importer arises under the bond given upon importation of each vehicle: the fulfillment of the condition that if vehicle conformance is not achieved, the vehicle will be exported at no cost to the United States by the Secretary of the Treasury, or abandoned to the United States (section 108(c)(2)(B)). If this duty, set forth in paragraph 592.6(f), is not fulfilled, and the vehicle is sold without full conformance, not only will the bond be forfeit but grounds will then exist to suspend or revoke the Importer's registration.

A final question relating to the duties of a Registered Importer was asked by LaPine: who establishes the amount of charges to be made by the Registered Importer for conformance work? These charges are a matter of contract between the Registered Importer and the person for whom the work is done, and are not established by Federal regulations.

Revocation, Suspension, and Reinstatement of Registration

Paragraph 592.7 establishes the requirements for revocation, suspension, and reinstatement of the registration of Registered Importers.

Section 108(c)(3)(D)(iii) requires the Secretary to establish procedures for

revoking or suspending the registration of any Registered Importer for failure to comply with any requirement of section 108 of the Vehicle Safety Act or of any regulation issued under that section. Those procedures are also required to provide for automatically suspending the registration of a Registered Importer which knowingly files a false or misleading certification, or fails to pay a required fee in a timely manner. To cover the expenses of the registration program and certain other activities, the statute provides that each Registered Importer will have to pay an annual fee; this fee will be established on a fiscal year basis. A Registered Importer under suspension may be reinstated when the cause giving rise to the suspension ceases to exist. In determining revocation or suspension, other than automatic suspension as provided by section 108(c)(3)(D)(iii) for nonpayment of fees or for knowingly filing a false or misleading certification, the Administrator will provide notice in writing to the Registered Importer, affording it an opportunity to present data, views, and arguments as to why its registration should not be suspended or revoked. Other than its provision for automatic suspension, the 1988 Act does not distinguish suspension from revocation; either may be invoked for failure to comply with any requirement of section 108 or the regulations issued under section 108. The agency interprets the 1988 Act as leaving the decision whether to suspend or to revoke to the discretion of the Administrator, with the exception of the automatic suspension provisions discussed above.

No comments were received on this aspect of the rulemaking, and it is adopted as proposed.

Inspection; Release of Vehicles and Bond

Paragraph 592.8 establishes the requirements for inspection of modified vehicles, and their release for registration, as well as release of the performance bond under which they entered. As is currently required, an importer of record, whether a Registered Importer or one who has a conformance contract with a Registered Importer, will have to furnish the Secretary of the Treasury (the U.S. Customs Service, acting for NHTSA), a bond for each vehicle it imports to ensure that the vehicle is brought into compliance with the safety standards, or that it is exported at no cost to the United States, or abandoned to the United States. When the modifications of an imported vehicle are completed, the Registered Importer will have to attach its label to

the vehicle stating that it complies with the safety standards, and certify that conformance to NHTSA. If the vehicle is one that the Administrator has determined to be substantially similar to one certified by its original manufacturer for sale in the U.S., the Registered Importer may rely in making its certification on the original manufacturer's certification with respect to identical safety features if it certifies to the Administrator that its modifications did not affect compliance of the vehicle's safety features. Under the 1988 Act, the Registered Importer will be able to license the vehicle, or release the vehicle from its custody for licensing, 30 days after its submission of the certification to NHTSA. NHTSA, however, can demand an inspection of the vehicle within the 30-day period, or ask for certification verification. In that event, the vehicle can be released only upon the agency's written notice of its acceptance of the certification or written notice of its completion of an inspection that does not show any failure to comply. The vehicle and the performance bond can be released immediately upon issuance of either notification. Section 108(c)(3)(E)(v), added by the 1988 Act, provides that any release of bond, however, does not constitute a determination under section 152 of the Vehicle Safety Act that the vehicle conforms with all applicable standards.

Section 108(c)(3)(E)(i) requires NHTSA and the Secretary of the Treasury to establish procedures to ensure the release of a motor vehicle and bond at the expiration of the 30-day period, and this was proposed as paragraph 592.8(f). At the time of the proposal, it had not been determined whether the bond would be one of the U.S. Customs Service, or of NHTSA. The determination has been made that the bond will be NHTSA's, and therefore no such provision is required in the final rule. NHTSA will continue to inform Customs when requirements subject to the general importation bond (bumper and theft prevention standards) have been met, and will make these determinations contemporaneously with those regarding compliance with the safety standards.

These requirements were the subject of little comment. In paragraph 592.8(b), NHTSA had proposed that each submission shall be provided either by certified mail (return receipt requested), or electronically in a manner to be specified by NHTSA. George Ziolo found this too restrictive, and recommended allowing submission through private concerns and in person

as well. This comment is well taken. It is important that a Registered Importer know when its submission has been received, and, hence, when the 30-day period has begun. Given the agency's own experience with failure to receive certified mail return receipts, it believes that a Registered Importer must be able to submit its certification in the manner it believes will best inform it of the date of receipt. The final rule is adopted as suggested. Further, NHTSA has specified in the final rule the electronic means it prefers, and has provided the FAX number of the agency.

Auburn Motors, an importer of cars from Canada, thought that Registered Importers of such cars should not have to wait 30 calendar days after submission of certification to be informed by NHTSA of their release. It should be noted that 30 days is the maximum period, and it may well be that in practice bonds may be released more expeditiously.

The State of Texas asked for clarification of the events that would transpire in the event the bond was forfeited. In the event that NHTSA determines that the primary condition of the performance bond, the conformance of the vehicle, has not been met, the agency will demand fulfillment of one of the remaining two alternative conditions: the export of the vehicle at no cost to the United States, or its abandonment to the United States. NHTSA shall specify a time in which this is to be accomplished. Because the 1988 Act requires strict adherence to these provisions, it does not appear to allow the agency to consider petitions for mitigation on such grounds as hardship, or the achievement of partial compliance. If the bond is forfeited through failure to fulfill any of the three conditions of performance, NHTSA will review the circumstances of the case and, when appropriate, inform Customs that the importer appears to have made a false declaration under the conforming regulation, 19 CFR 12.80. Customs has appropriate sanctions, including the seizure of the vehicle, when violations of its regulations occur. Civil penalty sanctions may be also be imposed by NHTSA. As discussed previously, if a Registered Importer forfeits a performance bond, its registration will be subject to suspension or revocation.

Commenting that in some jurisdictions a DOT bond release letter is required before registration of vehicles is allowed, Texas also asked what would occur if a vehicle is automatically released at the end of 30 days without a bond release letter having been issued. If a vehicle is automatically released

from custody of the Registered Importer at the end of 30 days without a bond release letter having been issued, there are two possible scenarios. The first is that such a letter will eventually be forthcoming if the certification is found acceptable. If the certification is unacceptable, no such letter will be forthcoming, and conformance problems will have to be resolved between NHTSA, the Registered Importer, and the owner of the car who presumably will have taken possession of it, but may have found himself unable to license it.

Virginia Department of Motor Vehicles wondered if NHTSA and EPA could issue a single release notice. NHTSA has previously considered the feasibility of parallel action with EPA such as a common declaration form. This does not appear practicable. Two different Federal agencies are involved, proceeding under two different legislative authorities, with their own distinctive requirements. Although the regulated persons are of the same class (importers of motor vehicles) there is not a sufficient identity of regulatory action to allow common forms or time frames. In fact, the motor vehicle standards administered by NHTSA itself that must be met by imported vehicles originate in three distinctly different regulatory authorities: Title I of the National Traffic and Motor Vehicle Safety Act (safety standards), and Titles I (bumper standard) and VI (theft prevention) of the Motor Vehicle Information and Cost Savings Act.

Impacts

After considering the impacts of this rulemaking action, NHTSA has determined that the final rule is not major within the meaning of Executive Order 12291 "Federal Regulation". It implements Public Law 100-562 under which motor vehicles not originally manufactured to conform to the Federal motor vehicle safety standards may be imported only by importers who have registered with NHTSA under this part, or by those who have contracts with them. Nor is it significant under Department of Transportation regulatory policies and procedures. The final rule involves no substantial public interest or controversy. It has no substantial effect on state and local governments. There is no substantial impact on a major transportation safety program. 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.

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

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, the agency has no reason to believe that a substantial number of these companies could not qualify to become registered importers. However, small businesses currently conforming vehicles may choose not to register as importers because of the recordkeeping and other requirements, and the obligation to notify/remedy in the event of the occurrence of a noncompliance or safety related defect, and these businesses would no longer be able to perform conformance work on vehicles imported on or after January 31, 1990. The cost to owners or purchasers of modifying nonconforming vehicles to conform with the safety standards may be expected to increase to the extent necessary to reimburse the Registered Importer for the fees payable to the agency for the cost of administering the registration program, for making determinations that nonconforming vehicles are eligible for entry, and to compensate Customs for its bond processing costs. The Registered Importer's fee for administration of the registration program will be \$255, and it is probable that a share of this cost may be assigned to each vehicle conformed. If a vehicle has been imported pursuant to a determination petition filed by its Registered Importer, a share of the petition fees (\$1,560 or \$2,150 depending upon the type of petition) may also be assigned to each vehicle conformed. When these costs are divided among the number of vehicles that a Registered Importer may conform, they are not expected to add significantly to the price of an imported vehicle that, past experience shows, is likely to be in the upper ranges of the luxury market. The cost of compensating Customs for its bond processing costs will be \$4.35 per vehicle, and it is expected that this will be a direct cost to owners or purchasers of nonconforming vehicles.

Governmental jurisdictions will not be affected at all since they are generally neither importers nor purchasers of nonconforming motor vehicles. However, a Regulatory Flexibility Analysis covering all regulations proposed to implement the 1988 Act has been prepared, and placed in the public docket.

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

The registration 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. Accordingly, these requirements 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.

List of Subjects in 49 CFR Part 592

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, a new part 592, *Registered Importers of Vehicles not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards*, is added to title 49, chapter V, to read as follows:

PART 592—REGISTERED IMPORTERS OF VEHICLES NOT ORIGINALLY MANUFACTURED TO CONFORM TO THE FEDERAL MOTOR VEHICLE SAFETY STANDARDS

- Sec.
- 592.1 Scope.
- 592.2 Purpose.
- 592.3 Applicability.
- 592.4 Definitions.
- 592.5 Requirements for registration and its maintenance.
- 592.6 Duties of a registered importer.
- 592.7 Revocation, suspension and reinstatement of registration.
- 592.8 Inspection; release of vehicle and bond.

Authority: Pub. L. 100-562, 15 U.S.C. 1401, 1407; delegation of authority at 49 CFR 1.50.

§ 592.1 Scope.

This part establishes procedures under section 108(c)(3)(D) of the National Traffic and Motor Vehicle Safety Act, as amended (15 U.S.C. 1397(c)(3)(D)), for the registration of importers of motor vehicles that were not originally manufactured to comply

with all applicable Federal motor vehicle safety standards. This part also establishes the duties of Registered Importers.

§ 592.2 Purpose.

The purpose of this part is to provide content and format requirements for persons who wish to register with the Administrator as importers of motor vehicles not originally manufactured to conform to all applicable Federal motor vehicle safety standards, to provide procedures for the registration of importers and for the suspension, revocation and reinstatement of registration, and to set forth the duties required of Registered Importers.

§ 592.3 Applicability.

This part applies to any person who wishes to register with the Administrator as an importer of nonconforming vehicles, and to any person who is registered as an importer.

§ 592.4 Definitions.

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

Administrator means the Administrator, National Highway Traffic Safety Administration.

NHTSA means the National Highway Traffic Safety Administration.

Registered Importer means any person that the Administrator has registered as an importer pursuant to section 592.5(b).

§ 592.5 Requirements for registration and its maintenance.

(a) Any person wishing to register as importer of motor vehicles not originally manufactured to conform to all applicable Federal motor vehicle safety standards must file an application which:

(1) Is headed with the words "Application for Registration as Importer", and submitted in three copies to: Administrator, National Highway Traffic Safety Administration, Washington, DC 20590, Attn: Importer Registration.

(2) Is written in the English language.

(3) Sets forth the full name, address, and title of the person preparing the application, and the name, address, and telephone number of the person for whom application is made.

(4) Sets forth, as applicable, the names of all owners, including shareholders, partners, or sole proprietors, of the person for whom application is made.

(5) If any of the owners listed in paragraph (a)(4) of this section are corporations, sets forth the names of all

shareholders of such corporation whose ownership interest is 10 percent or greater.

(6) Contains a statement that the applicant has never had a registration revoked pursuant to § 592.7, nor is it or was it, directly or indirectly, owned or controlled by, or under common ownership or control with, a person who has had a registration revoked pursuant to § 592.7.

(7) Contains a certified check payable to the Treasurer of the United States, for the amount of the initial annual fee established pursuant to part 594 of this chapter.

(8) Contains a copy of a contract to acquire, effective upon its registration as an importer, a prepaid mandatory service insurance policy underwritten by an independent insurance company, or a copy of such policy, in an amount that equals \$2,000 for each motor vehicle for which the applicant will furnish a certificate of conformity to the Administrator, for the purpose of ensuring that the applicant will be able financially to remedy any noncompliance or safety related defect determined to exist in any such motor vehicle in accordance with part 573 and part 577 of this chapter. If the application is accompanied by a copy of a contract to acquire such a policy, the applicant shall provide NHTSA with a copy of the policy within 10 days after it has been issued to the applicant.

(9) Sets forth in full data, views, and arguments of the applicant sufficient to establish that the applicant will be able, through a records system of acquiring and maintaining names and addresses of owners of vehicles for which it furnishes a certificate of conformity, and Vehicle Identification Numbers (VINs) of such vehicles, to notify such owners that a noncompliance or safety related defect exists in such vehicles, and that it will be financially able to remedy a noncompliance or safety related defect through repurchase or replacement of such vehicles, or technically able through repair of such vehicles, in accordance with part 573 and part 577 of this chapter.

(10) Segregates and specifies any part of the information and data submitted under this part that the applicant wishes to have withheld from public disclosure in accordance with part 512 of this chapter.

(11) Contains a statement that the applicant will fully comply with all duties of a registered importer as set forth in § 592.6.

(12) Has the applicant's signature acknowledged by a notary public.

(b) If the information submitted is incomplete, the Administrator notifies

the applicant of the areas of insufficiency, and that the application is in abeyance.

(c) If the Administrator deems it necessary for a determination upon the application, NHTSA conducts an inspection of the applicant and/or its agents. Subsequent to the inspection, NHTSA calculates the costs attributable to such inspection, and notifies the applicant in writing that such costs comprise a component of the initial annual fee and must be paid before a determination is made upon its application.

(d) When the application is complete (and, if applicable, when a sum representing the inspection component of the initial annual fee is paid), it is reviewed and a determination made whether the applicant should be granted the status of Registered Importer. Such determination may be based, in part, upon an inspection by NHTSA of the conformance, storage, and recordkeeping facilities of the applicant and agents, if any. If the Administrator determines that the application is acceptable, (s)he informs the applicant in writing that its application is approved, and issues it a Registered Importer Number. If the information is not acceptable, the Administration informs the applicant in writing that its application is not approved. No refund is made of those components of the initial annual fee representing the costs of processing the application, and conducting an inspection. Refund is made of that component of the initial annual fee representing the remaining costs of administration of the registration program.

(e) In order to maintain its registration, a Registered Importer shall provide an annual statement that affirms that all information provided under paragraphs (a)(4), (a)(5), (a)(6), (a)(9), and (a)(11) of this section remains correct, and that includes a current copy of its insurance policy procured pursuant to paragraph (a)(8) of this section. Such statement shall be titled "Yearly Statement of Registered Importer", and shall be filed not later than October 31 of each year. A Registered Importer shall also pay such annual fee or fees as the Administrator may from time to time establish under part 594 of this chapter. An annual fee shall be paid not later than October 31 of any calendar year, and shall be the annual fee for the fiscal year that began on October 1 of that calendar year. Any other fee shall be payable not later than 30 calendar days after the date that the Administrator has notified the Registered Importer of it in writing.

(f) A Registered Importer shall notify the Administrator in writing of any change that occurs in the information which is submitted in its application, not later than the end of the 30th calendar day after such change.

(g) A registration granted under this part is not transferable.

§ 592.6 Duties of a registered importer.

Each Registered Importer shall:

(a) With respect to each motor vehicle that it imports into the United States, furnish to the Secretary of the Treasury (acting on behalf of the Administrator) a bond in an amount not less than the entered value of the vehicle, as determined by the Secretary of the Treasury, nor more than 150 per cent of such value, to ensure that such vehicle either will be brought into conformity with all applicable Federal motor vehicle safety standards prescribed under part 571 of this chapter within 120 calendar days after such importation, or will be exported (at no cost to the United States) by the importer or the Secretary of the Treasury, or abandoned to the United States.

(b) Establish, maintain, and retain for 8 years from the date of entry of any nonconforming vehicle for which it furnishes a certificate of conformity pursuant to paragraph (e) of this section, organized records, correspondence and other documents relating to the importation, modification, and substantiation of certification of conformity to the Administrator, including but not limited to:

(1) The declaration required by § 591.5 of this chapter, and 19 CFR 12.80.

(2) All vehicle or equipment purchase or sales orders or agreements, conformance agreements with importers other than Registered Importers, and correspondence between the Registered Importer and the owner or purchaser of each vehicle for which it has furnished a certificate of conformity.

(3) The last known name and address of the owner or purchaser of each motor vehicle for which it has furnished a certificate of conformity, and the VIN number of such vehicle.

(4) Records, both photographic and documentary, reflecting the modifications made and submitted to the Administrator pursuant to paragraph (e) of this section.

(b) Records, both photographic and documentary, sufficient to substantiate each subsequent certificate furnished to the Administrator for a vehicle of the same model and model year for which documentation has been furnished NHTSA in support of the initial certificate.

(c) Permanently affix to each motor vehicle, upon completion of modifications, a label that meets the requirements of § 567.4 of this chapter, which identifies the Registered Importer, and provide to the Administrator a photocopy of the label attesting that such vehicle has been brought into conformity with all applicable Federal motor vehicle safety and bumper standards.

(d) Certify to the Administrator, upon completion of modifications, that the vehicle has been brought into conformity with all applicable Federal motor vehicle safety and bumper standards, and that it is the person legally responsible for bringing the vehicle into conformity.

(e) In substantiation of the initial certification provided for a specific model and model year, submit to the Administrator photographic and documentary evidence of conformance with each applicable Federal motor vehicle safety and bumper standard, and with respect to subsequent certifications of such model and model year, such information, if any, as the Administrator may request.

(f) With respect to any motor vehicle for which it has furnished a certificate of conformity to the Administrator, provide notification and remedy according to part 573 and part 577 of this chapter, under any determination.

(1) That a vehicle to which it is substantially similar, as determined under part 593 of this chapter, incorporates a safety related defect or fails to conform with an applicable Federal motor vehicle safety standard. However, this obligation does not exist if the manufacturer of the vehicle or Registered Importer demonstrates to the Administrator that the defect or noncompliance is not present in such vehicle.

(2) That the vehicle incorporates a safety related defect or fails to conform with an applicable Federal motor vehicle safety standard, without reference to whether such may exist in a vehicle to which it is substantially similar, or whether such exists because it was created by the original manufacturer or by the Registered Importer.

(i) The requirement of 15 U.S.C. 1414(a)(2)(B) that remedy shall be provided without charge shall not apply if the noncompliance or safety related defect exists in a motor vehicle whose first sale after importation occurred more than 8 calendar years before notification respecting the failure to comply is furnished pursuant to Part 577 of this chapter, except that if a safety related defect exists and is attributable

to the original manufacturer and not the Registered Importer, the requirements of 15 U.S.C. 1414(a)(2)(B) shall not apply to a motor vehicle whose date of first purchase, if known, or, if not known, whose date of manufacture, as determined by the Administrator, is more than 8 years from the date on which notification is furnished pursuant to part 577 of this chapter.

(ii) Notification furnished pursuant to this paragraph and part 577 of this chapter shall include the statement that in the absence of the Registered Importer's facility being within 50 miles of the owner's mailing address for performance of repairs, such repairs may be performed at a specific facility designated by the Registered Importer within 50 miles, or, if no such facility is designated, anywhere, and shall also include an explanation how repair is to be accomplished without charge to the vehicle owner.

(g) In order to allow the Administrator to determine whether a Registered Importer is meeting its statutory responsibilities, admit representatives of NHTSA during operating hours, upon demand, and upon presentation of credentials, to copy documents, or to inspect, monitor, or photograph any of the following:

(1) Any facility where any vehicle, for which a Registered Importer has the responsibility of providing a certificate of conformity to applicable safety standards, is being modified, tested, or stored;

(2) Any facility where any record or other document relating to modification, testing, or storage of vehicles being conformed, is filed;

(3) Any part or aspect of activities relating to the modification, testing, and/or storage of vehicles by the Registered Importer.

(4) Any motor vehicle for which it has provided a certification of conformity to the Administrator, and which remains in its custody or under its control.

(h) Maintain in effect a prepaid mandatory service insurance policy underwritten by an independent insurance company as a guarantor of its performance under paragraph (f) of this section.

(i) With respect to any motor vehicle it has imported and for which it has furnished a performance bond, to deliver such vehicle to the Secretary of the Treasury for export, or to abandon it to the United States, upon demand by the Administrator if such vehicle has not been brought into conformity with all applicable Federal motor vehicle safety standards.

§ 592.7 Revocation, suspension and reinstatement of registration.

(a) If the Administrator has not received any fee assessed and owing by the end of the 30th calendar day after such fee is due and payable, a registration is automatically suspended at the beginning of the 31st calendar day, and the Registered Importer is immediately notified in writing of the suspension at the address contained in its most recent annual statement or amendment thereof.

(b) If the Administrator has reason to believe that a Registered Importer has knowingly filed a false or misleading certification, and that its registration should be automatically suspended or revoked, (s)he notifies the Registered Importer in writing of the facts giving rise to such reason to believe, affording an opportunity to present data, views, and arguments, either in writing or in person, within 30 calendar days after receipt of the Administrator's letter, as to whether it has submitted false or misleading certification, and as to why the registration ought not to be revoked or suspended. The Administrator then makes a decision after the 30-day period on the basis of all information then available. If, after consideration of all the data available, the Administrator determines that the Registered Importer has knowingly filed a false or misleading certification, the registration is automatically suspended or revoked, and the Registered Importer notified in writing. Any suspension or revocation is effective as of the date of the Administrator's determination. The Administrator shall state the period of any suspension in the notice to the Registered Importer.

(c) The Administrator may suspend a registration if a Registered Importer fails to comply with any requirement set forth in 15 U.S.C. 1397(c)(3)(D), § 592.5(c), or § 592.6, or if (s)he denies an application filed under § 592.5(d). The Administrator may revoke a registration after any failure to comply with any such requirement, or if (s)he denies an application filed under § 592.5(d). If the Administrator has reason to believe that there has been such a failure to comply and that the Registered Importer's registration should be revoked or suspended, (s)he notifies the Registered Importer in writing, affording an opportunity to present data, views, and arguments, either in writing or in person, within 30 calendar days after receipt of the Administrator's letter, as to whether there has been a failure to comply and as to why the registration ought not to be revoked or suspended. The Administrator then

makes a decision after the 30-day period on the basis of all information then available. If the Administrator determines that a registration should be revoked or suspended, (s)he notifies the Registered Importer in writing. A revocation is effective immediately. A suspension is effective beginning with a date specified in the written notification.

(d) A Registered Importer whose registration has been revoked or suspended may request reconsideration of the revocation or suspension if the request is supported by factual matter which was not available to the Administrator at the time the registration was suspended or revoked.

(e) If its registration has been revoked, a Registered Importer is ineligible to apply for reregistration under this part. No refund is provided of any annual or other fees the Registered Importer has paid for the fiscal year in which its registration is revoked. If its registration has been suspended, it may file an application for reinstatement of its registration.

(f) The Administrator shall reinstate a suspended registration if the cause that led to the suspension no longer exists, as determined by the Administrator, either upon the Administrator's motion, or upon the submission of further information or fees by the Registered Importer.

§ 592.8 Inspection; release of vehicle and bond.

(a) With respect to any motor vehicle for which it is obligated to provide a certificate of conformity to the Administrator as required by § 592.6(d), a Registered Importer shall not obtain licensing or registration of the motor vehicle for use on the public roads, or release custody of it for such licensing and registration, except in accordance with the provisions of this section.

(b) When conformance modifications to a motor vehicle have been completed, a Registered Importer shall submit the certification required by § 592.6(d) to the Administrator. In certifying a vehicle that the Administrator has determined to be substantially similar to one that has been certified by its original manufacturer for sale in the United States, the Registered Importer may rely on any certification by the original manufacturer with respect to identical safety features if it also certifies that any modification that it undertook did not affect the compliance of such safety features. Each submission shall be mailed by certified mail, return receipt requested, or by private carriers such as Federal Express, to: Administrator, National Highway Traffic Safety Administration, Washington, DC, 20590

ATTN: NEF-32, or be submitted electronically by FAX (202-366-2536), or in person. Each submission shall identify the location where the vehicle will be stored and is available for inspection, pending NHTSA action upon the submission.

(c) Before the end of the 30th calendar day after receipt of certification of a motor vehicle pursuant to § 592.6(d), the Administrator may inform the Registered Importer in writing that an inspection of the vehicle is required to ascertain the veracity of the certification. Written notice includes a proposed inspection date, which is as soon as practicable. If inspection of the vehicle indicates that the vehicle has been properly certified, at the conclusion of the inspection the Registered Importer is provided an instrument of release. If inspection of the vehicle shows that the vehicle has not been properly certified, the Registered Importer shall either make the modifications necessary to substantiate its certification, and provide a new certification for the standard(s) in the manner provided for in paragraph (b) of this section, or deliver the vehicle to the Secretary of the Treasury for export, or abandon it to the United States. Before the end of the 30th calendar day after receipt of new certification, the Administrator may require a further inspection in accordance with the provisions of this subsection.

(d) The Administrator may by written notice request certification verification by the Registered Importer before the end of the 30th calendar day after the date the certification was received by the Administrator. If the basis for such request is that the certification is false or contains a misrepresentation, the Registered Importer shall be afforded an opportunity to present written data, views, and arguments as to why the certification is not false or misleading or does not contain a misrepresentation. The Administrator may require an inspection pursuant to paragraph (c) of this section. The motor vehicle and performance bond involved shall not be released unless the Administrator is satisfied with the certification.

(e) If a Registered Importer has received no written notice from the Administrator by the end of the 30th calendar day after it has furnished a certification to the Administrator, the Registered Importer may release from custody the vehicle that is covered by the certification, or have it licensed or registered for use on the public roads.

(f) If the Administrator accepts a certification without requiring an inspection, (s)he notifies the Registered

Importer in writing, and provides a copy to the importer of record. Such notification shall be provided not later than the 25th calendar day after the Administrator has received such certification.

(g) Release of the performance shall constitute acceptance of certification or completion of inspection of the vehicle concerned, but shall not preclude a subsequent determination by the Administrator pursuant to section 152 of the Act (15 U.S.C. 1451) that the vehicle fails to conform to any applicable Federal motor vehicle safety standard.

Issued on September 26, 1989.

Jeffrey R. Miller,

Acting Administrator.

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49 CFR PART 593

[Docket No. 89-7; Notice 2]

Determinations That a Vehicle not Originally Manufactured To Conform to the Federal Motor Vehicle Safety Standards Is Eligible for Importation

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

ACTION: Final rule.

SUMMARY: Effective January 31, 1990, the National Traffic and Motor Vehicle Safety Act, as amended by the Imported Vehicle Safety Compliance Act of 1988, will place new limits on the importation of foreign motor vehicles not originally manufactured to meet Federal motor vehicle safety standards. The 1988 amendments prohibit, with certain exceptions, the importation of such a vehicle unless it is a model that meets specified eligibility criteria. The criteria are that the model is determined by this agency to be substantially similar to one that was originally manufactured for importation and sale into the United States, and that it is capable of being readily modified to conform to the Federal safety standards. Alternatively, for a model for which there is not a substantially similar vehicle, the agency must determine that the safety features of the model comply or are capable of being modified to comply with the safety standards. This rule adopts procedural regulations for petitions and for determinations regarding the meeting of these criteria. Most details of the rule are dictated by the 1988 amendments.

DATE: The effective date of the rule is October 30, 1989.