Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-5147 Filed 3-5-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-459; RM-7009, RM-7260, RM-7261, RM-7262, RM-7263, RM-7264]

Radio Broadcasting Services; Giddings, Cameron, Centerville, Edna, Hearne, Matagorda, Point Comfort, Rosenberg, Ganado, Harker Heights, Seadrift, New Ulm, Brenham, LaGrange, Rollingwood and Bay City, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 268C1 for Channel 268C2 at Giddings, Texas, and modifies the license of Station KOKE, Giddings, Texas, to specify operation on Channel 268C1. In order to accommodate this upgrade, this document substitutes Channel 232A for Channel 267A at Cameron, Texas, Channel 276A for Channel 232A at Hearne, Texas, and Channel 290A for Channel 276A at Centerville, Texas. This document also modifies the construction permit of Station KJKS, Cameron, Texas, to specify operation on Channel 232A, and the license of Station KHRN, Hearne, Texas, to specify operation on Channel 276A. This document also allots Channel 231C2 to Point Comfort, Texas, Channel 283C3 to Ganado, Texas, and Channel 286A to Seadrift, Texas. Finally, this document substitutes Channel 231C3 for Channel 231A at Brenham, Texas, and modifies the license of Station KULF, Brenham, Texas, to specify operation on Channel 231C3. *See* 54 FR 45773, published October 31, 1989, and Supplementary Information, *infra*. With this action, this proceeding is terminated.

EFFECTIVE DATES: April 15, 1993. The window period for filing applications for the Channel 283C3 allotment at Ganado, Texas, the Channel 286A allotment at Seadrift, Texas, and the Channel 231C2 allotment at Point Comfort, Texas, will open on April 16, 1993, and close on May 16, 1993.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-459, adopted February 3, 1993, and released March 2, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

The reference coordinates for the Channel 268C1 allotment at Giddings, Texas, are 29-55-00 and 97-20-00. The reference coordinates for the Channel 232A allotment at Cameron, Texas, are 30-57-00 and 96-54-07. The reference coordinates for the Channel 276A allotment at Hearne, Texas, are 30-51-07 and 96-34-04. The reference coordinates for the Channel 290A allotment at Centerville, Texas, are 31-15-36 and 95-58-42. The reference coordinates for the Channel 231C3 allotment at Brenham, Texas are 30-14-32 and 96-24-27. The reference coordinates for the Channel 231C2 allotment at Point Comfort, Texas are 28-38-44 and 96-21-17. The reference coordinates for the Channel 283C3 allotment at Ganado, Texas, are 28-57-50 and 96-22-52. The reference coordinates for the Channel 286A allotment at Seadrift, Texas, are 28-24-54 and 96-42-30.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing channel 268C2 and adding Channel 268C1 at Giddings, removing Channel 267A and adding Channel 232A at Cameron; removing Channel 232A and adding Channel 276A at Hearne; removing Channel 276A and adding Channel 290A at Centerville; removing Channel 231A and adding Channel 231C3 at Brenham; adding Channel 231C2, Point Comfort; adding Channel 283C3, Ganado; and adding Channel 286a, Seadrift.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-5148 Filed 3-5-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-243; RM-7700]

Television Broadcasting Services; Frederiksted, VI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Luis E. Rosa, allots UHF Channel 66 to Frederiksted, Virgin Islands, as the community's first local television broadcast service. *See* 57 FR 58769, December 11, 1992. Channel 66 can be allotted to Frederiksted in compliance with the Commission's minimum distance separation requirements. The coordinates for Channel 66 at Frederiksted are North Latitude 17-42-48 and West Longitude 64-53-00. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 15, 1993.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-243, adopted February 4, 1993, and released March 2, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television Broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of TV Allotments under Virgin Islands, is amended by adding Frederiksted, Channel 66.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-5149 Filed 3-5-93; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173, 178 and 180

[Docket No. 183; Amdt. No. 173–212, 178–89, 180–2]

RIN 2137–AC37

Construction of Cargo Tank; Motor Vehicles; Extension of Compliance Date

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

ACTION: Final rule; extension of compliance date.

SUMMARY: RSPA is extending the time period, from August 31, 1993 to April 21, 1994, during which cargo tank motor vehicles may continue to be constructed to MC 306, MC 307, MC 312, MC 331, and MC 338 specifications. The extension is based on requests from the Cargo Tank Manufacturing Association, the Truck Trailer Manufacturers Association, the Heil Co., and members of the Compressed Gas Association. This action will allow additional time for RSPA and industry to resolve certain technical issues concerning the manufacture of cargo tank motor vehicles to the recently adopted DOT 406, DOT 407 and DOT 412 specifications and to resolve certain concerns on the structural integrity calculations in the MC 331 and MC 338 specifications.

EFFECTIVE DATE: April 7, 1993.

FOR FURTHER INFORMATION CONTACT: Ronald Kirkpatrick, telephone (202) 366–4545, Office of Hazardous Materials Technology, or Jennifer Karim, (202) 366–4488, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: The final rules published under Dockets Nos. HM–183/HM–183A (June 12, 1989, 54 FR 24982; May 22, 1990, 55 FR 21035; September 7, 1990, 55 FR 37028; June 17, 1991, 56 FR 27872) established three new cargo tank specifications designated as DOT 406, DOT 407 and DOT 412. Manufacture of cargo tanks to these new specifications was authorized beginning on December 31, 1990. The rules also provided alternative methods for calculating design stresses for MC 331 and MC 338 cargo tanks.

To allow manufacturers sufficient time to implement changes in their manufacturing operation, RSPA provided for the continued manufacture of cargo tanks to the MC 306, MC 307 and MC 312 specifications until August 31, 1993. However, as manufacturers began implementing the new requirements, certain technical issues were brought to RSPA's attention. Petitioners state that there is a need to postpone the compliance date because certain issues have not been resolved by DOT and a public meeting to discuss these issues will not be held until March 1993, thus, threatening the very existence of the industry. In addition, it has been brought to RSPA's attention that requirements for the structural integrity calculation found in §§ 178.337–3 and 178.338–3 may contain an error. Therefore, to allow time for resolving these issues, RSPA is extending the date that cargo tanks may no longer be constructed to the MC 306, MC 307, MC 312, MC 331 and MC 338 specifications from August 31, 1993 to April 21, 1994.

Rulemaking Analyses and Notices

Executive Order 12291 and DOT Regulatory Policies and Procedures

This final rule has been reviewed under the criteria specified in section 1(b) of Executive Order 12291 and is determined not to be a major rule. Although the June 12, 1989 final rule was significant under the regulatory procedures of the Department of Transportation (44 FR 11034), this document is not significant because it does not impose additional requirements and has the effect of extending a compliance date. This rule does not require a Regulatory Impact Analysis, or an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4231 *et seq.*) This final rule does not impose additional requirements and, in fact, would provide regulatory and economic relief in some areas. The original regulatory evaluation of the final rule was not modified because this final rule does not impose additional requirements and does not make substantive changes to the final rule.

Executive Order 12612

This action has been analyzed in accordance with the principles and criteria in Executive Order 12612 ("Federalism"). It has no substantial direct effect on the States, on the current Federal-State relationship, or the current distribution of power and responsibilities among levels of government. Thus, this final rule contains no policies that have Federalism implications, as defined in Executive Order 12612, and no Federalism Assessment is required.

Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. There are no direct or indirect adverse economic impacts for small units of government, businesses, or other organizations.

Paperwork Reduction Act

This amendment imposes no changes to the information collection and recordkeeping requirements contained in the June 12, 1989 final rule, which were approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and assigned control number 2137–0014.

Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 178

Hazardous materials transportation, Motor vehicles safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, title 49, chapter I of the Code of Federal Regulations, is amended as set forth below.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for part 173 would continue to read as follows:

Authority: 49 U.S.C. app. 1803, 1804, 1805, 1806, 1807, 1808, 1817; 49 CFR part 1, unless otherwise noted.

§ 173.33 [Amended]

2. In § 173.33, the following changes are made:

a. In paragraph (c)(4), the date "August 31, 1993" is revised to read "April 21, 1994".

b. In paragraph (d)(1), the date "August 31, 1993" is revised to read "April 21, 1994".

PART 178—SPECIFICATIONS FOR PACKAGINGS

3. The authority citation for part 178 would continue to read as follows:

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

§178.337–6 [Amended]

4. In § 178.337–6, in paragraph (a), the date "August 31, 1993" is revised to read "April 21, 1994".

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

5. The authority citation for part 180 continues to read as follows:

Authority: 49 U.S.C. app. 1803; 49 CFR part 1.

§180.405 [Amended]

6. In § 180.405, the following changes are made:

a. In paragraph (b), the date "August 31, 1993" is revised to read "April 21, 1994".

b. In paragraph (c)(1) table, under column 2, the date "Sept. 1, 1993" is revised to read "April 22, 1994."

§180.413 [Amended]

7. In § 180.413, in paragraphs (d)(1)(i), (ii) and (iii), the date "August 31, 1993" is revised to read "April 21, 1994".

§180.417 [Amended]

8. In § 180.417, in paragraph (a)(3), the date "September 1, 1993" is revised to read "April 22, 1994".

Issued in Washington, DC on March 2, 1993, under authority delegated in 49 CFR part 1.

Alan I. Roberts,

Acting Administrator.

[FR Doc. 93–5146 Filed 3–5–93; 8:45 am]

BILLING CODE 4910–60–P

National Highway Traffic Safety Administration

49 CFR Part 591

RIN 2127–AD00

[Docket No. 89–5; Notice 12]

Importation of Motor Vehicles and Equipment Subject to Federal Safety, Bumper, and Theft Prevention Standards

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

ACTION: Final rule.

SUMMARY: This notice amends in two important respects the regulation governing importation of motor vehicles subject to requirements of the Department of Transportation. Under the first amendment, importers of motor vehicles who are required to furnish bonds to NHTSA upon importation of nonconforming vehicles will be permitted, as an alternative to furnishing sureties, to furnish cash deposits or obligations of the United States. The amendment is intended to facilitate the importation of nonconforming vehicles. The second amendment will allow the importation of vehicles less than 25 years old for purposes of studies, provided the vehicle is one of historical or technological interest, and that the importer is, and has been for 5 years before entry of the vehicle, either a tax-exempt corporation or private foundation as recognized by the Internal Revenue Service. Under this allowance, nonconforming vehicles can be imported by museums for static display.

EFFECTIVE DATE: The effective date of the final rule is April 7, 1993.

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

SUPPLEMENTARY INFORMATION: The following discussion is a recapitulation of the relevant remarks appearing in the preamble of the notice of proposed rulemaking that NHTSA published on this subject on January 17, 1992 (57 FR 2071).

A. Allowance of Surety Equivalents

Since the initial regulations governing importation of motor vehicles subject to the Federal motor vehicle safety standards became effective in January 1968, an importer of a noncomplying vehicle has been required to furnish an appropriate bond to ensure that the vehicle will be brought into conformity with all applicable Federal motor vehicle safety standards, and, it it is not, that it will be redelivered for export. Until January 31, 1990, the bond was furnished to the U.S. Customs Service as part of that agency's general importation bond for payment of duty and conformance with other Federal regulations.

Since the amendments made to be National Traffic and Motor Vehicle Safety Act by P.L. 100–562, the Imported Vehicle Safety Compliance Act of 1988 (herein "the 1988 Amendments), became effective at the end of January 1990, the bond to ensure conformance has become a separate instrument, no longer part of the general Customs bond, and is furnished directly to the Department of Transportation.

In implementation of the 1988 Amendments, NHTSA provided for importation compliance bonds in 49 CFR 591.5(f) in the form shown in appendix A of that regulation, and 591.5(g) in the form shown in appendix B. Initially, bonding companies were reluctant to serve as sureties because of their lack of familiarity with the DOT bonds, and prospective importers found it difficult to obtain them for the importation of their vehicles. Although the situation has improved in general, as sureties have become more familiar with bonding requirements, the situations tend to differ at the smaller ports of entries where importation of vehicles is infrequent. NHTSA on one occasion did accept a cash deposit from an importer in lieu of a bond, when the importer pointed out that Customs itself can accept cash or securities of the United States under bond, as an alternative to providing a surety.

The agency proposed that this alternative be formalized through an amendment to part 591, as it believed that it might relieve an unintended impediment to the importation of motor vehicles when an importer is unable to find a bonding agency willing to serve as surety on DOT bonds. The benefit to DOT is that it directly holds the security for a vehicle, and will not have to go to an outside entity to foreclose on the bond in the event the terms of entry are forfeited. The benefit to the importer is that it allows the importer to provide a bond directly to DOT, and, as surety, to submit United States money, bonds (except for savings bonds), certificates of indebtedness, and Treasury notes or bills in an amount equal to the amount of the bond. At the time of deposit of any obligation other than money, the importer will execute a power of attorney authorizing NHTSA, in the event of default, to sell the obligation and retain the proceeds. A form of power of attorney was proposed as Appendix C to part 591. NHTSA's

proposal was based upon the similar Customs regulation, 19 CFR 113.40.

Two comments were received on this proposal. The first was a joint comment filed by Christopher J. Oliver, Tara Schuette, and William L. Wheeler, Jr. ("the Oliver group"), and the second by Lawrence A. Beyer, on behalf of four Registered Importers ("R.I.s"), as well as himself. The Oliver group explicitly supported the proposal and its associated power of attorney document.

Beyer's comment "proposes an additional means of reducing the burden to importers," namely that "NHTSA should accept obligations consistent with their requirements from R.I.s or importers in the form of bank letters of credit or other instruments such as private insurance. Such instruments would provide the same obligation to conform to the regulations with monetary penalty for failure." Further, the obligation "would be provided in a block amount which would cover several vehicles" instead of "providing NHTSA with single obligations to cover each separate vehicle."

NHTSA's proposal was based upon a regulation of the U.S. Customs service, which limited surety equivalents to cash and securities of the United States. To expand the list to the private sector would be beyond the scope of the proposal. In the absence of a corresponding change by Customs in its regulation, NHTSA does not wish to create a regulatory assymetry between government agencies. To allow a "floating policy" with coverage of multiple numbers of vehicles would appear to increase the administrative burden on NHTSA by requiring a continuing determination as to the vehicles covered at any particular moment by the instrument, and whether the limits of the coverage were exceeded by the number of vehicles. Therefore, NHTSA has not adopted the equivalents suggested by Beyer.

Possible Expansion of Categories of Importation Under Section 108(j)

The 1988 Amendments have significantly restricted the importation of motor vehicles that were previously admissible for purposes other than general on-road use. Before January 31, 1990, NHTSA and the U.S. Customs Service had joint authority to allow the temporary admission into the United States of any motor vehicle in use (15 U.S.C. 1397(b)(4)). Pursuant to this authority, NHTSA and Customs allowed nonconforming motor vehicles to be imported "solely for the purpose of show, test, experiment, competition, repair or alteration." (19 CFR 12.80(b)(1)(vii)). However, section 1397(b)(4) was repealed by the 1988 Amendments, which added section 1397(j). This new section contains allowances comparable, but not identical, to those contained in 19 CFR 12.80. It permits the admission of nonconforming vehicles and equipment, without a time limitation, but only "upon such terms and conditions as [NHTSA] may find necessary solely for the purpose of research, investigation, studies, demonstrations or training, or competitive racing events." Congress did not include the category of "show," among the specific purposes for which a nonconforming vehicle could be entered, and the legislative history afforded no explanation. In enforcing the 1988 Amendments since January 31, 1990, the agency has found a continued desire in the public to import cars for purposes of show.

The agency has stated (54 FR at 17776 and 55 FR 40876) that § 591.5(j) does not preclude original vehicle manufacturers who import nonconforming vehicles for display at auto shows to gauge public reaction to new styling or engineering features from declaring that such importation is for "research" or "demonstrations." But in the absence of specific authority from Congress to allow importations for show or display, the agency has adopted and maintained a conservative attitude towards entities other than original vehicle or vehicle equipment manufacturers who wish to import nonconforming vehicles for display. In short, under the 1988 Amendments, it has refused to allow them.

In commenting on a previous notice of proposed rulemaking, the law firm of Pillsbury, Madison & Sutro requested that § 591.5(j) be expanded to allow importation for an additional purpose, display, in order to be consistent with EPA requirements. The law firm argued that the 1988 Amendments provide sufficient safeguards against abuse of a display-only exemption, and that NHTSA could provide that the vehicle not be sold until an appropriate certificate of conformity was received. The Oliver group agreed with this approach.

As NHTSA noted in the January proposal (57 FR 2072), since the new restrictions went into effect, efforts have been made to import examples of the East German Trabant as a historical vehicle for display purposes, either by individuals purporting to represent "museums" or who wish to donate the cars to museums. Efforts have also been made to import vehicles for "show" which are of current or recent production such as the Porsche 959, but whose manufacturers have chosen not to certify them for sale in the United States. Because these vehicles are not substantially similar to certified vehicles, may not be readily capable of being brought into compliance, and have not been the subject of petitions, they are not presently eligible for entry under § 591.5(f). Offers have been made to render such vehicles incapable of operation, and to display them under conditions of static display, in "museums" or in vehicle showrooms.

Section 108(i) indirectly addresses the display issue by permitting the entry without conformance of any vehicle whose age is 25 years or greater. This permits the unrestricted importation of vehicles that were not sold in the United States, and allows them to retain their original character without modification to U.S. requirements. However, the vehicles for which entry have been sought for display are less than 25 years old. Since no specific allowance has been provided for importation for show or display, the question is whether any of the five purposes added by the 1988 Amendments can, in the context of Congress' seemingly intentional omission of the term "show," be reasonably interpreted as allowing importation of nonconforming motor vehicles for the purpose of show or display. Certainly "competitive racing events" does not connote a static display. "Research" and "investigations" indicate that the purpose of importation is test or experiment.

With respect to the two remaining categories, NHTSA stated that it did not believe that it could fairly interpret "demonstrations or training" to encompass static display. A "demonstration" of a motor vehicle has traditionally involved exhibiting its operation or use, both in the showroom and on the road. Although agreeing that the definition "has traditionally involved operation or use", the Oliver Group disagreed with NHTSA's "narrow interpretation of 'demonstrations or training' as applied to non-conforming vehicles." It provided a definition from Webster's 3rd New International Dictionary (1976): "The act, process, or means of demonstrating to the intelligence: as exhibition of methods of manufacture by means of specimens, examples, or specific instances." The Oliver Group submits that "by this definition, one can see how a tangible static display of a car would qualify as a (sic) example or specimen of methods of manufacturing."

In advancing its definition of "demonstrations," the Oliver Group did

not suggest that NHTSA's preference for "studies" was in any way inadequate or improper. Indeed, NHTSA believes the very example cited by the Oliver Group, display as an exhibition of an example of a method of manufacturing, is consistent with the definition of "studies." As defined by The Random House Dictionary of the English Language (1967), "studies" means "a personal effort to gain knowledge." The primary meaning of the word "study" is "the application of the mind to the acquisition of knowledge." The static display of a vehicle or equipment item could form a basis for the acquisition of knowledge if that vehicle or equipment item were of historical or technological significance. Therefore, the agency has concluded that it is in the public interest to admit vehicles whose age is less than 25 years if their importation can be demonstrated to enhance the acquisition and application of knowledge, that is to say, that they merit admission because they are of historical or technological interest.

The agency believes that this interpretation of "studies" is in accordance with the purposes of both the National Traffic and Motor Vehicle Safety Act (the Act) and the 1988 Amendments. The stated purpose of the Act is to reduce accidents involving motor vehicles, and deaths and injuries to persons resulting from such accidents. However, section 108(j), added in 1988, represents a concession by Congress that the interests therein enumerated, which are not safety-related, might justify the importation and use of vehicles without requiring their conformance, and provides the Administrator with discretionary authority to allow importation under such terms and conditions as may be found necessary for the purpose of these interests. Thus, the importation of vehicles for static display by a category of importer other than original manufacturer does not *per se* undermine the purposes of Congress. These purposes can be undermined, however, by importations under subterfuge, where the hidden but real intent of the importer is to operate the vehicle on the public roads for his or her private enjoyment. This is NHTSA's primary concern. The agency has no power to seize a vehicle entered under false pretenses, and the maximum civil penalty it can impose on a private importer whose declaration is not confirmed by conduct subsequent to entry is limited to $1,000 per vehicle.

As NHTSA analyzes it, there are two components relevant to importation of a vehicle or equipment item for "studies": The vehicle or item, and the nature of the importer. Occasionally, NHTSA is approached by a prospective vehicle importer who offers to remove the engine if importation will be allowed. Aside from the problems of enforcement that this would present (and NHTSA has not allowed it), NHTSA believes that if a vehicle is of sufficient historical or technological interest to be admitted for "studies", its character must not be altered. Although such offers are well-meaning, NHTSA has no intention of requiring the alteration of a motor vehicle by removal of its engine or other parts.

The agency has considered what types of motor vehicles or equipment might be considered to have sufficient historical or technological interest to be admitted for "studies". Some examples come to mind. A vehicle less than 25 years of age and which is no longer in production may be said to have entered history. The admission and exhibition of the recently discontinued Trabant might be instructive as to comparative manufacturing sophistication between the more advanced industrial nations and the lesser developed ones. Prototypes or early production examples of radial tires, which originated in Europe, or experimental headlamps found on motor show cars, are examples of nonconforming equipment items that might be eligible for "studies".

As previously noted, these importation requirements do not apply to manufacturers of motor vehicles or equipment whose products are certified for sale in the United States. If importation was sought for "studies" by a person other than a certifying manufacturer, the written request already required before entry must be supplemented by additional information supporting the request, and the prospective importer will bear the burden of persuasion. The agency did not propose criteria as to what may qualify as "historical" or "technological interest", as it wishes to afford prospective importers flexibility in making their arguments. However, comments were solicited on whether criteria should be adopted and, if so, what those criteria should be. No comments were received on this issue.

The second component to be considered is the nature of the importer. NHTSA has decided that the purpose of "studies" is more likely to be achieved if the importer is an institution providing an opportunity for the acquisition of knowledge, such as a museum or educational institution. In general, these are businesses organized other than for profit. Therefore, the agency has concluded that in order to qualify as an importer for studies, an importer must be either a corporation or foundation that has been recognized, for at least 5 years before the date of entry of the vehicle, by the Internal Revenue Service under the Internal Revenue Code, as one qualifying for tax exempt status as a section 501(c)(3) corporation or foundation, or a section 509 private foundation. A section 501(c)(3) or section 509 entity is one that is "organized and operated exclusively for * * * scientific, testing for public safety, * * * or educational purposes, * * * no part of the net earnings of which inures to the benefit of any private shareholder or individual * * *." This includes universities and municipal museums. To discourage the creation of entities for the sole purpose of importing a vehicle under section 108(j), the final rule requires that importers of such vehicles demonstrate that they have been recognized as a tax-exempt entity under section 501(c)(3) or section 509 by the Internal Revenue Service for at least 5 years before the date of vehicle entry. A special exception is made if the importer is the National Museum of History and Technology of the Smithsonian Institution. Under the rule adopted today, an importer for studies cannot sell or otherwise dispose of the vehicle until it passes the age required for conformity of nonconforming vehicles, 25 years.

In summary, a prospective importer for studies, other than a certifying manufacturer, as with other such importers under § 591.5(j), must submit a written request to the Administrator, in advance of importation, presenting its views why the vehicle for which request is made is of historical or technological interest, and why its admission would be for the purpose of studies. The importer is also required to submit proof of its tax-exempt status, and that that status has existed for at least 5 years before the date of its letter. Finally, the importer will have to agree that it will not sell, lease, or transfer either title to, or possession of, the vehicle for a purpose other than "studies" until it is not less than 25 years terms of entry to be a violation of the Vehicle Safety Act for which a civil penalty could be imposed, and, if occurring immediately after entry, to constitute entry under a false declaration subject to the civil and criminal sanctions of 18 U.S.C. 1001.

This final rule does not have any retroactive effect.

Rulemaking Analyses

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has considered the economic impacts of this rule and has made a determination that it is not major within the meaning of E.O. 12291 nor significant under Department of Transportation policies and procedures. There is no substantial impact upon a major transportation safety program, and the action does not involve any substantial public interest or controversy. There will be no substantial effect on state and local governments who purchase new vehicles since the affected vehicles will not be imported for resale. Preparation of a full regulatory evaluation is not warranted because the rule would have minimal economic impacts.

Regulatory Flexibility Act

The agency has also considered the impacts of this rule in relation to the Regulatory Flexibility Act. Since the impact of this rule would be minimal, I certify that this rule would not have a significant economic impact upon a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared.

Executive Order 12612 (Federalism)

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

National Environmental Policy Act

NHTSA has analyzed this rule for the purposes of the National Environmental Policy Act. The rule would not have a significant effect upon the environment.

Paperwork Reduction Act

The declaration requirements and submittal or written statements to NHTSA 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. However, they were previously approved by OMB for inclusion in section 591.6 in the final rule published on September 29, 1989 (OMB Approval Number 2127–0002).

List of Subjects in 49 CFR Part 591

Imports, motor vehicle safety, motor vehicles

In consideration of the foregoing, title 49 Code of Federal Regulations part 591 is amended as follows:

PART 591—[AMENDED]

1. The authority section continues to read:

Authority: Pub.L. 100–562, 15 U.S.C. 1401, 1407, 1912, 1916, 2022, 2027; delegations of authority at 49 CFR 1.50.

2. In § 591.6(g)(1), the introductory phrase of the fourth sentence, beginning "If use on the public roads" and ending with "is imported" is revised to read: "With respect to any vehicle or equipment item imported pursuant to sections 591.5(j)(1) (i), (ii), or (iv), if use on the public roads is an integral part of the purpose for which the vehicle or equipment item is imported,"

3. Section 591.6(g)(2) is redesignated 591.6(g)(3), and new section 591.6(g)(2) is adopted to read:

§ 591.6 Documents accompanying declarations.

* * * * *

(g) * * *

(2) A declaration made pursuant to § 591.5(j)(2)(i) and § 591.5(j)(1)(iii) shall be accompanied by a letter from the Administrator authorizing importation pursuant to those sections. In addition to the matters contained in paragraph (g)(1) of this section, the importer's written request shall explain why the vehicle or equipment item is of historical or technological interest, and describe the studies for which its importation is sought. The importer, if other than the National Museum of History and Technology, Smithsonian Institution, shall also provide a copy of the Determination Letter from the Internal Revenue Service approving the importer's status as a tax-exempt corporation or foundation, or private foundation, under section 501(c)(3) or section 509, respectively, of the Internal Revenue Code. The time between the date of the Letter and the date of the importer's written request to the Administrator shall be not less than 5 years. The importer shall also provide a statement that it shall not sell, or transfer possession or, or title to, the vehicle, or license it for use, or operate it on the public roads, until the vehicle is not less than 25 years old.

4. In § 591.7(c), the phrase "§ 591.5(j)(1)" is revised to read "§ 591.5(j)(1) (i), (ii), or (iv)".

5. New § 591.7(e) is added to read:

§ 591.7 Restrictions on importations.

* * * * *

(e) No vehicle or equipment item may be imported pursuant to § 591.5(j)(2)(i) and (j)(1)(iii) unless its importer has been recognized by the United States for not less than 5 years prior to the date of its written request under § 591.6(g)(2) as a tax-exempt corporation or foundation, or private foundation, under section 501(c)(3) or section 509, respectively, of the Internal Revenue Code, or unless the importer is the National Museum of History and Technology, Smithsonian Institution.

6. A new § 591.10 is added to read:

§ 591.10 Offer of cash deposits or obligations of the United States in lieu of sureties on bonds.

(a) In lieu of sureties on any bond required under § 591.6(c), an importer may offer United States money, United States bonds (except for savings bonds), United States certificates of indebtedness, Treasury notes, or Treasury bills in an amount equal to the amount of the bond.

(b) At the time the importer deposits any obligation of the United States, other than United States money, with the Administrator, (s)he shall deliver a duly executed power of attorney and agreement, in the form shown in Appendix C of this part, authorizing the Administrator or delegate of the Administrator, in case of any default in the performance of any of the conditions of the bond, to sell the obligation so deposited, and to apply the proceeds of sale, in whole or in part, to the satisfaction of any penalties for violations of 15 U.S.C. 1397, and 15 U.S.C. 1916 arising by reason of default.

(c) If the importer deposits money of the United States with the Administrator, the Administrator or delegate may apply the cash, in whole or in part, to the satisfaction of any penalties for violations of 15 U.S.C. 3197, and 15 U.S.C. 1916 arising by reason of default.

7. Appendix C is added to part 591 to read as follows:

Appendix C to Part 591—Power of Attorney and Agreement

_____does constitute and appoint the Administrator of the National Highway Traffic Safety Administration, United States Department of Transportation, or delegate, as attorney for the undersigned, for and in the name of the undersigned to collect or to sell, assign, and transfer the securities described below as follows:

Title
Matures
Int. Rate
Denom.
Serial #
Coupon/registered

The securities having been deposited by it as security for the performance of the agreements undertaken in a bond with the United States, executed on the date of

_____, _____, the terms and conditions of which are incorporated by reference into this power of attorney and agreement and made a part hereof. The undersigned agrees that in case of any default in the performance of any of the agreements the attorney shall have full power to collect the securities or any part thereof, or to sell, assign, and transfer the securities or any part thereof, or to sell, assign, and transfer the securities of any part thereof at public or private sale, without notice, free from any equity of redemption and without appraisement or valuation, notice and right to redeem being waived and to apply the proceeds of the sale or collection in whole or in part to the satisfaction of any obligation arising by reason of default. The undersigned further agrees that the authority granted by this agreement is irrevocable. The undersigned ratifies and confirms whatever the attorney shall do by virtue of this agreement.

Witnessed and signed this _____day of _____, _____.

Before me, the undersigned, a notary public within and for the County of _____in the State of _____, personally appeared _____and acknowledged the execution of the foregoing power of attorney.

Witness my hand and notarial seal this _____day of _____, 199__.

[Notarial seal]

Notary Public _____

Issued on: March 2, 1993.

Howard M. Smolkin,

Executive Director.

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