

ATTACHMENT #23

**NHTSA IMPORTATION OF VEHICLES
INFORMATION**

(31 Pages)

Foreword

The National Highway Traffic Safety Administration (NHTSA) has a legislative mandate under Title 49 of the United States Code, Chapter 301, Motor Vehicle Safety, to issue Federal Motor Vehicle Safety Standards (FMVSS) and Regulations to which manufacturers of motor vehicles and items of motor vehicle equipment must conform and certify compliance. FMVSS 209, Seat Belt Assemblies, was the first standard to become effective on March 1, 1967. A number of FMVSS became effective for vehicles manufactured on and after January 1, 1968. Subsequently, other FMVSS have been issued. For instance, NHTSA has issued seven new FMVSS and has amended six FMVSS and two consumer information regulations and requirements since this booklet was revised in March 1999. New standards and amendments to existing standards are published in the Federal Register.

These Federal safety standards are regulations written in terms of minimum safety performance requirements for motor vehicles or items of motor vehicle equipment. These requirements are specified in such a manner that the public is protected against unreasonable risk of crashes occurring as a result of the design, construction, or performance of motor vehicles and is also protected against unreasonable risk of death or injury in the event crashes do occur.

This booklet lists the Federal Motor Vehicle Safety Standards that were in effect as of October 2003, and provides a brief summary of each safety standard. It also provides similar information on other Federal consumer information regulations and requirements.

[Back to Table of Contents](#)

[FMVSS Standards:
571.101 - 571.500](#)



FAQ

Importation and Certification FAQ's

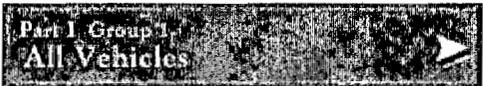
The Office of Vehicle Safety Compliance (OVSC) has expanded the current Importation and Certification Division we include a section entitled "Frequently Asked Questions". In this section we have attempted to address some common and concerns that the office deals with on a regular basis. If your question has not been addressed, please refer to Part (Group 7: Related Government Agencies) for further assistance.

Importation and Certification FAQ's

PART I

Group 1: All Vehicles

1. [Is there a need for DOT Approval?](#)
2. [Can NHTSA tell whether my vehicle is conforming?](#)
3. [Importing a conforming vs. a non-conforming motor vehicle](#)
4. [Importing a vehicle already determined eligible for importation](#)
5. [Importing a Canadian-certified vehicle; need for automatic](#)
6. [Re-importing a U.S.-certified vehicle.](#)
7. [Re-importing a U.S.-certified vehicle missing its certification](#)
8. [Importing a vehicle that is at least 25 years old.](#)
9. [Importing a vehicle for parts.](#)
10. [Importing a disassembled vehicle.](#)
11. [Importing a right-hand drive vehicle.](#)
12. [Importing a vehicle for show or display.](#)
13. [Importing of an off-road vehicle.](#)
14. [Importing a racing vehicle.](#)
15. [Temporary importation by non-U.S. residents.](#)
16. [Temporary importation of a vehicle; expiration of temporary importation period.](#)
17. [Exporting a vehicle.](#)



Additional Information on the NHTSA Website

- [Importing a Canadian-certified Motor Vehicle](#)
- [Importing a non-U.S. or Canadian -certified \(Gray Market Vehicle](#)
- [How to Become a Registered Importer](#)
- [List of FMVSS](#)
- [List of Registered Importers](#)
- [HS-7 Declaration Form](#)
- [Vehicles Eligible for Importation-Eligibility List](#)

1. Is there a need for DOT Approval?

3



FAQ

Importation and Certification FAQ's Directory

The Office of Vehicle Safety Compliance (OVSC) has expanded the current Importation and Certification Division web site to include a section entitled "Frequently Asked Questions". In this section we have attempted to address some common questions and concerns that the office deals with on a regular basis. If your question has not been addressed, please refer to Part VII (Group 7: Related Government Agencies) for further assistance.

Importation and Certification FAQ's

1. What Requirements Must be Met by a Manufacturer of Conforming Vehicles before its Vehicle can be Imported?

The manufacturer must:

- Submit a letter to National Highway Traffic Safety Administration (NHTSA) designating an agent for service of process and a letter from the agent accepting the designation if the manufacturer is not located in the United States (49 CFR 551.45).
- Submit to NHTSA information the agency will need to decipher the manufacturer's vehicle identification number or "VIN" format not later than 60 days prior to offering the first vehicle for sale in the United States (49 CFR Part 565, "Vehicle Identification Number Requirements").
- Submit a letter to NHTSA identifying the manufacturer's name, address, and the products it manufactures that are subject to the Federal motor vehicle safety standards, not later than 30 days after manufacturing begins (49 CFR Part 566, "Manufacturer Identification").
- Permanently affix to the vehicle, in a prescribed location, a certification label meeting the requirements of 49 CFR Part 567, "Certification."

2. What Certifications are required on motor vehicles?

- A certification label meeting the requirements of 49 CFR Part 567 that, among other things, identifies the vehicle's manufacturer (i.e., the actual assembler of the vehicle), states the vehicle's date of manufacture (month and year), and contains the following statement: "This vehicle conforms to all applicable Federal motor vehicle safety standards (FMVSS) in effect on the date of manufacture shown above."
- For vehicles other than motorcycles or trailers, the label must be affixed to either the hinge pillar, door-latch post, or the door edge that meets the door-latch post, next to the driver's seating position. For trailers, the label must be affixed to a location on the forward half of the left side of the vehicle, so that it can be easily read without moving any part of the vehicle. For motorcycles, the label must be affixed to a permanent member of the vehicle as close as is practicable to the intersection of the steering post with the handlebars, so that it is easily readable without moving any part of the vehicle except for the steering system.

3. How does NHTSA determine what is a motor vehicle?

The term "motor vehicle" is defined for the purpose of the statute and regulations that NHTSA administers as "a vehicle that is driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways." See 49 U.S.C. § 30102(a)(6). To be imported free of restriction, a motor vehicle less than 25 years old must be originally manufactured to comply with all applicable FMVSS and bear a label certifying such compliance that is permanently affixed by the vehicle's original manufacturer.

When a vehicle has on-road capabilities, the agency looks at five factors to determine if the vehicle is a "motor vehicle" that must be so manufactured and certified to be lawfully imported into the U.S. These factors are:

- Whether the vehicle will be advertised for use on-road as well as off-road, or whether it will be advertised exclusively for off-road use;
- Whether the vehicle's manufacturer or dealers will assist vehicle purchasers in obtaining certificates of origin or title documents to register the vehicle for on-road use;
- Whether the vehicle is or will be sold by dealers selling other vehicles classified as motor vehicles;
- Whether the vehicle has or will have affixed to it a warning label stating that the vehicle is not intended for use on the public roads; and
- Whether States or Foreign countries have permitted or are likely to permit the vehicle to be registered for on-road use.

4. How do I find legal interpretations of NHTSA's regulations?

Many questions concerning vehicle certification and importation have been previously submitted to NHTSA's Office of Chief Counsel (OCC) as requests for interpretation of one or more of the agency's regulations. NHTSA has published these interpretations on the Internet. You may access these at: <http://www.nhtsa.dot.gov/cars/rules/interps>.

5. Issues Outside NHTSA's Jurisdiction

NHTSA issues the FMVSS, which establish minimum performance requirements for the safety systems and components on motor vehicles and for certain items of motor vehicle equipment. The agency regulates the manufacture and importation of motor vehicles to assure compliance with these standards.

6. Motor Vehicle Titling and Registration

NHTSA is not responsible for regulating the operation of motor vehicles on public roads in the U.S. or for titling or registering motor vehicles for such operation. That is instead the responsibility of the individual States. Some States may require a manufacturer's certificate of origin (MCO) or manufacturer's statement of origin (MSO) to register a new motor vehicle. These are not federally required documents. NHTSA, therefore, is not in a position to offer guidance to prospective vehicle manufacturers or vehicle purchasers on obtaining a needed MCO or MSO. Consumers with questions regarding these documents should direct those questions to their State's Department of Motor Vehicles (DMV). Prospective manufacturers seeking guidance on obtaining MCO or MSO documents

should contact the American Association of Motor Vehicle Administrators (AAMVA) at 703-522-4201 or visit that organization's website at <http://www.aamva.org>.

7. VIN Issues

Under NHTSA's regulations at 49 CFR Part 565, a motor vehicle manufacturer must assign to each motor vehicle manufactured for sale in the U.S. a 17-digit VIN that uniquely identifies the vehicle. The VIN must be correctly formatted and include a check digit in the ninth position that is mathematically correct under a formula that is included in the regulations. Typographical errors in a VIN can only be corrected by the vehicle's manufacturer. Contact information for many vehicle manufacturers is available on NHTSA's website at <http://www.nhtsa.dot.gov/cars/rules/manufacture>. Unless you have contacted the manufacturer and been informed that the manufacturer cannot assist you, please do not contact NHTSA if you have been advised by a State DMV or other authority that there is an error in the VIN assigned to your vehicle.

1. Is there a need for DOT Approval?

DOT does not approve any motor vehicles or motor vehicle equipment items as complying with all applicable FMVSS. That is instead the responsibility of the vehicle or equipment item's original manufacturer. For motor vehicles, the certification is provided in the form of a label that is permanently affixed to the vehicle by its original manufacturer, stating that the vehicle complies with all applicable FMVSS in effect on its date of manufacture. For vehicles other than motorcycles or trailers, the label must be affixed to either the hinge pillar, the door latch post, or the door edge that meets the door-latch post, next to the driver's seating position. For motor cycles and motor driven cycles, the label must be affixed to a permanent member of the vehicle, as close as is practicable to the intersection of the steering post with the handlebars, so that it is easily readable without moving any part of the vehicle except for the steering system. For trailers, the label must be affixed to a location on the forward half of the left side of the vehicle, so that it can be easily read without moving any part of the vehicle.

2. Can NHTSA tell whether my vehicle is conforming?

Motor vehicle manufacturers are not required to submit to NHTSA, and do not submit to NHTSA, information on whether any particular vehicle they manufacture has been manufactured to comply with all applicable Federal motor vehicle safety (and, where applicable, bumper and theft prevention) standards. Moreover, there is no way for NHTSA to discern, from the VIN that has been assigned to a vehicle, or from any other identifying characteristic, whether the vehicle was originally manufactured to comply with all applicable standards. The only way that NHTSA could tell whether a given vehicle has been so manufactured is if the manufacturer has affixed a label to the vehicle certifying its compliance with all applicable standards. If you are unable to find a certification label on a particular vehicle, and are interested in learning whether the vehicle was originally manufactured to comply with all applicable standards, you should

contact the vehicle's manufacturer. A list of manufacturer contacts can be found on NHTSA's website at <http://www.nhtsa.dot.gov/cars/rules/import>



VEHICLE IMPORTATION GUIDELINES
(Vehicles Manufactured for Sale in a Country
Other than Canada)
December 26, 2007

The following provides information concerning the importation of a passenger car, truck, trailer, motorcycle, bus, or multi-purpose passenger vehicle (MPV) that was not originally manufactured to comply with U.S. or Canadian safety standards. Importers of motor vehicles must file an HS-7 Declaration form (available at ports of entry or at <http://www.nhtsa.gov/cars/rules/import>) at the time a vehicle is imported to identify the basis for the vehicle's entry into the United States. As a general rule, a motor vehicle less than 25 years old must comply with all applicable Federal motor vehicle safety standards (FMVSS) to be imported on a permanent basis. Vehicles (other than motorcycles) manufactured to comply with the FMVSS will have a certification label affixed by the original manufacturer in the area of the driver-side door. Motorcycles will have the label close to the intersection of the steering post and the handlebars. To make importation easier, when purchasing abroad a vehicle certified to the U.S. standards, a buyer should have the seller verify in the sales contract that the label is attached and present this document at the time of importation.

A vehicle without a certification label cannot be imported as a conforming vehicle. In this case, the importer must contract with a Registered Importer (RI) to modify the vehicle and post a DOT Conformance Bond in an amount equivalent to one and a half times the vehicle's dutiable value. This bond is in addition to the normal Customs entry bond. Copies of the DOT Conformance Bond and the contract with an RI must be attached to the HS-7 form.

Under the contract, the RI will modify the vehicle and certify that it conforms to all applicable FMVSS. Before an RI can modify a vehicle, NHTSA must have determined that the vehicle is eligible for importation based on its capability of being modified to conform to all applicable FMVSS. If no determination has been made, the RI must petition NHTSA to determine whether the vehicle is eligible for importation. If the petitioned vehicle is not similar to one sold in the U.S., this process can become very complex and costly. A list of vehicles that have been determined eligible for importation can be found on NHTSA's web site at <http://www.nhtsa.gov/cars/rules/import>.

Since the cost of modifying a nonconforming vehicle, or the time required to bring it into conformance, may affect the decision to purchase a vehicle abroad, we strongly recommend discussing these matters with an RI before buying and shipping a vehicle to the U.S.

For federal regulations concerning vehicle emissions, contact the Environmental Protection Agency, Certification and Compliance Division – Imports Program, 2000 Traverwood, Ann Arbor, MI 48105, (734) 214-4100, or visit the EPA website at <http://www.epa.gov/otaq/imports/>. Information concerning duty or other Customs matters can be obtained from U.S. Customs and Border Protection by calling that agency at 1-877-CUSTOMS.

For information regarding titling, registration, or operation of a properly imported vehicle in a specific State, we advise you to contact the Department of Motor Vehicles or other appropriate agency in that State.



US Department of Transportation
National Highway Traffic Safety Administration

— DECLARATION —

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

OMB No. 2127-0002
Public Law 100—562,
49 USC Chap. 301

PORT OF ENTRY	CUSTOMS PORT CODE	CUSTOMS ENTRY NO	ENTRY DATE
MAKE OF VEHICLE	MODEL	YEAR	VEHICLE IDENTIFICATION NUMBER (VIN)
REGISTERED IMPORTER NAME AND NHTSA REGISTRATION NUMBER <i>(Required when Box 3 is checked)</i>			VEHICLE ELIGIBILITY NO. <i>(Box 3)</i>
DESCRIPTION OF MERCHANDISE IF MOTOR VEHICLE EQUIPMENT			

1. The vehicle is 25 or more years old or the equipment item was manufactured on a date when no applicable Federal Motor Vehicle Safety Standard or Theft Prevention Standard was in effect.
- Date of manufacture: _____ [591.5(i)]
- 2A. The vehicle or equipment item conforms to all applicable Federal Motor Vehicle Safety Standards (or the vehicle does not conform solely because readily attachable equipment items that will be attached to it before it is offered for sale to the first purchaser for purposes other than resale are not attached), and Bumper and Theft Prevention Standards, and bears a certification label or tag to that effect permanently affixed by the original manufacturer to the vehicle or affixed by the manufacturer to the equipment item or to its delivery container in accordance with applicable National Highway Traffic Safety Administration (NHTSA) regulations [591.5(b)].
- 2B. The vehicle was certified by its original manufacturer as conforming to all applicable Canadian motor vehicle safety standards and its original manufacturer confirms that the vehicle conforms to all applicable U.S. Federal Motor Vehicle Safety, Bumper, and Theft Prevention Standards (or that it conforms to all such standards except for the labeling requirements of Standards Nos. 101 and 110 or 120, and/or the specifications of Standard No. 108 relating to daytime running lamps), and the vehicle is not a salvage motor vehicle, a repaired salvage motor vehicle, or a reconstructed motor vehicle, and I am importing it for personal use. [591.5(g)].
- Attachment:** Copy of manufacturer's confirmation letter.
3. The vehicle does not conform to all applicable Federal Motor Vehicle Safety and Bumper Standards, but does conform to applicable Federal Theft Prevention Standards, but I am eligible to import it because NHTSA has determined that the model and model year of the vehicle to be imported is eligible for importation into the United States, and the vehicle is not a salvage motor vehicle or a reconstructed motor vehicle, and I have furnished a bond, which is attached to this declaration, in an amount equal to 150 percent of the entered value of the vehicle as determined by the Secretary of the Treasury. If the Administrator of NHTSA determines that the vehicle has not been brought into conformity with all such standards within 120 days after importation, then I state that I will deliver such vehicle to the Secretary of Homeland Security for export, or abandon it to the United States [591.8]; and that
- a. I have registered with NHTSA pursuant to 49 CFR Part 592 and such registration is not suspended and has not been revoked; or
- b. I have executed a contract or other agreement, which is attached to this declaration, with an importer who has registered with NHTSA and whose registration is not suspended and has not been revoked. [591.5(f)]
- Attachments:** Copy of DOT Bond; and
Copy of Contract with a Registered Importer, if applicable.
4. The vehicle or equipment does not conform to all applicable Federal Motor Vehicle Safety, Bumper and Theft Prevention Standards, but is intended solely for export and is labeled for export on the vehicle or equipment item, and the outside of any container of the vehicle or equipment item bears a label or tag to that effect. [591.5(c)]
5. The vehicle or equipment does not conform to all applicable Federal Motor Vehicle Safety, Bumper and Theft Prevention Standards, but I am eligible to import it because all of the following conditions exist:
- a. I am a nonresident of the United States and the vehicle is registered in a country other than the United States;
- b. I am temporarily importing the vehicle for personal use for a period not to exceed 1 year, and will not sell it during that time; and
- c. I will export it not later than the end of 1 year after entry, and the declaration contains my passport number and country of issue. [591.5(d)]
- d. Passport No. _____ Country of issue _____
6. The vehicle does not conform to all applicable Federal Motor Vehicle Safety, Bumper, and Theft Prevention Standards, but I am eligible to import it because all of the following conditions exist:
- a. I am a member of a foreign government on assignment in the United States, or a member of the Secretariat of a public international organization so designated under the International Organizations Immunities Act, and within the class of persons for whom free entry of motor vehicles has been authorized by the Department of State;
- b. I am importing the vehicle on a temporary basis for my personal use, and will register it through the Office of Foreign Missions of the Department of State;
- c. I will not sell the vehicle to any person in the United States, other than a person eligible to import a vehicle under this paragraph;
- d. I will obtain from the Office of Foreign Missions of the State Department, before departing the United States at the conclusion of a tour of duty, an ownership title to the vehicle good for export only; and
- e. I have attached a copy of my official orders. [591.5(h)(1)]
- Name of Embassy: _____
- Attachment:** Copy of Official Orders.
7. The vehicle or equipment does not conform to all applicable Federal Motor Vehicle Safety and Bumper Standards, but is being imported solely for the purpose of research, investigations, demonstrations or training, or competitive racing events, and I state that I will comply with the applicable restrictions on importers of such merchandise as specified in 49 CFR 591.7 and I will provide the Administrator with documentary proof of export or destruction not later than 30 days following the end of the period for which the vehicle has been admitted into the United States. [591.5(j)]
- Attachment:**
- a. Copy of NHTSA permission letter if the importer is not an original manufacturer of motor vehicles (or a wholly owned subsidiary thereof) that are certified to conform to all applicable Federal Motor Vehicle Safety Standards (FMVSS). Use on the public roads must be authorized specifically. [591.6(f)(1) or (2)];
- b. Importer's statement describing the use to be made of the vehicle or equipment item if the importer is an original manufacturer of motor vehicles (or a wholly owned subsidiary thereof) that are certified to conform to all applicable FMVSS. 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 describe the purpose that makes such use necessary, state the estimated period of time during which use of the vehicle or equipment item on the public roads is necessary, and state the intended means of final disposition (and disposition date) of the vehicle or equipment item after completion of the purpose for which it is imported. [591.6(f)(3)]
8. The vehicle was not manufactured primarily for use on the public roads and thus is not a motor vehicle subject to the Federal Motor Vehicle Safety, Bumper, and Theft Prevention Standards or the equipment item is not a system, part, or component of a motor vehicle and thus is not an item of motor vehicle equipment subject to the Federal Motor Vehicle Safety Standards. [591.5(a)]
- Attachment:** Importer's 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. [591.6(a)]
9. The vehicle or equipment item requires further manufacturing operations to perform its intended function, other than the addition of readily attachable equipment items such as mirrors, wipers, or tire and rim assemblies, or minor finishing operations such as painting, and any part of such vehicle that is required to be marked by the Theft Prevention Standard is marked in accordance with that standard. [591.5(e)]
- Attachment:** For a vehicle, a copy of the Incomplete Vehicle Document, issued by the Incomplete vehicle manufacturer, providing guidance on completing the vehicle so that it conforms to all applicable Federal Motor Vehicle Safety Standards (FMVSS). For an equipment item, a statement issued by the item's manufacturer identifying the applicable FMVSS to which the item does not conform and describing the further manufacturing required for the item to perform its intended function. [591.6(b)].
10. The vehicle does not conform to all applicable Federal Motor Vehicle Safety and Bumper Standards but is being imported solely for the purpose of show and display, and I state that I will comply with all applicable restrictions on importers of such vehicles as specified in 49 CFR 591.7. [591.5(j)]
- Attachment:** Copy of NHTSA Permission Letter.
11. The equipment item is subject to the Theft Prevention Standard and is marked in accordance with the requirements of 49 CFR Part 541. [591.5(k)]
12. The vehicle does not conform to all applicable Federal Motor Vehicle Safety, Bumper, and Theft Prevention Standards, but I am eligible to import it because all of the following conditions exist:
- a. I am a member of the armed forces of a foreign country on assignment in the United States;
- b. I am importing the vehicle on a temporary basis, and for my personal use;
- c. I will not sell the vehicle to any person in the United States, other than a person eligible to import a vehicle under this paragraph;
- d. I will export the vehicle upon departing the United States at the conclusion of my tour of duty; and
- e. I have attached a copy of my official orders. [591.5(h)(2)]
- Attachment:** Copy of Official Orders.
13. The vehicle does not conform to all applicable Federal Motor Vehicle Safety and Bumper Standards, but does conform to applicable Federal Theft Prevention Standards, and I am eligible to import it because I am registered with NHTSA pursuant to 49 CFR Part 592 and such registration is not suspended and has not been revoked. I have informed NHTSA that I intend to petition, or I have petitioned, that agency to decide that the vehicle to be imported is eligible for importation, and NHTSA has granted me permission in writing to import the vehicle for that purpose. If the Administrator of NHTSA dismisses my petition, or decides that the vehicle is not eligible for importation, or if I withdraw my petition or I fail to submit a petition covering the vehicle within 180 days from the date of entry, then I state that I will deliver such vehicle, unless it is destroyed, to the Secretary of Homeland Security for export, or abandon it to the United States, within 30 days from the date of the dismissal, denial, or withdrawal of my petition, as appropriate, or within 210 days from the date of entry if I fail to submit a petition covering the vehicle. If the Administrator of NHTSA grants my petition, then I state that within 15 days from the date that I am notified of that decision, I will furnish a bond, in an amount equal to 150 percent of the entered value of the vehicle as determined by the Secretary of the Treasury, unless the vehicle is destroyed, to ensure that I will bring the vehicle into conformity with all applicable Federal Motor Vehicle Safety and Bumper standards within 120 days from the date the petition is granted, or will deliver the vehicle to the Secretary of Homeland Security for export, or abandon it to the United States. If the vehicle is destroyed, then I state that I will furnish NHTSA with documentary proof of that destruction within 15 days from the date that it occurs.
- Attachment:** Copy of NHTSA permission letter.

NAME OF IMPORTER <i>(Please type)</i>	IMPORTER'S ADDRESS <i>(Street, City, State, Zip Code)</i>	
NAME OF DECLARANT <i>(Please type)</i>	DECLARANT'S ADDRESS	
DECLARANT'S CAPACITY	DECLARANT'S SIGNATURE	DATE SIGNED

EPA Requirements: Importers of motor vehicles/engines and nonroad vehicles/engines/equipment must also submit EPA form 3520-1 or 3520-21 to U.S. Customs and Border Protection to identify the basis for importation into the United States and U.S. territories under the laws administered by the United States Environmental Protection Agency. For more information, please see www.epa.gov/otaq/imports/index.htm.

BOND TO ENSURE CONFORMANCE WITH MOTOR VEHICLE SAFETY AND BUMPER STANDARDS

Section 591.50(f)

(To redeliver vehicle, to produce documents, to perform conditions of release, such as to bring vehicle into conformance with all applicable federal Motor Vehicle Safety and Bumper Standards)

Know All Men by These Presents That _____ of _____ and _____ and _____ as principal

as sureties, are held and firmly bound unto the UNITED STATES OF AMERICA in the sum of _____ dollars (\$ _____), which represents 150% of the entered value of the following described motor vehicle as determined by the U. S. Customs Service:

_____ Model year, make, series, engine, and chassis number

for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns (jointly and severally), firmly by these presents

WITNESS our hands and seals this _____ day of _____, 199 _____

WHEREAS, motor vehicles may be entered under the provisions of section 108, National Traffic and Motor Vehicle Safety Act of 1966, as amended; and section 106 of the Motor Vehicle Information and Cost Savings Act; and

WHEREAS, pursuant to 49 CFR Part 591, a regulation promulgated under the provisions of section 108, National Traffic and Motor Vehicle Safety Act of 1966, as amended, the above-bounden principal desires to import permanently the motor vehicle described above, which is a motor vehicle that was not originally manufactured to conform with the Federal motor vehicle safety standards, and bumper standards; and

WHEREAS, pursuant to 49 CFR Part 592, a regulation promulgated under the provisions of section 108, National Traffic and Motor Vehicle Safety Act of 1966, as amended, the above-bounden principal has been granted the status of Registered Importer of motor vehicles not originally manufactured to conform with the Federal motor vehicle safety standards (or, if not Registered Importer, has a contract with a Registered Importer covering the motor vehicle described above); and

WHEREAS, pursuant to 49 CFR 593, a regulation promulgated under the provisions of section, 108, National Traffic and Motor Vehicle Safety Act of 1966, as amended, the Administrator of the National Highway Traffic Safety Administration as determined that the motor vehicle described above is eligible for importation into the United States; and

WHEREAS, the motor vehicle described above has been imported at the port _____ for consumption on entry No. _____, dated _____, 199 _____

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT-

(1) The above-bounden principal (the "principal", in consideration of the permanent admission into the United States of the motor vehicle described above (the "vehicle", voluntarily undertakes and agrees to have such vehicle brought into conformity with all applicable Federal motor vehicle safety and bumper standards within 120 days after such importation, as specified by the Administrator of the National Highway Traffic Safety Administration (the "Administrator");

(2) The principal shall then file, or if not a Registered Importer shall then cause the Registered Importer of the Vehicle to file, with the Administrator, a certificate that the vehicle complies with each Federal motor vehicle safety standard in effect the year that the vehicle was manufactured and which applies in such year to the vehicle, and that the vehicle complies with the Federal bumper standard (if applicable);

10

(3) The principal, if a Registered Importer, shall not release custody of the vehicle to any person for license or registration for use on public roads, streets, or highways, or license or register the vehicle from the date of entry until 30 calendar days after it has certified compliance of the vehicle to the Administrator, unless the Administrator notifies the principal before 30 days that (s)he has accepted such certification and the vehicle and bond maybe released, except that no such release shall be permitted, before or after the 30th calendar day, if the principal has received written notice from the Administrator that an inspection of such vehicle will be required, or that there is reason to believe that such certification is false or contains a misrepresentation;

(4) And if the principal has received written notice from the Administrator that an inspection is required, the principal shall cause the vehicle to be available for inspection; and the vehicle and bond shall be promptly released after completion of an inspection showing no failure to comply. However, if the inspection shows a failure to comply, the vehicle and bond shall not be released until such time as the failure to comply ceases to exist;

(5) And if the principal has received written notice from the Administrator that there is reason to believe that the certificate is false or contains a misrepresentation, the vehicle or bond shall not be released until the Administrator is satisfied with the certification and any modification thereof;

(6) And if the principal has received written notice from the Administrator that the vehicle has been found not to comply with all applicable Federal Motor vehicle safety and bumper standards, and written demand that the vehicle be abandoned to the United States, or delivered to the Secretary of the Treasury for the export (at no cost to the United States), the principal shall abandon the vehicle to the United States, or shall deliver the vehicle, or cause the vehicle to be delivered to, the custody of the District Director of Customs of the port of entry listed above, or any other port of entry, and shall execute all documents necessary for exportation of the vehicle from the United States, at no cost to the United States; or in default of abandonment or redelivery after proper notice by the Administrator to the principal, the principal shall pay to the administrator the amount of this obligation;

Then this obligation shall be void; otherwise it shall remain in full force amd effect.
Signed, sealed, and delivered in the presence of

Name

Address

Name

Address

(Principal)

(SEAL)

Name

Address

Name

Address

(Surety)

(SEAL)

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____ certify that I am the _____
of the corporation named as principal in the within bond; that _____, who signed the bond on behalf
of the principal, was then _____ of said corporation; that I know his/her signature, and his/her
signature thereto is genuine; and that said bond was duly signed, sealed and attested for and in behalf of said corporation by authority
of its governing body.

(CORPORATE SEAL)

(To be used when a power of attorney has been filed with NHTSA, and may be executed by secretary, assistant secretary, or other officer.)

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 591****[Docket No. NHTSA 02-11593; Notice 1]****RIN 2127-AI64****Importation of Commercial Motor Vehicles**

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to add a definition of the term "import" to our regulation on the importation of motor vehicles. A 1966 statute that we administer prohibits the manufacture of new motor vehicles for sale in the United States unless, at the time of manufacture, they complied with the Federal motor vehicles safety standards (FMVSS) then in effect and bear a label certifying that compliance. The statute also prohibits the importation of new or used motor vehicles into the United States unless they were manufactured to conform with, or are brought into conformity with, those standards and are so certified. In 1975, NHTSA issued an interpretation stating that the importation prohibition applies to the bringing into the United States of foreign-domiciled commercial vehicles. We are proposing a definition of the term "import" that would codify this longstanding interpretation in the Code of Federal Regulations.

This document is one of several being issued by this agency and the Federal Motor Carrier Safety Administration (FMCSA) to ensure that the interests of safety are protected as the United States takes the steps necessary to comply with its obligations under the North American Free Trade Agreement regarding the access of Mexico-domiciled motor carriers to the United States.

DATES: Comment closing date: You should submit your comments early enough to ensure that Docket Management receives them not later than **[FR: Please insert the date 60 days after date of publication of this notice in the Federal Register]**.

ADDRESSES: For purposes of identification, please mention the docket number of this document in your comments. You may submit those comments in writing to: Docket Management, Room PL-401, 400 Seventh Street, SW, Washington, DC, 20590. Alternatively, you may submit your comments by e-mail at <http://dms.dot.gov>.

You may call Docket Management at (202) 366-9324, or you may visit the Docket from 10:00 a.m. to 5:00 p.m., Monday through Friday. The Docket is located at the Plaza level of this building, northeast entrance.

FOR FURTHER INFORMATION, CONTACT:

For technical issues: Mr. George Entwistle, Chief, Equipment and Imports Division, Certification Branch, Office of Safety Assurance, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590; telephone (202) 366-5291; telefax (202) 366-1024.

12

For legal issues: Mr. Edward Glancy, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590; telephone (202) 366-2992; telefax (202) 366-3820.

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1992, the United States, Canada and Mexico signed the North American Free Trade Agreement (NAFTA). Following approval by Congress, the Agreement entered into force on January 1, 1994.

Since 1982, a statutory moratorium on the issuance of operating authority to Mexico-domiciled motor carriers had, with a few exceptions, limited the operations of such carriers to municipalities and commercial zones along the United States-Mexico border ("border zone"). Annex I of NAFTA called for liberalization of access for Mexico-domiciled motor carriers on a phased schedule. Pursuant to this schedule, Mexico-domiciled charter and tour bus operations were permitted beyond the border zone on January 1, 1994. Truck operations were to have been permitted in the four United States border states in December 1995, and throughout the United States on January 1, 2000; scheduled bus operations were to have been permitted throughout the United States on January 1, 1997.

However, the United States postponed implementation with respect to Mexico-domiciled truck and scheduled bus service due to concerns about safety, continuing its blanket moratorium on processing applications by these Mexico-domiciled motor carriers for authority to operate in the United States outside the border zone. On February 6, 2001, a NAFTA dispute resolution panel ruled that the blanket moratorium violated the United States' commitments under NAFTA.

The Department of Transportation is now in the process of preparing for the implementation of these NAFTA provisions. NHTSA and FMCSA are taking the steps necessary to ensure that the provisions are implemented in a manner consistent with the interests of safety. One of NHTSA's primary concerns is to ensure that the vehicles used in the United States complied with the Federal Motor Vehicle Safety Standards (FMVSSs) in effect at the time that they were manufactured.

NHTSA issues FMVSSs under a statute originally known as the National Traffic and Motor Vehicle Safety Act. That statute has been codified at 49 U.S.C. " 30101, et seq. (In the interest of simplicity, we will refer to that statute by as the Vehicle Safety Act.) The purpose of the Vehicle Safety Act is to reduce the number of crashes and deaths and injuries resulting from crashes.

The Vehicle Safety Act specifies that, subject to certain exemptions:

a person may not manufacture for sale, offer to sell, introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or motor vehicle equipment manufactured on or after the date an applicable motor vehicle safety standard ... takes effect unless the vehicle or equipment complies with the standard and is covered by a certification issued under section 30115 of this title.

(49 U.S.C. ' 30112; emphasis added.)

Thus, the FMVSSs apply to new motor vehicles that vehicle manufacturers manufacture for sale in the United States. They also apply, subject to certain exemptions, to new or used motor vehicles that anyone

presents for importation, whether for sale, resale or other purposes, into the United States. The Vehicle Safety Act requires manufacturers to certify that their vehicles comply with all applicable safety standards. The vehicles must bear a permanent label that is applied by the vehicle manufacturer and certifies that the vehicles complied with all applicable safety standards. 49 U.S.C. § 30115.

1975 interpretation

In 1975, NHTSA addressed the issue of whether Canadian-domiciled commercial vehicles being operated in the United States were subject to the FMVSSs. Mr. J.C. Carruth, President of the Canadian Trucking Association, wrote to the Department seeking relief from the above statutory prohibition because it prevented the operation in the United States of Canada-based commercial vehicles that were not manufactured in accordance with FMVSS No. 121, Air brake systems. To provide that relief, Mr. Carruth sought to have those vehicles temporarily excluded from the Standard.

In a May 9, 1975 letter replying to Mr. Carruth, signed by NHTSA's Administrator, the agency concluded that this statutory prohibition applies to these Canada-based commercial vehicles. The agency recited the prohibition and noted that the Vehicle Safety Act provided that non-complying motor vehicles shall be refused admission to the United States under joint regulations issued by the Secretary of the Treasury and the Secretary of Transportation. The agency also noted that the Act provided that the two Secretaries may, by joint regulations, permit the temporary importation of a noncomplying motor vehicle, after the first purchase of it in good faith for purposes other than resale, i.e., after the vehicle had been purchased by an end user and thus was no longer new. However, while joint regulations had been issued to permit the temporary importation of a noncomplying motor vehicle for personal use, none had been issued to permit importation for commercial use on the highways of the United States. NHTSA concluded that any exclusion of Canadian-domiciled vehicles operating in the United States from the requirements of FMVSS No. 121 would be "an evasion of the Vehicle Safety Act's prohibition on importation of noncomplying vehicles." Although the 1975 letter did not address the issues of commercial buses or of Mexico-domiciled commercial vehicles, its rationale applied equally to them.

In 1995, the Department of Transportation publicized this interpretation in connection with its efforts to prepare for the implementation of NAFTA. It did so by incorporating the interpretation in a NAFTA Operating Requirements Handbook, which was printed in three languages and distributed to all participants at a NAFTA conference held in San Antonio, TX on November 14-16, 1995. The handbook stated that all commercial vehicles entering the United States must have been manufactured in compliance with all applicable FMVSSs and must bear a label certifying such compliance.

Review and reaffirmation of 1975 interpretation

Following the decision of the NAFTA panel in February of this year, NHTSA reviewed its 1975 interpretation. After consulting with the Office of Regulations and Rulings of the United States Customs Service (USCS), NHTSA has tentatively reaffirmed that interpretation and is proposing to codify it in the Code of Federal Regulations.

We begin by noting that while Congress has codified the Vehicle Safety Act since the 1975 interpretation, and modified many of the Act's provisions relating to importation of vehicles, no changes have been made that affect the 1975 interpretation. The Vehicle Safety Act continues to specify that, subject to certain exemptions:

a person may not manufacture for sale, offer to sell, introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or motor vehicle

14

equipment manufactured on or after the date an applicable motor vehicle safety standard takes effect unless the vehicle or equipment complies with the standard and is covered by a certification issued under section 30115 of this title. (49 U.S.C. ' 30112; emphasis added.)

Neither the statute nor any agency regulation exempts commercial vehicles domiciled in Canada or Mexico from the requirement that the vehicles must have been manufactured to meet the FMVSSs in order to be imported into the United States.

Several other factors also lead us to tentatively reaffirm the 1975 interpretation.

First, the interpretation is consistent with the plain meaning of the word "import," which the dictionary defines as meaning "to bring in (merchandise, commodities, workers, etc.) from a foreign country for use, sale, processing, reexport, or services" (Random House Compact Unabridged Dictionary, Special Second Edition).

Second, the interpretation is consistent with the purposes of the Vehicle Safety Act. The stated purpose of the Act is "to reduce traffic accidents and deaths and injuries resulting from traffic accidents." The fact that a commercial vehicle is domiciled in Canada or Mexico is of no consequence as to its safety when it is being operated on United States highways.

Third, while courts have sometimes interpreted the term "import" in narrower ways, the use of the term in the Vehicle Safety Act is similar to its use in statutes where the term has been construed broadly. In particular, we believe that the Vehicle Safety Act's prohibition on the importation of noncomplying vehicles is analogous to contraband laws that prohibit the importation of dangerous items. The Vehicle Safety Act prohibits the importation of noncomplying vehicles because such vehicles pose greater safety risks than compliant vehicles.

We note that the Department of Transportation, including representatives from NHTSA and FMCSA, met with the Office of Regulations and Rulings of the United States Customs Service on March 8, 2001 to discuss enforcement of the importation prohibition against foreign-domiciled commercial motor vehicles. At that meeting, representatives of the Office of Regulations and Rulings agreed with NHTSA's 1975 interpretation that the bringing of a commercial vehicle into the United States constituted an importation of the vehicle under the Vehicle Safety Act.

We are placing in the docket a copy of our 1975 interpretation, as well as a legal memorandum that was prepared then in support of that interpretation.

To codify our 1975 interpretation in the Code of Federal Regulations, we are proposing to add a definition of the term "import" to 49 CFR Part 591, "Importation of Vehicles and Equipment Subject to Federal Safety, Bumper, and Theft Prevention Standards." This part does not currently include any definition for this term. Therefore, any definition we add must reflect not only the 1975 interpretation but also represent a complete definition of the term. We are proposing the following definition:

Import means bring into the United States, whether on a permanent or temporary basis. This includes, but is not limited to, bringing a vehicle into the United States for the purpose of transporting cargo or passengers into the United States.

We note that, under Part 591, a person may not import a motor vehicle into the United States unless the person files one of several specified declarations. One of the declarations that provides a basis for the vehicle to be imported, set forth at §591.5(b), is that the vehicle complies with all applicable FMVSSs and bears a certification label to that effect permanently affixed by the original manufacturer. If the driver of a complying Canada- or Mexico-domiciled commercial vehicle were stopped at the

(15)

border by USCS and asked to file a declaration, the driver would simply need to file the one set forth at §591.5(b). (In order for the driver to be able to file that declaration, the vehicle would, of course, need to comply with all applicable FMVSSs in effect at the time of original manufacture and bear a certification label to that effect). As a practical matter, however, drivers of such vehicles would ordinarily not be asked to file a declaration. This is because USCS interprets its regulations to provide that commercial motor vehicles engaged in international commerce are "instruments of international traffic" and, as such, are not subject to the process of formal entry.

Companion actions by NHTSA and FMCSA

This document is one of several related actions by NHTSA and FMCSA as part of the Department of Transportation's efforts to ensure that the interests of safety are protected as the United States takes the steps to implement the provisions in NAFTA regarding access of Mexico-domiciled motor carriers to the United States.

FMCSA is issuing four final rules to ensure that the interests of safety are protected in granting authority for Mexico-domiciled motor carriers to operate within the United States. Two of the final rules revise FMCSA's regulations and forms governing applications by those carriers for such authority. The forms require additional information about each applicant's business and operating practices to help FMCSA to determine if the applicant is capable of meeting the safety requirements established for operating in interstate commerce in the United States. Among other things, a carrier must certify on its application form that the vehicles it will use in the United States were manufactured in compliance with the applicable FMVSSs. The third final rule, being issued on an interim basis, establishes a safety monitoring system and compliance initiative to further aid in determining whether Mexico-domiciled carriers applying to operate anywhere in the United States have the capability to comply with applicable safety regulations and conduct safe operations. The fourth final rule, also issued on an interim basis, establishes procedures to certify and maintain certification for auditors and investigators.

Other actions include (1) an NPRM issued by FMCSA proposing to require that all commercial motor vehicles operating in the United States have labels certifying their compliance with the FMVSSs in effect when they were built, (2) a draft policy statement issued by NHTSA providing that a vehicle manufacturer may, if it has sufficient basis for doing so, retroactively apply a label to a motor vehicle certifying that the vehicle complied with all applicable FMVSSs in effect at the time of manufacture, and (3) an NPRM issued by NHTSA proposing recordkeeping requirements for foreign manufacturers that retroactively certify vehicles.

We request comments on this proposed definition.

Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT regulatory policies and procedures

NHTSA has considered the impact of this proposed rule under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This proposed rule was not reviewed by the Office of Management and Budget under E.O. 12866, "Regulatory Planning and Review." This action is not "significant" under the Department of Transportation's regulatory policies and procedures.

16

This proposed rule would not impose any new requirements or mandate the expenditure of any resources. Instead, it would improve the clarity of the agency's regulation on imports by codifying a longstanding interpretation concerning the meaning of the term "import."

B. Regulatory Flexibility Act

NHTSA has considered the effects of this proposed rule under the Regulatory Flexibility Act. I hereby certify that it would not have a significant economic impact on a substantial number of small entities.

As noted above, the proposed rule would not impose any new requirements or mandate the expenditure of any resources, but would instead improve the clarity of the agency's regulation on imports by codifying a longstanding interpretation concerning the meaning of the term "import."

C. National Environmental Policy Act

NHTSA has analyzed this proposed rule for the purposes of the National Environmental Policy Act and determined that it would not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

The agency has analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it would not have sufficient federal implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The proposed rule would not have any substantial impact on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

E. Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted annually for inflation with base year of 1995). Adjusting this amount by the implicit gross domestic product price deflator for the year 2000 results in \$109 million ($106.99/98.11 = 1.09$). The assessment may be included in conjunction with other assessments.

This proposed rule would not mandate any expenditures by State, local or tribal governments, or by the private sector.

Submission of Comments

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to

encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under ADDRESS.

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under FOR FURTHER INFORMATION CONTACT. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under ADDRESS. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under DATES. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given above under ADDRESS. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

- Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov/>).
- On that page, click on "search."
- On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA-1998-1234," you would type "1234." After typing the docket number, click on "search."
- On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments.

- Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

List of Subjects in 49 CFR part 591

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 591 as follows:

PART 591 - IMPORTATION OF VEHICLES AND EQUIPMENT SUBJECT TO FEDERAL SAFETY, BUMPER, AND THEFT PREVENTION STANDARDS

1. The authority citation for part 591 is revised to read as follows:

Authority: 49 U.S.C. 322(a), 30112, 30114; Pub. L. 100-562, 102 Stat. 2824; Pub. L. 105-178, 12 Stat. 469; delegations of authority at 49 CFR 1.50 and 501.8.

2. Section 591.2 is revised to read as follows:

§591.2 Purpose.

The purpose of this part is to ensure that:

(a) Motor vehicles and motor vehicle equipment permanently imported into the United States conform with theft prevention standards issued under part 541 of this chapter and that they conform with, or are brought into conformity with, all applicable Federal motor vehicle safety standards issued under part 571 of this chapter and bumper standards issued under part 581 of this chapter;

(b) Foreign-domiciled commercial motor vehicles that are brought into the United States were manufactured to conform with, or are brought into conformity with, all applicable Federal motor vehicle safety standards issued *under part 571 of this chapter and any applicable theft prevention and bumper standards*; and

(c) Nonconforming vehicles and equipment items imported on a temporary basis are ultimately either exported or abandoned to the United States.

3. Section 591.4 is amended by adding a definition in alphabetical order to read as follows:

§591.4 Definitions.

* * * * *

Import means bring into the United States, whether on a permanent or temporary basis. This includes, but is not limited to, bringing a vehicle into the United States for the purpose of transporting cargo or passengers into the United States.

* * * * *

Issued on

Kenneth N. Weinstein
Associate Administrator for Safety Assurance

Billing Code: 4910-59-P
[Signature page for RIN 2727-AI64](NPRM)

24

Sec. 30112. Prohibitions on manufacturing, selling, and importing noncomplying motor vehicles and equipment

- a. **GENERAL** Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a person may not manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or motor vehicle equipment manufactured on or after the date an applicable motor vehicle safety standard prescribed under this chapter takes effect unless the vehicle or equipment complies with the standard and is covered by a certification issued under section 30115 of this title.
- b. **NONAPPLICATION** This section does not apply to
 1. the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of a motor vehicle or motor vehicle equipment after the first purchase of the vehicle or equipment in good faith other than for resale;
 2. a person
 - A. establishing that the person had no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment does not comply with applicable motor vehicle safety standards prescribed under this chapter; or
 - B. holding, without knowing about the noncompliance and before the vehicle or equipment is first purchased in good faith other than for resale, a certificate issued by a manufacturer or importer stating the vehicle or equipment complies with applicable standards prescribed under this chapter;
 3. a motor vehicle or motor vehicle equipment intended only for export, labeled for export on the vehicle or equipment and on the outside of any container of the vehicle or equipment, and exported;
 4. a motor vehicle the Secretary of Transportation decides under section 30141 of this title is capable of complying with applicable standards prescribed under this chapter;
 5. a motor vehicle imported for personal use by an individual who receives an exemption under section 30142 of this title;
 6. a motor vehicle under section 30143 of this title imported by an individual employed outside the United States;
 7. a motor vehicle under section 30144 of this title imported on a temporary basis;
 8. a motor vehicle or item of motor vehicle equipment under section 30145 of this title requiring further manufacturing; or
 9. a motor vehicle that is at least 25 years old.

Sec. 30113. General exemptions

- a. **DEFINITION** In this section, "low-emission motor vehicle" means a motor vehicle meeting the standards for new motor vehicles applicable to the vehicle under section 202 of the Clean Air Act (42 U.S.C. 7521) when the vehicle is manufactured and emitting an air pollutant in an amount significantly below one of those standards.
- b. **AUTHORITY TO EXEMPT AND PROCEDURES**

1. The Secretary of Transportation may exempt, on a temporary basis, motor vehicles from a motor vehicle safety standard prescribed under this chapter on terms the Secretary considers appropriate. An exemption may be renewed. A renewal may be granted only on reapplication and must conform to the requirements of this subsection.
 2. The Secretary may begin a proceeding under this subsection when a manufacturer applies for an exemption or a renewal of an exemption. The Secretary shall publish notice of the application and provide an opportunity to comment. An application for an exemption or for a renewal of an exemption shall be filed at a time and in the way, and contain information, this section and the Secretary require.
 3. The Secretary may act under this subsection on finding that
 - A. an exemption is consistent with the public interest and this chapter;
and
 - B.
 - i. compliance with the standard would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith;
 - ii. the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard;
 - iii. the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle; or
 - iv. compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.
- c. **CONTENTS OF APPLICATIONS** A manufacturer applying for an exemption under subsection (b) of this section shall include the following information in the application:
1. if the application is made under subsection (b)(3)(B)(I) of this section, a complete financial statement describing the economic hardship and a complete description of the manufacturer's good faith effort to comply with each motor vehicle safety standard prescribed under this chapter from which the manufacturer is requesting an exemption.
 2. if the application is made under subsection (b)(3)(B)(ii) of this section, a record of the research, development, and testing establishing the innovative nature of the safety feature and a detailed analysis establishing that the safety level of the feature at least equals the safety level of the standard.
 3. if the application is made under subsection (b)(3)(B)(iii) of this section, a record of the research, development, and testing establishing that the motor vehicle is a low-emission motor vehicle and that the safety level of the vehicle is not lowered unreasonably by exemption from the standard.
 4. if the application is made under subsection (b)(3)(B)(iv) of this section, a detailed analysis showing how the vehicle provides an overall safety level at least equal to the overall safety level of nonexempt vehicles.

- d. **ELIGIBILITY** A manufacturer is eligible for an exemption under subsection (b)(3)(B)(I) of this section only if the Secretary determines that the manufacturer's total motor vehicle production in the most recent year of production is not more than 10,000. A manufacturer is eligible for an exemption under subsection (b)(3)(B)(ii), (iii), or (iv) of this section only if the Secretary determines the exemption is for not more than 2,500 vehicles to be sold in the United States in any 12-month period.
- e. **MAXIMUM PERIOD** An exemption or renewal under subsection (b)(3)(B)(I) of this section may be granted for not more than 3 years. An exemption or renewal under subsection (b)(3)(B)(ii), (iii), or (iv) of this section may be granted for not more than 2 years.
- f. **DISCLOSURE** The Secretary may make public, by the 10th day after an application is filed, information contained in the application or relevant to the application unless the information concerns or is related to a trade secret or other confidential information not relevant to the application.
- g. **NOTICE OF DECISION** The Secretary shall publish in the Federal Register a notice of each decision granting an exemption under this section and the reasons for granting it.
- h. **PERMANENT LABEL REQUIREMENT** The Secretary shall require a permanent label to be fixed to a motor vehicle granted an exemption under this section. The label shall either name or describe each motor vehicle safety standard prescribed under this chapter from which the vehicle is exempt. The Secretary may require that written notice of an exemption be delivered by appropriate means to the dealer and the first purchaser of the vehicle other than for resale.

Sec. 30114. Special exemptions

The Secretary of Transportation may exempt a motor vehicle or item of motor vehicle equipment from section 30112(a) of this title on terms the Secretary decides are necessary for research, investigations, demonstrations, training, or competitive racing events.

Sec. 30115. Certification of compliance

A manufacturer or distributor of a motor vehicle or motor vehicle equipment shall certify to the distributor or dealer at delivery that the vehicle or equipment complies with applicable motor vehicle safety standards prescribed under this chapter. A person may not issue the certificate if, in exercising reasonable care, the person has reason to know the certificate is false or misleading in a material respect. Certification of a vehicle must be shown by a label or tag permanently fixed to the vehicle. Certification of equipment may be shown by a label or tag on the equipment or on the outside of the container in which the equipment is delivered.

Van Etten Gary

From: manuel.gaona@dot.gov [manuel.gaona@dot.gov] **Sent:** Mon 1/28/2008 8:31 AM
To: juan.abastta@dot.gov
Cc: Van Etten Gary
Subject: RE: Question?
Attachments:

The question has come up before, it should be logical that if a motorcoach does not meet FMVSS that motorcoach should not be allowed into the U.S. or if a motorcoach is conducting for-hire operations in the U.S. then that motorcoach should register in that state (ex. Texas). Unfortunately there are no regulations that state that a motorcoach that does not meet FMVSS or does not have a FMVSS plate can not cross into the United States. As for vehicle registration, license plates, the motorcoach can have U.S. or Mexican license plates all that is required is that the carrier must have the proper or required operating authority and U.S. DOT registration.

Thank you,

Manuel Gaona Jr.

USDOT/FMCSA

World Trade Bridge

(956) 729-0427 Ext 230



From: Abastta, Juan <FMCSA>
Sent: Monday, January 28, 2008 5:56 AM
To: Gaona, Manuel <FMCSA>
Cc: 'vanettg@ntsb.gov'
Subject: Question?

Mr. Gaona:

(24)

[Code of Federal Regulations]

[Title 49, Volume 6]

[Revised as of October 1, 2007]

From the U.S. Government Printing Office via GPO Access

[CITE: 49CFR565.2]

[Page 177]

TITLE 49--TRANSPORTATION

OF TRANSPORTATION

PART 565_VEHICLE IDENTIFICATION NUMBER REQUIREMENTS--Table of Contents

Sec. 565.2 Applicability.

This part applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers (including trailer kits), incomplete vehicles, and motorcycles. Vehicles imported into the United States under 49 CFR 591.5(f), other than by the corporation responsible for the assembly of that vehicle or a subsidiary of such a corporation, are excluded from requirements of Sec. 565.4(b), Sec. 565.4(c), Sec. 565.4(g), Sec. 565.4(h), Sec. 565.5 and Sec. 565.6.

25

[Code of Federal Regulations]

[Title 49, Volume 6]

[Revised as of October 1, 2007]

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[CITE: 49CFR565.5]

[Page 178-179]

TITLE 49--TRANSPORTATION

OF TRANSPORTATION

PART 565_VEHICLE IDENTIFICATION NUMBER REQUIREMENTS--Table of Contents

Sec. 565.5 Motor vehicles imported into the United States.

(a) Importers shall utilize the VIN assigned by the original manufacturer of the motor vehicle.

(b) A passenger car certified by a Registered Importer under 49 CFR part 592 shall have a plate or label that contains the following statement, in characters with a minimum height of 4 mm, with the identification number assigned by the original manufacturer provided in the blank: SUBSTITUTE FOR U.S. VIN: ----- SEE PART 565. The plate or label shall conform to Sec. 565.4 (h) and (i). The plate or label shall be permanently affixed inside the passenger compartment. The plate or label shall be readable, without moving any part of the vehicle, through the vehicle glazing under daylight lighting conditions by an observer having 20/20 vision (Snellen) whose eye-point is located outside the vehicle adjacent to the left windshield pillar. It shall be located in such a manner as not to cover, obscure, or overlay any part of any identification number affixed by the original manufacturer. Passenger cars conforming to Canadian Motor Vehicle Safety Standard 115 are exempt from this paragraph.

type of motor vehicle or covered equipment for which he has not submitted the required information shall submit the information specified in paragraphs (a) through (c) of § 566.5 not later than 30 days after he begins manufacture. Each manufacturer who has submitted required information shall keep his entry current, accurate and complete by submitting revised information not later than 30 days after the relevant changes in his business occur.

[36 FR 20978, Nov. 2, 1971, as amended at 53 FR 20119, June 2, 1988]

PART 567—CERTIFICATION

Sec.

- 567.1 Purpose.
- 567.2 Application.
- 567.3 Definitions.
- 567.4 Requirements for manufacturers of motor vehicles.
- 567.5 Requirements for manufacturers of vehicles manufactured in two or more stages.
- 567.6 Requirements for persons who do not alter certified vehicles or do so with readily attachable components.
- 567.7 Requirements for persons who alter certified vehicles.

AUTHORITY: 49 U.S.C. 322, 30111, 30115, 30117, 30166, 32502, 32504, 33101-33104, 33108, and 33109; delegation of authority at 49 CFR 1.50.

SOURCE: 70 FR 7430, Feb. 14, 2005, unless otherwise noted.

§ 567.1 Purpose.

The purpose of this part is to specify the content and location of, and other requirements for, the certification label to be affixed to motor vehicles as required by the National Traffic and Motor Vehicle Safety Act, as amended (the Vehicle Safety Act) (49 U.S.C. 30115) and the Motor Vehicle Information and Cost Savings Act, as amended (the Cost Savings Act), (49 U.S.C. 30254 and 33109), to address certification-related duties and liabilities, and to provide the consumer with information to assist him or her in determining which of the Federal Motor Vehicle Safety Standards (part 571 of this chapter), Bumper Standards (part 581 of this chapter), and Federal Theft Prevention Standards (part 541 of this chapter), are applicable to the vehicle.

§ 567.2 Application.

(a) This part applies to manufacturers including alterers of motor vehicles to which one or more standards are applicable.

(b) In the case of imported motor vehicles that do not have the label required by 49 CFR 567.4, Registered Importers of vehicles admitted into the United States under 49 U.S.C. 30141-30147 and 49 CFR part 591 must affix a label as required by 49 CFR 567.4, after the vehicle has been brought into conformity with the applicable Safety, Bumper and Theft Prevention Standards.

§ 567.3 Definitions.

All terms that are defined in the Act and the rules and standards issued under its authority are used as defined therein. The term "bumper" has the meaning assigned to it in Title I of the Cost Savings Act and the rules and standards issued under its authority.

Addendum means the document described in § 568.5 of this chapter.

Altered vehicle means a completed vehicle previously certified in accordance with § 567.4 or § 567.5 that has been altered other than by the addition, substitution, or removal of readily attachable components, such as mirrors or tire and rim assemblies, or by minor finishing operations such as painting, before the first purchase of the vehicle other than for resale, in such a manner as may affect the conformity of the vehicle with one or more Federal Motor Vehicle Safety Standard(s) or the validity of the vehicle's stated weight ratings or vehicle type classification.

Alterer means a person who alters by addition, substitution, or removal of components (other than readily attachable components) a certified vehicle before the first purchase of the vehicle other than for resale.

Chassis-cab means an incomplete vehicle, with a completed occupant compartment, that requires only the addition of cargo-carrying, work-performing, or load-bearing components to perform its intended functions.

Completed vehicle means a vehicle that requires no further manufacturing operations to perform its intended function.

§567.4

49 CFR Ch. V (10-1-06 Edition)

Final-stage manufacturer means a person who performs such manufacturing operations on an incomplete vehicle that it becomes a completed vehicle.

Incomplete trailer means a vehicle that is capable of being drawn and that consists, at a minimum, of a chassis (including the frame) structure and suspension system but needs further manufacturing operations performed on it to become a completed vehicle.

Incomplete vehicle means

(1) An assemblage consisting, at a minimum, of chassis (including the frame) structure, power train, steering system, suspension system, and braking system, in the state that those systems are to be part of the completed vehicle, but requires further manufacturing operations to become a completed vehicle; or

(2) An incomplete trailer.

Incomplete vehicle document or *IVD* means the document described in 49 CFR 568.4(a) and (b).

Incomplete vehicle manufacturer means a person who manufactures an incomplete vehicle by assembling components none of which, taken separately, constitute an incomplete vehicle.

Intermediate manufacturer means a person, other than the incomplete vehicle manufacturer or the final-stage manufacturer, who performs manufacturing operations on a vehicle manufactured in two or more stages.

§567.4 Requirements for manufacturers of motor vehicles.

(a) Each manufacturer of motor vehicles (except vehicles manufactured in two or more stages) shall affix to each vehicle a label, of the type and in the manner described below, containing the statements specified in paragraph (g) of this section.

(b) The label shall be riveted or permanently affixed in such a manner that it cannot be removed without destroying or defacing it.

(c) Except for trailers and motorcycles, the label shall be affixed to either the hinge pillar, door-latch post, or the door edge that meets the door-latch post, next to the driver's seating position, or if none of these locations is practicable, to the left side of the instrument panel. If that location is also not practicable, the label shall be af-

fixed to the inward-facing surface of the door next to the driver's seating position. If none of the preceding locations is practicable, notification of that fact, together with drawings or photographs showing a suggested alternate location in the same general area, shall be submitted for approval to the Administrator, National Highway Traffic Safety Administration, Washington, D.C. 20590. The location of the label shall be such that it is easily readable without moving any part of the vehicle except an outer door.

(d) The label for trailers shall be affixed to a location on the forward half of the left side, such that it is easily readable from outside the vehicle without moving any part of the vehicle.

(e) The label for motorcycles shall be affixed to a permanent member of the vehicle as close as is practicable to the intersection of the steering post with the handle bars, in a location such that it is easily readable without moving any part of the vehicle except the steering system.

(f) The lettering on the label shall be of a color that contrasts with the background of the label.

(g) The label shall contain the following statements, in the English language, lettered in block capitals and numerals not less than three thirty-seconds of an inch high, in the order shown:

(1) Name of manufacturer: Except as provided in paragraphs (g)(1)(i), (ii) and (iii) of this section, the full corporate or individual name of the actual assembler of the vehicle shall be spelled out, except that such abbreviations as "Co." or "Inc." and their foreign equivalents, and the first and middle initials of individuals, may be used. The name of the manufacturer shall be preceded by the words "Manufactured By" or "Mfd By." In the case of imported vehicles to which the label required by this section is affixed by the Registered Importer, the name of the Registered Importer shall also be placed on the label in the manner described in this paragraph, directly below the name of the actual assembler.

(i) If a vehicle is assembled by a corporation that is controlled by another

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- HOME
- CITIZEN SERVICES
- BUSINESS SERVICES
- GOVERNMENT SERVICES
- CONTACT US

[Home](#) > [Cross Border Truck Safety Inspection Program](#)

Last updated February 23, 2007

Cross Border Truck Safety Inspection Program

Ready to Deliver Long-Distance Cross-Border Trucking

Trucks Crossing the U.S.-Mexico Border

- Until 1982, trucks from Mexico could drive anywhere in the United States.
- Since 1982, trucks from Mexico have been able to drive only in the roughly 25-mile commercial zone along the U.S. border and can make deliveries in U.S. cities like San Diego, El Paso and Brownsville.
- Cargo destined beyond the commercial zone must be off-loaded and transferred, which has given rise to a highly inefficient international supply chain on our southern border.
- A limited demonstration program to test implementation of the trucking provisions of the North American Free Trade Agreement, supported by Presidents George H.W. Bush and Bill Clinton and approved by Congress in 1993 will allow a small number of Mexican trucking companies to be screened for possible trial authority to make deliveries beyond the commercial zones for one year.
- The companies **must pass** a safety audit by U.S. inspectors, including a complete review of driver records, insurance policies, drug and alcohol testing programs and vehicle inspection records.
- In two months, Mexico will have published its final application procedures and will begin processing applications from U.S. companies for authority to operate throughout Mexico.
- Since the mid-1990s, the rate of Mexican trucks taken off the road for **safety violations** has **dropped** 64 percent, from 59 percent to 21 percent (*comparable to the U.S. average*).

U.S. Safety and Security Requirements Await Trucks from Mexico

- Since 1995, the federal government has spent more than \$500 million to improve border inspection stations and hire more than 600 new federal and state truck inspectors.
- Mexico's trucks and their drivers must meet all U.S. safety and security requirements before they will be allowed to drive beyond the border region.
- **Every truck** that crosses the border as part of the pilot will be checked – *every truck, every time*.
- **Any truck** with a safety violation that poses a risk to the traveling public – no matter how small or large - **will be stopped** until the problem is fixed.
- Drivers **must** have a valid commercial license, proof of medical fitness, and comply with hours-of-service rules.
- Drivers **must** be able to understand and respond to questions and directions from inspectors.
- Drivers **may not** be sick, tired or under the influence of drugs or alcohol.
- Trucks **must be** insured and meet rigorous U.S. safety standards for the entire vehicle, including brakes, steering systems, tires, axles, hoses, fuel tanks, head and tail lamps, turn signals, suspension systems, frame integrity and cargo securing equipment.
- **No trucks** hauling hazardous materials or buses carrying passengers will be involved in the test program.
- All trucks and all drivers entering the U.S. are screened by U.S. Customs and Border Protection Officers, which could include radiation portal monitoring and x-ray inspections of high risk cargo.
- All drivers must provide advanced cargo information, must meet immigration entry requirements and are subject to the U.S. import requirements.

Good for Consumers

- Every day, nearly \$2.4 billion in trade flows between the United States, Mexico and Canada. U.S. merchandise exports to Mexico and Canada are up 157 percent. The economies of all three countries

have grown by more than 40 percent since NAFTA was signed.

- **75 percent of this commerce is carried by commercial trucks, but the current system of transferring products from the truck of one country to that of the other costs consumers \$400 million a year.**
- Long-haul trucking to and from Mexico will allow goods to get to the marketplace as efficiently as possible on both sides of the border which translates into cost savings to the consumer.

Keeping Our End of the Bargain

- President George H.W. Bush signed the historic NAFTA treaty in 1992.
- In 1993, Congress ratified NAFTA and President Bill Clinton signed into law legislation to implement the treaty.
- The trucking provisions of NAFTA were put on hold in 1995. In 2001, a NAFTA dispute resolution panel ruled that the United States was violating its NAFTA obligations by adopting a blanket ban on trucks from Mexico.
- In 2001, Congress approved and President George W. Bush signed legislation detailing 22 safety requirements that must be met before allowing trucks from Mexico to drive beyond the U.S. commercial zones.
- In 2002, U.S. Transportation Secretary Norman Y. Mineta certified that DOT had met each of the 22 requirements set by Congress. The last three audits by the U.S. DOT Inspector General confirm it as well.
- Litigation stymied the DOT program; a 2002 U.S. Ninth Circuit Court of Appeals ruling that barred implementation of the treaty's trucking provisions. The U.S. Supreme Court unanimously reversed the decision in 2004.
- U.S. DOT began working immediately with its Mexican counterparts to develop a NAFTA trucking pilot program.

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Last updated February 23, 2007

Cross Border Truck Safety Inspection Program

All 22 Congressional Safety Mandates Have Been Met

The Department of Transportation has developed a plan to:

1. Establish mandatory pre-authority safety audits
2. Conduct at least 50 percent of the safety audits on-site in Mexico
3. Issue permanent operating authority only to Mexican trucking companies who pass safety compliance review
4. Conduct at least 50 percent of the compliance reviews on-site in Mexico - including any who did not receive an on-site pre-authority audit
5. Check the validity of the driver's license every time a truck crosses the border
6. Assign Mexican truck companies a distinct DOT number
7. Inspect all trucks from Mexico that do not display a current CVSA decal
8. Have state inspectors in the border states report any violations of safety regulations by trucks from Mexico to U.S. federal authorities
9. Equip all U.S.-Mexico commercial border crossings with weight scales - including weigh-in-motion (WIM) systems at 5 of the 10 busiest crossings
10. Study the need for weigh-in-motion (WIM) systems at all other border crossings
11. Collect proof of insurance by a U.S. certified insurance carrier from Mexican companies who want to operate beyond the border zone
12. Limit trucks from Mexico operating beyond the border zone to cross the border only where a certified federal or state inspector is on duty
13. Limit trucks from Mexico operating beyond the border zone to cross the border only where there is capacity to conduct inspections and park out of service vehicles
14. Ensure compliance of all U.S. safety regulations by Mexican operators who wish to go beyond border zones
15. Improve training and certification for border inspectors and auditors
16. Study needed staffing along the border
17. Prohibit Mexican trucking companies from leasing vehicles from other companies when they are suspended, restricted, or limited from their right to operate in the United States
18. Forbid foreign motor carriers from operating in the United States if they have been found to have operated illegally in the United States
19. Work with all state inspectors to take enforcement action or notify U.S. DOT authorities when they discover safety violations
20. Apply the same U.S. hazardous materials driver requirements to drivers from Mexico hauling hazardous materials
21. Provide \$54 million in Border Infrastructure Grants for border improvements and construction
22. Conduct a comprehensive Inspector General's review - to be certified by the Secretary - that determines if border operations meet requirements

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