

manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

NHTSA received petitions from registered importers to decide whether the vehicles listed in Annex A to this notice are eligible for importation into the United States. To afford an opportunity for public comment, NHTSA published notice of these petitions as specified in Annex A. The reader is referred to those notices for a thorough description of the petitions. No comments were received in response to these notices. Based on its review of the information submitted by the petitioners, NHTSA has decided to grant the petitions.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. Vehicle eligibility numbers assigned to vehicles admissible under this decision are specified in Annex A.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that each motor vehicle listed in Annex A to this notice, which was not originally manufactured to comply with all applicable Federal motor vehicle safety standards, is substantially similar to a motor vehicle manufactured for importation into and/or sale in the United States, and certified under 49

U.S.C. § 30115, as specified in Annex A, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 23, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

Annex A—Nonconforming Motor Vehicles Decided to be Eligible for Importation

1. Docket No. NHTSA-97-3067
Nonconforming Vehicles: 1992-1994 Kawasaki EL250 Motorcycles
Substantially similar U.S.-certified vehicles: 1992-1994 Kawasaki EX-250 Motorcycles
Notice of Petition published at: 62 FR 60558 (November 20, 1997)
Vehicle Eligibility Number: VSP-233
2. Docket No. NHTSA-97-3137
Nonconforming Vehicles: 1974 Alfa Romeo GTV
Substantially similar U.S.-certified vehicles: 1974 Alfa Romeo GTV
Notice of Petition published at: 62 FR 63412 (November 28, 1997)
Vehicle Eligibility Number: VSP-234
3. Docket No. NHTSA-97-3189
Nonconforming Vehicles: 1994-1998 Mercedes-Benz S320
Substantially similar U.S.-certified vehicles: 1994-1998 Mercedes-Benz S320
Notice of Petition published at: 62 FR 65126 (December 10, 1997)
Vehicle Eligibility Number: VSP-236
4. Docket No. NHTSA-97-3190
Nonconforming Vehicles: 1994-1997 Mercedes-Benz S500
Substantially similar U.S.-certified vehicles: 1994-1997 Mercedes-Benz S500
Notice of Petition published at: 62 FR 65124 (December 10, 1997)
Vehicle Eligibility Number: VSP-235

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-98-3513]

Decision That Nonconforming 1972-1979 Volkswagen Beetle Convertibles and 1972-1977 Volkswagen Beetle Sedans Are Eligible for Importation

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

ACTION: Notice of decision by NHTSA that nonconforming 1972-1979 Volkswagen Beetle Convertibles and 1972-1977 Volkswagen Beetle Sedans are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1972-1979

Volkswagen Beetle Convertibles and 1972-1977 Volkswagen Beetle Sedans not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and sale in the United States and certified by their manufacturer as complying with the safety standards (the U.S. certified version of the 1972-1979 Volkswagen Beetle Convertible and 1972-1977 Volkswagen Beetle Sedan), and they are capable of being readily altered to conform to the standards.

DATE: This decision is effective February 27, 1998.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania ("Champagne") (Registered Importer 90-009) petitioned NHTSA to decide whether 1972-1979 Volkswagen Beetle Convertibles and 1972-1977 Volkswagen Beetle Sedans are eligible for importation into the United States. NHTSA published notice of the petition under Docket No. 97-066; Notice 1 on September 30, 1997 (62

FR 51179) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

One comment was received in response to the notice of the petition, from Volkswagen of America, Inc. ("Volkswagen"), the United States representative of Volkswagenwerke A.G., the vehicles' manufacturer. In this comment, Volkswagen stated that because the Volkswagen Beetle was provided for the United States market in a number of configurations during the 1972-1979 model years, it is not possible to establish standardized modification requirements for all of the vehicles available during those years. Volkswagen noted that there were differences in equipment and construction between the Custom Beetle series, the Super Beetle series, and the Convertible series that were manufactured during the 1972-1979 model years. As a consequence, Volkswagen contended that it would be necessary to compare vehicles by model year and series to their U.S. certified counterparts to determine which modifications would be necessary to achieve full compliance with all applicable Federal motor vehicle safety standards.

Volkswagen also contended that modifications would have to be performed on the vehicles to meet standards in addition to those identified by Champagne. Specifically, Volkswagen stated that non-U.S. certified Beetles would have to be equipped with different wiper blades and wiper arms to meet Standard No. 103, *Windshield Defrosting and Defogging Systems*, and 104, *Windshield Wiping and Washing Systems*. Volkswagen also noted that non-U.S. certified Beetles may have to be equipped with different tires to meet Standard No. 109, *New Pneumatic Tires*. Volkswagen further contended that U.S. certified Beetles were equipped with head restraints or high backed seats to meet Standard No. 202, *Head Restraints*, and that non-U.S. certified models would have to be similarly equipped before they could meet that standard. Additionally, Volkswagen observed that some steering wheel configurations on non-U.S. certified Beetles may not comply with Standard No. 203, *Impact Protection for the Driver from the Steering Control System*. Volkswagen also noted that non-U.S. certified Beetles in some cases were not equipped with laminated windshields, as required by Standard No. 205, *Glazing Materials*. Volkswagen further contended that in order to meet

Standard No. 208, *Occupant Crash Protection*, the seat belts in non-U.S. certified Beetles would have to be compared to those on their U.S. certified counterparts and replaced if their part numbers were not the same. Although it acknowledged that non-U.S. certified Beetles have doors with side impact bars, Volkswagen stated that these vehicles may have door latches and hinges that differ from those on U.S. certified models, and that these components would have to be replaced for the vehicles to comply with Standard No. 214, *Side Impact Protection*. Additionally, Volkswagen contended that non-U.S. certified Beetles have different windshields and incorporate different windshield mounting methods than those used on U.S. certified models, affecting the vehicles' compliance with Standard Nos. 212, *Windshield Mounting*, and 219, *Windshield Zone Intrusion*. Finally, Volkswagen contended that in order to determine whether a non-U.S. certified Beetle complies with the Bumper Standard found in 49 CFR Part 581, not only must the bumper components themselves be compared to those on U.S. certified models, but the bumper reinforcements and upgraded body structure elements must be compared as well.

NHTSA accorded Champagne an opportunity to respond to Volkswagen's comment. In its response, Champagne stated that it will compare the wiper blades and wiper arms on all non-U.S. certified Beetles that it imports to those found on U.S. certified models and replace any such components that are not identical to assure compliance with Standard Nos. 103 and 104. Champagne stated that it will perform a similar comparison and component replacement, where necessary, to assure that the vehicles are equipped with tires that meet Standard No. 109, with headrests or seats that meet Standard No. 202, with steering wheels that meet Standard No. 213, with glazing that meets Standard No. 205, with seat belts that meet Standard No. 208, and with windshields that are installed in compliance with Standard Nos. 212 and 219. Champagne disputed Volkswagen's contention that some non-U.S. certified Beetles do not comply with Standard No. 203 and have door hinges and latches that do not meet Standard No. 214. Champagne contended that the installation of side impact beams is the only modification necessary to conform a non-U.S. certified Beetle to Standard No. 214. Additionally, Champagne denied that it would be necessary to reinforce or upgrade body or structural

elements for a non-U.S. certified Beetle to meet the Bumper Standard. Champagne contended instead that the structural mounting points for both U.S. certified and non-U.S. certified models are identical. In conclusion, Champagne confirmed that each vehicle it imports under the petition would be reviewed on a case-by-case basis to assure that any nonconformity is addressed during the conversion process.

NHTSA believes that Champagne's response adequately addresses the issues that Volkswagen has raised regarding the petition. NHTSA further notes that the modifications described by Champagne, which have been performed with relative ease on thousands of motor vehicles imported over the years, would not preclude non-U.S. certified Volkswagen Beetles from being found "capable of being readily altered to comply with applicable motor vehicle safety standards."

NHTSA has accordingly decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP-237 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 1972-1979 Volkswagen Beetle Convertibles and 1972-1977 Volkswagen Beetle Sedans are substantially similar to 1972-1979 Volkswagen Beetle Convertibles and 1972-1977 Volkswagen Beetle Sedans car originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. § 30115, and are capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 23, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.
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