Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–6872 Filed 3–19–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–74; RM–9367]

Radio Broadcasting Services; Bay Springs and Ellisville, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Blakeney Communications, Inc., licensee of Station WZKW(FM), Channel 232C2, Bay Springs, Mississippi, requesting the reallotment of Channel 232C2 to Ellisville, Mississippi, as that community's first locally competitive aural transmission service, and modification of its authorization accordingly. Coordinates used for Channel 232C2 at Ellisville, Mississippi, are 31–33–25 NL and 89–28–42 WL.

DATES: Comments must be filed on or before May 3, 1999, and reply comments on or before May 18, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Frank R. Jazzo, and Anne Goodwin Crump, Esq., Fletcher, Heald & Hildreth, P.L.C., 1300 North 17th Street, Eleventh Floor, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–74, adopted March 3, 1999, and released March 12, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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[FR Doc. 99–6873 Filed 3–19–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 591

RIN 2127–AH45

[Docket No. 99–NHTSA–5240]

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

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend NHTSA's importation regulations to implement a recent statutory amendment that adds ''show or display'' to the special limited purposes for which vehicles or equipment items may be imported without having to comply with the Federal motor vehicle safety standards (FMVSS). Under the amendments we are proposing, a person who wants to import a vehicle or equipment item for ''show or display'' would have to persuade us that the vehicle or equipment item is of such historical or technological significance that it is worthy of being shown or displayed in this country even though it would be difficult or impossible to be brought into compliance with the FMVSS. We intend this provision to accommodate primarily individuals wishing to import an example of a make or model of a vehicle which its manufacturer never sold in the United States and which therefore has no counterpart that was certified to conform to the FMVSS.

We propose to allow limited use on the public roads of vehicles imported for ''show or display.'' Before entry, an importer would describe the intended on-road use of the vehicle and affirm that the vehicle would not be used on the public roads more than 500 miles in any 12-month period. The importer would be required to provide an annual mileage statement to the agency during the first five years after entry.

Pursuant to the recent statutory amendment, we are also allowing owners of vehicles already imported into the United States under other exemptions to apply to us for a change in the terms and conditions under which we permitted their vehicles to be imported. The opportunity to apply for such a change is statutorily limited to the period of 6 months after the effective date of the final rule.

DATES: *Comment due date:* Comments are due on the proposed rule May 6, 1999. *Effective date:* The final rule would be effective 45 days after its publication in the **Federal Register**.

ADDRESSES: Comments should refer to the docket number indicated above and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. (Docket hours are from 9 a.m. to 5 p.m.)

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

SUPPLEMENTARY INFORMATION:

1. Background of this Rulemaking Action

A. The 1968 Importation Regulation

Under § 12.80(b)(1)(vii) of the agency's original importation regulation, 19 CFR 12.80, effective January 10, 1968, a person could import motor vehicles or motor vehicle equipment not manufactured to conform to the Federal motor vehicle safety standards (FMVSS) if the person declared that:

> The importer or consignee is importing such vehicle or equipment item solely for the purpose of show, test, experiment, competition, repairs, or alterations and that such vehicle or equipment item will not be sold or licensed for use on the public roads.

This regulation allowed importations of nonconforming vehicles or equipment items for ''show'' until it was superseded on January 31, 1990.

B. The 1990 Importation Regulation

On October 31, 1988, the Imported Vehicle Safety Compliance Act of 1988 (Pub. L. 100–562)(''Safety Compliance

Act'') was enacted. Its provisions became effective January 31, 1990. The Safety Compliance Act provided that nonconforming vehicles at least 25 years old could be imported without having to bring them into conformance with the Federal motor vehicle safety standards. Nonconforming vehicles less than 25 years old could also be imported without the need to conform them ''upon such terms and conditions as (NHTSA) may find necessary solely for the purpose of research, investigations, studies, demonstrations or training, or competitive racing events.''

The Safety Compliance Act made no mention of several purposes that had been specified in 19 CFR 12.80(b)(2)(vii), i.e., ''show,'' ''repairs,'' and ''alterations.'' This omission ended the ability of persons to import nonconforming vehicles specifically for show purposes. In our proposal to implement the Safety Compliance Act (the final rule was published on September 28, 1989 (54 FR 40069)), we sought to minimize the effect of the omission by noting that:

> Manufacturers who have imported nonconforming products for display at auto shows to gauge public reaction to new styling or engineering features will not be precluded from declaring that such importation is for ''research'' or ''demonstrations.'' And museums will be able to bring in nonconforming vehicles under the 25-year exception.
>
> (54 FR 17772 at 17776, April 25, 1989)

C. The 1993 Importation Regulation

Noting a growing desire to import vehicles less than 25 years old for show purposes, we proposed in 1992 to allow limited further relief. In our proposal published on January 17, 1992 (57 FR 2071, at 2072), we noted that we had

> adopted and maintained a conservative attitude towards entities other than original vehicle * * * manufacturers who wish to import nonconforming vehicles for display. In short, under the 1988 Amendments, it has refused to allow them.

As a means of affording partial relief for museums, we tentatively decided that we could interpret the word ''studies'' in the Safety Compliance Act to allow a static display

> of a vehicle * * * (where display) could form a basis for the acquisition of knowledge if that vehicle or equipment item were of historical or technological significance. Therefore, the agency has tentatively concluded that it may be in the public interest to admit vehicles whose age is less than 25 years if their importation can be demonstrated to enhance the acquisition and application of knowledge, that is to say, they merit admission because they are of historical or technological interest.
>
> (Ibid.)

We believed that this purpose could be best achieved by allowing entities, such as museums, that are recognized as tax-exempt entities under 26 U.S.C. 501(c)(3) or 509 by the Internal Revenue Service to import nonconforming vehicles for ''study.'' We did not include individuals in this proposal.

We amended part 591 on March 8, 1993, to allow tax-exempt entities to import nonconforming vehicles or equipment less than 25 years old upon demonstrating to us that the vehicles or equipment items were of historical or technological significance (58 FR 12905). Consistent with prior regulatory provisions, the amendment prohibited on-road use of these vehicles.

D. The 1994 Recodification of the Importation Authority

On July 5, 1994, the Safety Act and the Safety Compliance Act were repealed and reenacted without substantive change as 49 U.S.C. Chapter 301—*Motor Vehicle Safety*. The importation exemption provisions of 15 U.S.C. 1397(j) were recodified as 49 U.S.C. 30114 ''*Special Exemptions.*'' Sec. 30114 was slightly reworded to permit importation of nonconforming vehicles or equipment items imported for ''research, investigations, demonstrations, training, or competitive racing events.'' The word ''studies'' was omitted as being included in ''research.'' See H.R. Rep. 103–180, 103rd Cong., 1st Sess., at 59. Because the recodification statute indicated that it should not be construed as making any substantive changes, we did not amend part 591 to reflect the omission and have continued to authorize importations of noncompliant vehicles for ''studies.''

E. The 1998 Amendment

Section 7107(a) of Pub. L. 105–178, which was enacted on June 9, 1998, amended section 30114 by adding ''show, or display'' to the special purposes set forth in that section. As the Conference Report on the Transportation Equity Act for the 21st Century explained:

> Section 7107 reinstates NHTSA's authority to exempt certain motor vehicles imported for the purpose of show or display from certain applicable motor vehicle safety standards. Such authority was unintentionally deleted when title 49, United States Code was recodified in 1988.
>
> (H. Report 105–550, p. 523)

(We note that the deletion of ''show'' resulted from the 1988 amendments to the importation authority, rather than from the 1994 recodification, which deleted ''studies'').

2. Amendments Proposed to 49 CFR Part 591 that would Implement Congress' Amendment of Section 30114

A. Section 591.5, Declarations required for importation

As amended, Section 30114 now reads: 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, competitive racing events, show or display.

Currently, 49 CFR 591.5(j)(1) implements 49 U.S.C. 30114 by specifying requirements for importation of nonconforming vehicles or equipment for purposes of research, investigations, studies, demonstrations or training, and competitive racing events. In view of the intent of Congress at the time of recodification to include the word ''studies'' in the word ''research,'' as previously discussed, we would revise § 591.5(j)(1)(iii) to substitute the term ''show or display'' for ''studies.'' We deem the term ''studies'' covered by the word ''research'' and subject to the same terms and conditions imposed on vehicles imported for purposes of ''research.''

B. Section 591.6, Documents accompanying declarations

We recognize two types of importers under § 591.5(j): One that has received written permission from us to import a vehicle under its provisions (§ 591.5(j)(2)(i)); and one that is an original manufacturer of motor vehicles (or its wholly-owned subsidiary) and that certifies that its products comply with the Federal motor vehicle safety standards (§ 591.5(j)(2)(ii)).

Section 591.6(f) specifies the procedure for an importer who wishes to obtain written permission from us to import a vehicle or equipment item under § 591.5(j)(2)(i). Section 591.6(f)(1) requires all such requests to contain information sufficient to identify the vehicle or equipment and the specific purpose of importation, which must include a discussion of the use to be made of the vehicle or equipment. With respect to any such vehicle to be imported for research, investigations, demonstrations or training (but not for studies), if use on the public roads is to be an integral part of the purpose of importation, the statement must request permission for use on the public roads, describing the purpose that makes such use necessary and stating the estimated period of time during which use of the public roads is necessary. The request must also state the intended means of

final disposition (and disposition date) of the vehicle or equipment after completion of the purpose for which it is imported.

After review, we have decided that it is appropriate to retain this requirement in implementing the new statutory provision but we would amend § 591.6(f)(1) to clarify that it pertains to importations other than those for show or display, which would now be covered by § 591.6(f)(2).

Currently, if a § 591.5(j)(2)(i) importer wishes to import a vehicle or equipment for ''studies,'' the importer's written request:

> shall explain why the vehicle or equipment item is of historical or technological interest, and describe the studies for which importation is sought. The importer, if other than the National Museum of History and Technology, Smithsonian Institution, shall also provide a copy of the Determination Letter from the Internal Revenue Service approving the importer's status as a tax-exempt corporation or foundation under section 501(c)(3) or section 509, respectively, of the Internal Revenue Code. The time between the date of the Letter and the date of the importer's written request to the Administrator shall be not less than 5 years. The importer shall also provide a statement that it shall not sell, or transfer possession of, or title to, the vehicle, or license it for use, or operate it on the public roads, until the vehicle is not less than 25 years old.

We have concluded that the statutory amendment providing authority to admit vehicles or equipment for show or display, without any qualification on the eligibility of the importer, means that tax-exempt entities as well as individual importers may import vehicles for show or display. For this reason, there appears to be no further need to maintain an exemption for studies. Accordingly, we would amend the regulation to delete the provisions expressly relating to importations for studies. As noted, importations for ''studies'' are essentially those of importations for ''research.''

One of the terms and conditions of the allowance of importation for ''studies'' was that the vehicle not be licensed for use or operated on the public roads. We have reviewed this restriction in view of our new authority to allow importation for ''show or display,'' and have tentatively concluded that limited on-road use should be allowed, pursuant to our permission. We believe that the historical and technological significance of a vehicle may be maintained by its limited use of the public roads on an occasional basis in order to ensure that its engine, braking, lighting, and other dynamic systems remain in good working order, in short, so that it may be preserved. Another appropriate use of such a vehicle on the public roads would be to allow it to travel to and from nearby displays of automobiles of similar significance, so that its significance could be appreciated by a greater number of people than were it restricted to off-road use. We have tentatively decided that on-road use of these nonconforming vehicles should be limited to a maximum of 500 miles per year. There is no limit, of course, on the distance that such vehicles may be trailered in order to show or display them.

Consistent with the previous exemption for ''studies,'' we have decided that a person who wishes to import a vehicle for show or display ought to establish that the vehicle is one of historical or technological interest. This criterion has existed for many years, beginning with the previous ''show'' exemption, and continuing with the one for ''studies.''

Our most detailed discussion of the criterion of historical and technical interest was contained in a letter of July 12, 1983, to Richard London. Mr. London asked about the acceptability of importing a Mercedes-Benz 280SL which would be trailered to various auto meets, and which would not be licensed for use or used on the public roads. We advised Mr. Gordon that:

> The agency considers several factors in determining whether to accept a declaration that a vehicle is imported solely for ''show.'' One of these is the nature of the vehicle itself. If it is a unique machine generally considered to be of technological or historical significance, it is more likely to be admitted under the exception than if it were a mass-produced vehicle similar to many that were manufactured to conform to the Federal motor vehicle safety standards. The smaller the production run, the greater the likelihood that it will be considered to be unique. Mechanical components that differ substantially from those commonly in use at the time of manufacturer are evidence of its technological significance. Association with historical personages that would create a desire in the public to see the car is also considered relevant in the agency's interpretation of the word ''show.''

Examples of vehicles that might qualify under this exemption are high technology vehicles such as the McLaren F1, or certain types of Porsches or Ferraris that were never, in the first instance, sold in the United States. We might consider a vehicle owned by the Pope or the Queen of England to be a vehicle of historical significance.

We went on to explain to Mr. London that:

> In interpreting the word ''show'' and thereby exercising its discretion whether to allow importation of nonconforming motor vehicles for this purpose, the agency must balance the harm to the public likely to occur through use of the vehicle on the public roads, with the benefit to the public of importation of nonconforming vehicle for show purposes. * * * [t]he agency believes it is less likely that a rare or unique vehicle, part of a collection available to the public will be sold for use on the public roads than a vehicle such as the 1968–72 Mercedes 280SL that has been imported in numerous quantities as a conforming motor vehicle.

This explanation clearly demonstrated our view that nonconforming analogues of certified vehicles sold in the United States were not very likely to be considered of historical or technological significance.

In any event, use on the public roads will not be a matter of right for vehicles imported for ''show or display,'' but subject to such terms and conditions as may be established at the time of entry. In some cases where there are safety concerns, we may refuse to authorize on-road use of a particular vehicle. In order to ensure that any on-road use is limited, we are proposing that the prospective importer, in his or her request letter, describe the purposes for which on-road use is deemed required together with an affirmation that the vehicle will not be driven on the public roads more than 500 miles in any 12-month period beginning as of the date of its importation. The affirmation would be confirmed by the importer's submittal of an annual notarized mileage statement for the vehicle on the anniversary date of its importation, for the first five years after it is imported. In addition, the prospective importer would have to state in his or her letter of request that the vehicle would not be used on the public roads unless it met the requirements of the Environmental Protection Agency.

The current regulation also restricts sale and transfer of possession of a vehicle imported for ''studies'' until it is 25 years old. While this restriction might not be burdensome to a museum, the agency recognizes that there are circumstances such as the death of an importer where a sale or transfer of a vehicle imported for ''show or display'' must occur before it is 25 years old. To fully implement its new authority to allow importation for ''show or display,'' the agency proposes to modify this restriction, and allow sale or transfer of a vehicle imported for ''show or display'' upon approval by the Administrator.

Accordingly, we propose to revise § 591.6(f)(2) to require that a prospective importer:

> shall explain why the vehicle or equipment item is of historical or technological interest. The importer shall also provide a statement that, until the vehicle is not less than 25

years old, (s)he shall not sell, or transfer possession of, or title to, the vehicle, and shall not license it for use, or operate it on the public roads, except under such terms and conditions as the Administrator may authorize. If the importer wishes to operate the vehicle on the public roads, the request to the Administrator shall include a description of the purposes for which (s)he wishes to use it on the public roads, an affirmation that the vehicle will not be operated on the public roads for more than 500 miles in any 12-month period, and a statement that the vehicle will not be used on the public roads unless it is in compliance with the regulations of the Environmental Protection Agency. Finally, the request shall also include a statement that the importer will provide annually a notarized statement to the Administrator that states the mileage of the vehicle on the first through fifth anniversary dates of the importation of the vehicle, which shall be provided not later than 10 days after each such anniversary date. The request shall be sent to the Director, Office of Vehicle Safety Compliance (NSA–32), National Highway Traffic Safety Administration, Room 6111, 400 Seventh Street, SW., Washington, DC 20590).

Failure to file a mileage statement will be regarded as a violation of the terms of entry, for which a civil penalty may be imposed.

C. Section 591.7, Restrictions on importations

Until now, all importations under § 591.5(j)(1) have been ''for a temporary period,'' requiring a U.S. Customs Service Temporary Importation Bond (TIB). Under § 591.7(a), the TIB requires that vehicles which it covers shall not remain in the United States for a period that exceeds 3 years from the date of entry. However, under § 591.7(b), if the importer decides to liquidate the bond, it may apply to us for permission to keep the vehicle in the country for an additional period of time not to exceed 5 years from the date of entry, unless further written permission has been obtained from us. Such written permission, after 5 years, can result in an ''importation for a temporary period'' becoming a permanent one. This regulatory scheme has caused uncertainty as to whether we permit permanent importations under § 591.5(j).

Because we do permit permanent importations under § 591.5(j), we believe that we should clarify this point and simplify this process to allow a permanent importation ab initio, if an importer chooses to pay duty upon entry of the vehicle, rather than treating the entry as a ''temporary'' one, requiring a TIB and subsequent letters of permission. Amendments of this nature would not affect the existing right under § 591.5(j)(1) to import vehicles on a temporary basis with a TIB for those importers who wish to choose this option.

Another restriction is imposed by § 591.7(c). If the importer has brought a vehicle into the United States pursuant to § 591.5(j)(2)(i), § 591.7(c) requires the importer to retain title to and possession of it, forbids its leasing, and allows its use on the public roads only if written permission has been granted by the Administrator pursuant to § 591.6(f)(1) (covering importations for research, investigations, demonstrations or training but not studies or competitive racing events).

The restriction of § 591.7(c) implements the statement that an importer is required to make as part of the request letter. Given the fact that limited on-road use is being permitted for importations for ''show or display,'' we propose to amend § 591.7(c) to allow limited on-road use of all vehicles imported under § 591.5(j)(2)(i) ''under such terms and conditions as the Administrator may authorize in writing.'' We would also amend the first sentence of § 591.7(c) to conform to the statement that an importer gives under § 591.6(f)(2), and imposing affirmative obligations not to sell or transfer the vehicle, or license it or operate it on the public roads except upon written approval by the Administrator in place of the presently existing absolute prohibition.

Section 591.7(d) specifically provides that any violation of a term or condition that we impose ''in a letter authorizing importation or on-road use under § 591.5(j) shall be considered a violation'' of the Safety Act for which a civil penalty may be imposed. Retention of this requirement is needed for enforcement purposes. However, the statutory reference in § 591.7(d) to 15 U.S.C. 1397(a)(1)(A) would be changed to 49 U.S.C. 30112(a) to reflect the recodification.

Section 591.7(e) prohibits the importation for ''studies'' by any person not recognized as a tax-exempt entity by the Internal Revenue Service for not less than 5 years before the date of its written request. Because we intend to incorporate the ''studies'' exemption into the exemption for ''research'' where this restriction does not exist, this section would be moot. Section 591.7(e), therefore, would be removed. A new subsection (e) would replace it, to implement the statutory directive of section 7107(b) of Pub. L. 105–178 discussed below.

3. Seeking Exemptions Under Section 30114 for Vehicles in the United States at the time the Amendment was Enacted.

Section 7107(b) of Pub. L. 105–178 provides that: (b) TRANSITION RULE—A person who is the owner of a motor vehicle located in the United States on the date of enactment of this Act may seek an exemption under section 30114 of title 49, United States Code, as amended by subsection (a) of this section, for a period of 6 months after the date regulations of the Secretary of Transportation promulgated in response to such amendment take effect.

We interpret section 7017(b) as authorizing owners of vehicles imported under § 591.5(j) before June 9, 1998, to apply to the Administrator for a change in the terms and conditions under which the vehicle was admitted so that engaging in an act contrary to those original terms and conditions will not be held to be a violation. If the change requested is an importation for show or display, the request shall also include a statement that the owner will provide the annual mileage statement required of de novo importers for show or display by § 591.6(j)(2). We therefore propose to revise § 591.7(d) and (e) to read as follows:

(d) Any violation of a term or condition imposed by the Administrator in a letter authorizing importation or on-road use under § 591.5(j), including the failure to provide an annual mileage statement, shall be considered a violation of 49 U.S.C. 30112(a) for which a civil penalty may be imposed. With respect to importations under § 591.6(f)(2), if the importer's annual mileage statement shows that the vehicle has been used on the public roads for more than 500 miles in any 12-month period, the Administrator may tentatively conclude that a term of entry has been violated but shall make no final conclusion until the importer has been afforded an opportunity to present data, views, and arguments as to why there is no violation or why a penalty should not be imposed.

(e) The owner of a vehicle located in the United States on June 9, 1998, which the owner had imported pursuant to § 591.5(j), may apply to the Administrator on or before [enter date that is six months after publication date of the rule] for a change in any such term or condition contained in the Administrator's letter. If the owner requests a change to importation for show or display, the request shall provide the current mileage of the vehicle and include a statement that the owner will provide annually a notarized statement to the Administrator that states the mileage of the vehicle on the first through fifth anniversary dates of the request for the change, which shall be provided not later than 10 days after such anniversary date. All requests for change shall be sent to the Director, Office of Vehicle Safety Compliance (NSA–32), National Highway Traffic Safety Administration, Room 6111, 400 Seventh Street, SW, Washington, DC 20590.

4. Effective Date

The final rule would be effective 45 days after its publication in the **Federal Register**.

5. Rulemaking Analyses and Notices

A. Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

This notice has not been reviewed under E.O. 12866. After considering the impacts of this rulemaking action, NHTSA has determined that the action is not significant within the meaning of the Department of Transportation regulatory policies and procedures. The only substantive change that this proposed rule would make is to add an additional justification for importing motor vehicles without the need to comply with the Federal motor vehicle safety standards, and to require their importers to submit substantiating information similar to that already required for similar importations (see discussion below on Paperwork Reduction Act). The impacts are so minimal as not to warrant the preparation of a full regulatory evaluation.

B. Regulatory Flexibility Act

The agency has also considered the effects of this action in relation to the Regulatory Flexibility Act. For the reasons discussed above under E.O. 12866 and the DOT Policies and Procedures, I certify that this action will not have a significant economic impact upon ''a substantial number of small entities.'' The addition of an option to import a vehicle for ''show or display'' without the need to conform it relieves a previously existing restriction. Because the agency has permitted manufacturers of motor vehicles to import vehicles for purposes similar to ''show or display'' in the past, NHTSA believes that virtually all who wish to import a vehicle for ''show or display'' will be individuals. Individuals are not ''small entities.'' Governmental jurisdictions will be affected only to the extent that they must decide whether local laws permit the operation on local public roads of motor vehicles imported for show or display that do not conform to all applicable Federal motor vehicle safety standards, and this decision would not have a significant economic impact.

C. Executive Order 12612 (Federalism)

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

D. National Environmental Policy Act

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

E. Civil Justice Reform

This final rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. A procedure is set forth in 49 U.S.C. 30161 for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

F. Paperwork Reduction Act

The procedures in this rule to permit importation of motor vehicles and equipment not originally manufactured for the U.S. market include information collection requirements as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. The original information collection requirements of part 591 were approved by the OMB pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). NHTSA believes that the existing clearance covers a final rule that would be based on implementing a statutory amendment, and has not sought a new or expanded clearance. This collection of information has been assigned OMB Control No. 2127–0002 (''Motor Vehicle Information'').

G. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, 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. Because this final rule will not have an effect of $100 million, no Unfunded Mandates assessment has been prepared.

Request for Comments

Interested persons are invited to submit comments on the proposal. It is requested that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 591

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

In consideration of the foregoing, 49 CFR part 591 would be amended 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 would be revised to read as follows:

Authority: Pub. L. 100–562, Pub. L. 105–178, 49 U.S.C. 322(a), 30117; delegations of authority at 49 CFR 1.50 and 501.8.

2. Section 591.5 would be amended by paragraph (j)(1) to read as follows:

§ 591.5 Declarations required for importation.

* * * * *

(j)(1) The vehicle or equipment item does not conform with all applicable Federal motor vehicle safety and bumper standards, but is being imported solely for the purpose of:

(i) research;

(ii) investigations;

(iii) show or display;

(iv) demonstrations or training; or

(v) competitive racing events;

* * * * *

3. Section 591.6(f)(1) and (2) would be revised to read as follows:

§ 591.6 Documents accompanying declarations.

* * * * *

(f) * * *

(1) A declaration made pursuant to § 591.5(j)(1)(i), (ii), or (iv) and § 591.5(j)(2)(i) shall be accompanied by a letter from the Administrator authorizing importation pursuant to these sections. Any person seeking to import a motor vehicle or motor vehicle equipment pursuant to these sections shall submit, in advance of such importation, a written request to the Administrator containing a full and complete statement identifying the vehicle or equipment, its make, model, model year or date of manufacture, VIN if a motor vehicle, and the specific purpose(s) of importation. The discussion of purpose(s) shall include a description of the use to be made of the vehicle or equipment. If use on the public roads is an integral part of the purpose for which the vehicle or equipment is imported, the statement shall request permission for use on the public roads, describing the purpose which makes such use necessary, and stating the estimated period of time during which use of the vehicle or equipment on the public roads is necessary. The request shall also state the intended means of final disposition, and disposition date, of the vehicle or equipment after completion of the purposes for which it is imported. The request shall be addressed to Director, Office of Vehicle Safety Compliance (NSA–32), National Highway Traffic Safety Administration, Room 6111, 400 Seventh Street, SW, Washington, DC 20590.

(2) A declaration made pursuant to §§ 591.5(j)(1)(iii) and 591.5(j)(2)(i) shall be accompanied by a letter from the Administrator authorizing importation pursuant to these sections. Any person seeking to import a motor vehicle pursuant to those sections shall submit, in advance of such importation, a written request to the Administrator containing a full and complete statement identifying the vehicle, its make, model, model year or date of manufacture, and VIN. The importer's written request to the Administrator shall explain why the vehicle or equipment item is of historical or technological interest. The importer shall also provide a statement that, until the vehicle is not less than 25 years old, (s)he shall not sell, or transfer possession of, or title to, the vehicle, and shall not license it for use, or operate it on the public roads, except under such terms and conditions as the Administrator may authorize. If the importer wishes to operate the vehicle on the public roads, the request to the Administrator shall include a description of the purposes for which (s)he wishes to use it on the public roads, an affirmation that the vehicle will not be operated on the public roads more than 500 miles in any 12-month period, and a statement that the vehicle will not be used on the public roads unless it is in compliance with the regulations of the Environmental Protection Agency. Finally, the request shall also include a statement that the importer will provide annually a notarized statement to the Administrator that states the mileage of the vehicle on the first through fifth anniversary dates of the importation of the vehicle, which shall be provided not later than 10 days after each such anniversary date. The request shall be sent to the Director, Office of Vehicle Safety Compliance (NSA–32), National Highway Traffic Safety Administration, Room 6111, 400 Seventh Street, SW, Washington, DC 20590.

4. Section 591.7 would be amended by revising the first sentence of paragraph (c) and by revising paragraphs (d) and (e) to read as follows:

§ 591.7 Restrictions on importation

* * * * *

(c) An importer of a vehicle which has entered the United States under a declaration made pursuant to § 591.5(j)(2)(i) shall not sell, or transfer possession of, or title to, the vehicle, and shall not license it for use, or operate it on the public roads, except under such terms and conditions as the Administrator may authorize in writing.

* * *

(d) Any violation of a term or condition imposed by the Administrator in a letter authorizing importation or on-road use under § 591.5(j), including the failure to provide an annual mileage statement, shall be considered a violation of 49 U.S.C. 30112(a) for which a civil penalty may be imposed. With respect to importations under Sec. 591.6(f)(2), if the importer's annual mileage statement shows that the vehicle has been used on the public roads for more than 500 miles in any 12-month period, the Administrator may tentatively conclude that a term of entry has been violated but shall make no final conclusion until the importer has been afforded an opportunity to present data, views, and arguments as to why there is no violation or why a penalty should not be imposed.

(e) The owner of a vehicle located in the United States on June 9, 1998, which the owner had imported pursuant to § 591.5(j), may apply to the Administrator on or before [enter date that is six months after publication date of the rule] for a change in any such term or condition contained in the Administrator's letter. If the owner requests a change to importation for show or display, the request shall provide the current mileage of the vehicle and include a statement that the owner will provide annually a notarized statement to the Administrator that states the mileage of the vehicle on the first through fifth anniversary dates of the request for the change, which shall be provided not later than 10 days after such anniversary date. All requests for change shall be sent to the Director, Office of Vehicle Safety Compliance (NSA–32), National Highway Traffic Safety Administration, Room 6111, 400 Seventh Street, SW, Washington, DC 20590.

Issued on: March 16, 1999.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

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