

Development, Demonstration and Training Projects (*OMB Number: 2132-0546*).

BACKGROUND: 49 U.S.C. Section 5312(a) authorizes the Secretary of Transportation to make grants or contracts for research, development, and demonstration projects that will reduce urban transportation needs, improve mass transportation service, or help transportation service meet the total urban transportation needs at a minimum cost. In carrying out the provisions of this section, the Secretary is also authorized to request and receive appropriate information from any source.

The information collected is submitted as part of the application for grants and cooperative agreements and is used to determine eligibility of applicants. Collection of this information also provides documentation that the applicants and recipients are meeting program objectives and are complying with FTA Circular 6100.1B and other Federal requirements.

Issued: February 7, 2000.

Dorrie Y. Aldrich,

Associate Administrator for Administration.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 99-6473 Notice 1]

Registered Importers; Receipt of Applications for Determination of Inconsequential Noncompliance

The following companies, as registered importers under 49 U.S.C. 30141(c), imported passenger cars that failed to comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 208, "Occupant Crash Protection": Auto Enterprises, Inc., Dickson Motor Sales and Leasing, Inc., JM Motors, Inc., Superior Auto Sales, Inc., Auto Import Services, Inc., Laurrek International Trade Service, Inc., Elite Limited Auto Sales and Leasing, Ltd., Champagne Imports, Inc., Potsdam Importers, Inc., International Vehicle Importers, Inc., Auto King, Inc., and Liphardt and Associates, Inc. A registered importer is a firm recognized by the National Highway Traffic Safety Administration (NHTSA) as being capable of modifying vehicles that are imported into the United States to assure that they comply with all applicable FMVSS's. Under Section 30147, registered importers are obligated to notify owners and remedy

safety related defects and noncompliances in these vehicles. All of the registered importers involved except for Liphardt and Associates, Inc., filed appropriate reports pursuant to 49 CFR Part 573 "Defect and Noncompliance Reports." These registered reporters have also applied to be exempted from the notification and remedy requirements of Section 30118 and 30120. The basis of the applications is that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of these applications is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the applications.

The following passenger cars ("subject vehicles"), certified by their original manufacturers as complying with all applicable Canadian Motor Vehicle Safety Standards, do not comply in all respects with FMVSS No. 208:

Chrysler LeBaron, 1994 and 1995 MY
Dodge Spirit, 1994 and 1995 MY
Dodge Shadow, 1994 and 1995 MY
Dodge Viper, 1994 and 1995 MY
Plymouth Sundance, 1994 and 1995 MY
Plymouth Acclaim, 1994 and 1995 MY

Description of Noncompliance

The subject vehicles imported by the petitioners were manufactured on or after September 1, 1993, the date on which FMVSS No. 208 first required an automatic restraint for both front outboard seating positions. However, these vehicles are equipped with a driver side air bag and a passenger side type 2, 3-point shoulder/lap belt which met the standard as in effect before September 1, 1993.

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided, either pursuant to a petition from the manufacturer or registered importer or on its own initiative, that the motor vehicle is substantially similar to a motor vehicle of the same model year, originally manufactured for importation into and sale in the United States, and certified under 49 U.S.C. 30115, and the vehicle is capable of being readily altered to conform to all applicable FMVSSs. NHTSA has decided, on its own initiative, that the subject motor vehicles are substantially similar to motor vehicles originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year

that they are, and capable of being readily altered to conform to all applicable FMVSS. See 63 FR 41617 (August 4, 1998).

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 has been determined eligible for entry. The subject vehicles were imported from Canada under the VSA-1 eligibility code, assigned to all Canadian vehicles that the Administrator decided to be eligible for importation. Documentation substantiating compliance of the subject vehicles with the FMVSS was submitted to NHTSA after importation. NHTSA then reviewed the submissions and, for the vast majority of the affected vehicles, issued a decision letter advising that the submitted documentation was acceptable. In September 1995, NHTSA informed the importers that the amended requirements of FMVSS No. 208 had not been met. The importers had misunderstood FMVSS No. 208 and had believed the passenger-side restraint could be a manual belt when the driver's side was air bag equipped. This configuration was permissible until September 1, 1993. This provision expired after that date, requiring automatic restraints on both sides. When this matter was brought to the attention of the registered importers, they stopped importing vehicles not meeting FMVSS No. 208.

Arguments by Importers

A detailed chronology of the circumstances leading to this notice is contained in the "Notification of Defect pursuant to 49 CFR 573 and Petition pursuant to 49 CFR 556 for exemption from recall based on inconsequentiality," dated September 14, 1998, submitted by Superior Auto Sales, Inc. Several of the other registered importers affected joined in this petition.

A summary of petitioners' arguments follows:

The remedy for the affected vehicles would be either the installation of an automatic seat belt or passenger side air bag. Both of these options may not increase vehicle safety.

NHTSA has recently revised the passenger side air bag requirements, due to concerns regarding the extensive force of the air bag deployment. Any air bag system installed as a remedy for the affected vehicles would not meet the revised criteria. Thus, the remedy would require installation of old technology air bags. The owners of these vehicles could even petition NHTSA for permission to disable this safety feature.

There have also been considerable arguments that the automatic seat belt system, *as utilized*, only gives an appearance of protection. Many occupants of the passenger seat will not use the manual lap belt, and thus only be protected by the automatic torso belt. In a crash, the protection offered by this two-point system is questionable.

The automatic belts may also be attached to the door. In a crash, the door latch may fail, yielding no protection at all to the passenger.

The passive restraint requirement went into effect when too few states adopted mandatory seat belt laws. These laws have now been adopted in all states but one. All of the affected vehicles were sold in mandatory seat belt usage states. It is against the law in these states to be unbelted. The installation of an automatic seat belt would therefore be redundant, since the passengers are required to be belted.

The subject vehicles are 1994 and 1995 model year vehicles. Therefore, they are at least four years old and have completed at least half of their useful life. This greatly reduces the addition to safety, that might result from the installation of passenger side passive restraints.

For these reasons, the installation of a passive restraint in these few vehicles involved will not result in a significant addition to vehicle safety.

To the best of the importers' knowledge, there have been no accidents, injuries, fatalities, or warranty claims related to the noncompliance.

Interested persons are invited to submit written data, views and arguments on the petition described above. Comments should refer to the Docket Number and be submitted to: Docket Management, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent practicable. When the application is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 13, 2000.
(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: February 7, 2000.

Stephen R. Kratzke,
Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 00-3193 Filed 2-10-00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Section 5a Application No. 61 (Sub-No. 6)]

National Classification Committee—Agreement

AGENCY: Surface Transportation Board.

ACTION: Request for proposals and comments.

SUMMARY: The Surface Transportation Board (Board) seeks suggested methodologies for increasing shipper participation in the classification process, as required by the Board's decisions in *National Classification Committee—Agreement*, Section 5a Application No. 61 (STB served Dec. 18, 1998, and February 11, 2000).

DATES: Opening proposals and comments are due April 11, 2000. Reply comments are due May 11, 2000. Rebuttals are due June 12, 2000.¹

ADDRESSES: Send an original and 10 copies of proposals, comments, and replies, referring to "Section 5a Application No. 61 (Sub-No. 6)" to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565-1600. [TDD for the hearing impaired: 1-800-877-8339.]

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Board's decisions, which are available on the Board's website at "WWW.STB.DOT.GOV".

Decided: February 4, 2000.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams,
Secretary.

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¹ Arguing that the instant proceeding is essentially an investigation, NCC has filed a motion, to which replies were filed by The National Industrial Transportation League and by the Health and Personal Care Distribution Conference, Inc. and National Small Shipments Traffic Conference, Inc., asking for a procedural schedule under which it will be permitted to open and close the record. We understand why NCC might want to open and close in order to seek to limit the debate to whatever proposal it decides to file at the outset. But we have already held extensive proceedings, in which NCC has made several filings, and in which we have already determined that NCC's procedures should be modified. As a result, we believe that parties in addition to NCC should have an opportunity to present their proposals as an initial matter. We are, however, providing all parties with an opportunity to respond to any initial proposals or comments made, and we are providing each party that makes an initial filing with a further opportunity to present rebuttal evidence and argument in response to any comments addressing its initial filing.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Section 5a Application No. 1 (Sub-No. 10)]

Household Goods Carriers Bureau Committee—Agreement

AGENCY: Surface Transportation Board.

ACTION: Request for comments.

SUMMARY: The Surface Transportation Board (Board) requests comments on whether approval of the rate bureau agreement of the Household Goods Carriers Bureau Committee (HGB) ought to be conditioned on reductions in "benchmark" rates to prevailing levels of market based rates.

DATES: Comments are due by March 27, 2000; replies are due March 13, 2000.

ADDRESSES: Send an original and 10 copies of comments and replies, referring to "Section 5a Application No. 1 (Sub-No. 10)" to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565-1600. [TDD for the hearing impaired: 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: In our decisions in *EC-MAC Motor Carriers Service Association, Inc., et al.*, Sec. 5a Application No. 118 (Amendment No. 1), *et al.* (STB served Dec. 18, 1998, and February 11, 2000) (*EC-MAC*) (which are available on the Board's website at "WWW.STB.DOT.GOV"), we conditioned renewal of motor carrier rate bureau agreements under 49 U.S.C. 13703 on reductions of collective rates to prevailing competitive rate levels. In its renewal application, HGB does not address how the concerns expressed in *EC-MAC* apply to the traffic carried by its members. It does, however, appear to us that HGB serves as a forum in which members collectively set benchmark rates, from which the actual rates paid by many householders are discounted. Therefore, before acting on HGB's application, we are seeking comment on whether any immunity granted to HGB ought to be conditioned on reductions in benchmark rates to prevailing levels of market based rates and, if so, methodologies that can be used to adjust the collectively set rates to market-based levels.

Decided: February 4, 2000.