

DATES: The public scoping meeting will be held on November 13, 2006, at Lihikai School, 335 South Papa Avenue, Kahului, HI 96732 from 6:30 p.m. to 9 p.m.

Written comments on environmental issues and concerns that should be addressed in the EIS are encouraged, and must be electronically submitted or postmarked by November 30, 2006.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number MARAD-2006-26228] by any of the following methods:

- **Web site:** <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- **Mail:** Docket Management Facility; U.S. Department of Transportation, 400 7th St., SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

- **Hand Delivery:** Room PL-401 on the plaza level of the Nassif Building, 400 7th St., SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the Agency name and docket number for this action. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 7th St., SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT:

Maggie D. Blum, Associate Administrator for Port, Intermodal, and Environmental Activities, U.S. Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590, e-mail envmarad@dot.gov.

SUPPLEMENTARY INFORMATION: The Hawaii State Department of Transportation (HI DOT) has previously conducted planning for Kahului Harbor, leading to a 2025 Master Plan and Environmental Assessment. However, demand for harbor facilities has been much greater than anticipated, and space for current operations is very tight. The 2025 Master Plan called for development of new pier and harbor space at the west breakwater of the harbor. HI DOT has begun a new master planning process, which will lead to a new set of alternatives to meet current and future harbor needs. The west

breakwater expansion and other steps to help assure that the harbor supports the continuing prosperity and quality of life of Maui County are under consideration.

The EIS will address the following issues: (1) Demand for additional space and facilities at Kahului; (2) organization of harbor space and facilities to promote and preserve orderly cargo operations, passenger operations, and recreational activity; (3) environmental impacts of any proposed alternatives; and (4) additional issues that may emerge from the scoping process.

An electronic version of this document and all documents entered into this docket including comments are available at <http://dms.dot.gov>.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

(Authority: 49 C.F.R. 1.66)

Dated: October 27, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6-18512 Filed 11-2-06; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2003-14628]

Decision That Nonconforming 1996 and 1997 Lamborghini Diablo Coupe and Roadster Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of decision by the National Highway Traffic Safety Administration that nonconforming 1996 and 1997 Lamborghini Diablo Coupe and Roadster passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1996 and 1997 Lamborghini Diablo Coupe and Roadster passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety

standards (FMVSS) are eligible for importation into the United States. 1997 Lamborghini Diablo Coupe passenger cars are eligible for importation because they have safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS. 1996 Lamborghini Diablo Coupe and Roadster passenger cars, and 1997 Lamborghini Diablo Roadster passenger cars, are eligible for importation 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 versions of the 1996 Lamborghini Diablo Coupe and Roadster and the 1997 Lamborghini Diablo Roadster), and are capable of being readily altered to conform to the standards.

DATES: This decision was effective December 19, 2003. The agency notified the petitioner at that time that the subject vehicles are eligible for importation. This document provides public notice of the eligibility decision.

FOR FURTHER INFORMATION CONTACT:

Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202-366-3151).

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 FMVSS shall be refused admission into the United States unless NHTSA has decided that the 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 FMVSS.

Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence that NHTSA decides to be adequate.

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**.

Northern California Diagnostic Laboratories, Inc. of Napa, California ("NCDL") (Registered Importer 92-011), petitioned NHTSA to decide whether 1996 and 1997 Lamborghini Diablo Coupe and Roadster passenger cars are eligible for importation into the United States. NHTSA published a notice of the petition on March 12, 2003 (68 FR 11898) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

Comments responding to the notice of petition were received from Michael Jay Grossman, the designated agent for the vehicles' original manufacturer, Automobili Lamborghini S.p.A. (Lamborghini). In its comments, Lamborghini raised issues concerning the basis for the petition, and identified details it contended NCDL had overlooked in describing alterations needed to conform 1996 and 1997 Lamborghini Diablo Coupe and Roadster passenger cars to certain of the FMVSS. The agency accorded NCDL an opportunity to respond to Lamborghini's comments. After NCDL responded, Lamborghini submitted rebuttals to certain of those responses. The two companies then engaged in a protracted and increasingly contentious series of further responses and rebuttals. The comments, responses, and rebuttals are summarized below, together with NHTSA's analysis of each matter at issue.

1. *Model year of petitioned vehicle: Arguments raised:* In its initial comments, Lamborghini took issue with NCDL's attempt to establish import eligibility for a 1997 Lamborghini Diablo based on the vehicle's substantial similarity to a 1996 model vehicle. Lamborghini noted that to establish import eligibility for a nonconforming vehicle under 49 U.S.C. 30141(a)(1)(A) and 49 CFR 593.5(a)(1)(i), the vehicle must be substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States and certified by its original manufacturer as complying with all applicable FMVSS, and be of "the same model year (as defined under regulations of the Secretary of Transportation) as the model of the motor vehicle it is being compared to" (citing 49 U.S.C. 30141(a)(1)(A)(iii)). Lamborghini stated that it had designated the specific Lamborghini

Diablo coupe that NCDL was seeking to conform as a 1997 model year vehicle and noted that it did not produce any 1997 Diablo coupes for sale in the United States or certify those vehicles to U.S. standards.

NCDL responded that because it imported the vehicle in question, it can properly be regarded as the vehicle's "manufacturer," as that term is defined in 49 U.S.C. 30102(a)(5). That section states that "manufacturer" means "a person (A) manufacturing or assembling motor vehicles or motor vehicle equipment; or (B) importing motor vehicles or motor vehicle equipment for resale." NCDL asserted that as the vehicle's manufacturer, it reserved the right to declare the vehicle a 1996 model year vehicle pursuant to 49 CFR 593.4. That section defines the term "model year" as "the year used by a manufacturer to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually produced." Moreover, as the "manufacturer," NCDL declared that it planned to change the tenth digit of the vehicle's vehicle identification number (VIN) to the character "T," to reflect 1996 as the vehicle's model year designation. Addressing Lamborghini's observation that it did not certify any 1997 Diablo coupes for sale in the United States, NCDL observed that individual import eligibility decisions frequently encompass a range of body types and model years under a single eligibility number.

Lamborghini countered these arguments by reiterating that it had designated the vehicle at issue as a 1997 model year vehicle and asserting that under the agency's regulations, the original manufacturer exercises sole responsibility for making a model year designation. Lamborghini observed that even though a registered importer may be considered a vehicle's manufacturer for certain purposes, such as providing notification and remedy for safety-related defects and noncompliances with safety standards under 49 CFR parts 573 and 477, the regulations at 49 CFR 565.5(b) that establish vehicle identification numbering requirements specify that importers are to use the "identification number assigned by the original manufacturer." Lamborghini further observed that 18 U.S.C. 511(a) makes it a crime, punishable by a fine or imprisonment for up to 5 years, to knowingly remove, obliterate, tamper with, or alter a VIN. Lamborghini also noted that the agency's regulations at 49 CFR 567.4(k)(4)(i) require an RI, in certifying a vehicle, to use the model year "as reported by the manufacturer

that produced or assembled the vehicle."

Lamborghini observed that NCDL's contention that a single eligibility decision can apply to multiple models and model years does not provide the means to obtain import eligibility for a 1997 model vehicle on the basis of substantial similarity when the original manufacturer did not produce the same model and model year vehicle for sale in the United States. Lamborghini noted that although a 1997 model year Lamborghini Roadster was produced for sale in the United States, NCDL did not identify this vehicle in its petition as substantially similar to the petitioned vehicle, but instead compared that vehicle to a model year 1996 Diablo Coupe.

NCDL retorted that for the purpose of calculating a manufacturer's production for compliance with certain phase-in requirements of FMVSS No. 208 *Occupant Crash Protection*, paragraph S4.1.5.2.1 of that standard states that a "passenger car that is imported into the United States shall be attributed to the importer" (citing 49 CFR 571.208). NCDL further observed that the petition vehicle was manufactured in December 1996 and that the year 1996 is imprinted on a door plate affixed to the vehicle.

Lamborghini responded that the door plate simply identifies the production year of the vehicle, and not its model year designation. Lamborghini further noted that although the petition vehicle's VIN was not required to conform to 49 CFR part 565, Lamborghini has long used the International Standard Organization (ISO) 17-digit VIN coding scheme [ISO 3779], and that under that scheme, the vehicle was designated as a 1997 model year vehicle. NCDL contended that other than using the character "V" as the tenth digit of the vehicle's VIN, Lamborghini did nothing to designate the vehicle at issue as a 1997 model year vehicle.

Agency's Analysis: NHTSA agrees with Lamborghini that under the agency's regulations at 49 CFR 567.4(k)(4)(i), an RI must utilize the model year "as reported by the manufacturer that produced or assembled the vehicle" in certifying a vehicle's compliance with applicable FMVSS, bumper, and theft prevention standards. As such, the RI is not free to assign the vehicle another model year designation, and, as noted by Lamborghini, would be in violation of NHTSA's regulations at 49 CFR 565.5(b), and risk a criminal violation of 18 U.S.C. 511(a) if, for the purpose of redesignating the vehicle's model year, the RI were to make any changes to the

VIN originally assigned to the vehicle. Insofar as NHTSA's regulations are concerned, section 565.5 requires a registered importer to use the VIN assigned by the original manufacturer and to affix to the vehicle a plate or label visible through its glazing that shows the original manufacturer-assigned VIN.

Addressing the issue that NCDL raised concerning a single eligibility decision encompassing multiple body styles, configurations, and model years, the agency notes that when these decisions are based on a petition, they are dependent on the petitioner identifying all body styles, configurations, and model years that it wishes to be included in the decision, as well as the extent to which those body styles, configurations, and model years are equally compliant with, or capable of compliance with, the FMVSS, and in the case of petitions filed under 49 U.S.C. § 30141(a)(1)(A), whether substantially similar models have been certified as conforming to all applicable FMVSS. Accordingly, NHTSA has limited petition grants to single body styles and model years, and has also granted eligibility to multiple model year series of body styles for single platform models.

NCDL sought import eligibility for the 1996 and 1997 Lamborghini Diablo Coupe and Roadster based on their substantial similarity to a vehicle the petition identified as a "1996 Lamborghini Diablo imported by Lamborghini of North America." Information subsequently provided by Lamborghini made it apparent that the 1997 coupe was not originally certified as conforming to the FMVSS. Notwithstanding this development, NCDL's attempt to obtain import eligibility for the 1997 Lamborghini Diablo Coupe based on its substantial similarity to a U.S.-certified 1996 model did not prove fatal to its petition. NHTSA ultimately decided to process the petition, insofar as it sought import eligibility for the 1997 Lamborghini Diablo Coupe, under 49 U.S.C. 30141(a)(1)(B), on the theory that the vehicle has safety features that comply with, or are capable of complying with, all applicable FMVSS on the basis of destructive test information or such other evidence the agency decides is adequate. Other evidence that NHTSA will accept includes information showing that the same model vehicle of an earlier model year was certified by its original manufacturer as complying with an applicable standard, provided the standard did not change between the earlier model year and the one in question and there are no differences in

terms of structure, components, or equipment between the earlier model year vehicle and the one in issue that could influence the vehicle's compliance with the standard. Because there was a U.S.-certified version of the 1996 and 1997 Lamborghini Diablo Roadster and of the 1996 Diablo Coupe, the agency was able to continue processing the petition, insofar as it pertained to those body configurations and model years, under 49 U.S.C. 30141(a)(1)(A).

2. *Vehicles' capability of being readily altered to comply with applicable standards:* Lamborghini asserted that NCDL had failed to make a showing that 1996 and 1997 Lamborghini Diablo passenger cars can be readily altered to comply with all applicable requirements of the FMVSS. Lamborghini contended that the cost of parts and labor to conform the vehicles to certain of the standards is great enough to preclude a finding that the vehicles are readily capable of being altered to comply with those standards.

Lamborghini estimated that it would cost \$850 for parts and labor to perform the modifications identified in the petition to conform the vehicles to FMVSS No. 101 Controls and Displays. As described in the petition, those modifications consist of the addition of unnamed dashboard controls and displays that conform to the requirements of the standard.

Lamborghini estimated that it would cost \$1,346 and require 18 hours of labor to perform the modifications identified in the petition to conform the vehicles to FMVSS No. 108 Lamps, Reflective Devices, and Associated Equipment. As described in the petition, those modifications consist of the addition of unnamed lamps, reflective devices and associated equipment that meet the requirements of the standard.

Lamborghini also estimated that it would cost \$500 for parts, and require 3 hours of labor to perform modifications necessary to conform the vehicles to FMVSS No. 114 Theft Protection; that it would cost \$1,900 for parts and require 12 hours of labor to conform the vehicles to FMVSS No. 201 Occupant Protection in Interior Impacts; that it would cost \$14,500 for parts and require 60 hours of labor to conform the vehicles to FMVSS No. 208 Occupant Crash Protection if the importer would have to install air bags or \$1,900 for parts and 12 hours of labor if automatic seat belts could be installed; that it would cost \$11,000 for parts and require 40 hours of labor to conform the vehicles to FMVSS No. 214 Side Impact Protection; that it would cost \$1,900 for parts and require 5 hours of labor to

conform the vehicles to FMVSS No. 301 Fuel System Integrity; and that it would cost in excess of \$10,000 for parts and require 10 hours of labor to conform the vehicles to the Federal Bumper Standard, as found in 49 CFR part 581.

NCDL responded with the observation that the time and costs associated with the tasks necessary to bring a nonconforming vehicle into compliance with applicable standards have no bearing on whether the vehicle can be deemed eligible for importation by NHTSA.

Agency Analysis: Contrary to the assumption expressed by NCDL, the cost of performing modifications necessary to conform a motor vehicle to applicable FMVSS can be a factor in determining whether the vehicle is "capable of being readily altered to comply," which is the standard for granting import eligibility under 49 U.S.C. 30141(a)(1)(A) based on the vehicle's substantial similarity to a U.S.-certified vehicle. That being said, the agency recognizes that costs are a relative factor, and must be considered in the context of the vehicle that is the subject of the eligibility petition. In the case of a costly vehicle such as a Lamborghini Diablo, the costs of parts and labor can be far greater than they are for a less expensive production vehicle. The agency further notes that the modifications identified by NCDL consist primarily of the replacement of non-U.S.-certified model components with U.S.-certified model components that can be accomplished without extensive redesign or refabrication of vehicle mountings and structure. With those considerations in mind, the agency has concluded that the cost and labor figures provided by Lamborghini would not preclude the vehicles at issue from being found readily capable of being modified to conform to applicable standards, and on that basis, eligible for importation.

3. *Other issues involving specific standards:* Aside from the cost factors discussed above, Lamborghini made comments regarding the capability of the vehicles to be modified to meet the requirements of certain standards. Set forth below is a discussion of these comments, in order of the standards to which the comments relate.

(a) *FMVSS No. 114 Theft Protection and 49 CFR part 541 Federal Motor Vehicle Theft Prevention Standard:* The petition stated the requirements of FMVSS No. 114 have been moved to 49 CFR part 541 and claimed that 1996 and 1997 Lamborghini Diablo Coupes and Roadsters are not subject to this standard. Lamborghini responded by asserting that the vehicles are in fact

subject to the standard. NCDL thereupon amended its petition by substituting the original discussion of FMVSS No. 114 compliance issues with the following:

FMVSS No. 114: Theft Protection: with the exception of the warning required by S4.5, this 6 speed manual transmission vehicle is equipped with a key locking system that conforms to the requirements of this section. A warning system to the driver will be installed which is activated pursuant to S4.5 whenever the key required by S4.2 has been left in the locking system and the driver's door is opened.

NCDL offered the further explanation that FMVSS No. 114 and 49 CFR part 541 are two mutually exclusive standards and that 49 CFR part 541 does not apply to the subject vehicles.

Agency Analysis: Conformity packages submitted for vehicles imported under the decision must demonstrate that the vehicle is equipped with a warning system activated whenever the key has been left in the ignition locking system and the driver's door is opened. Any modification or replacement of components necessary to meet the requirements of the standard must be shown to bring the vehicle into compliance. Such proof must be submitted by an RI as part of any conformity package submitted for nonconforming 1996 and 1997 Lamborghini Diablo passenger cars.

The agency further notes that compliance with CFR part 541 is not directly relevant to an import eligibility decision, as such a decision is to be based on the capability of a non-U.S. certified vehicle to be altered to conform to the FMVSS, and the Theft Prevention Standard at CFR part 541 is not an FMVSS. However, vehicles that are subject to the Theft Prevention Standard but do not comply with that standard at the time of entry cannot be lawfully imported into the United States. Unlike the situation for Federal motor vehicle safety and bumper standards, there is no authority under the statute governing the Theft Prevention Standard (49 U.S.C. Chapter 331) to permit a vehicle subject to that standard that does not conform to its requirements to be brought into conformity following importation.

(b) *FMVSS No. 208 Occupant Crash Protection:* The petition stated that U.S.-model automatic seat belts must be installed in the vehicles to meet the automatic crash protection requirements of this standard. Lamborghini countered that NCDL may be subject to the air bag phase-in requirements of the standard, and as such, would have to install air bags instead of automatic seat belts at

the driver's and passenger's seating positions to comply with the standard. NCDL responded by expressing the belief that at least some of the U.S.-model 1996 and 1997 Lamborghini Diablos were certified by their original manufacturer as conforming to all applicable requirements of FMVSS No. 208 without the use of airbags. Lamborghini retorted that mid-year 1997 U.S.-certified Roadsters were equipped with air bags. Lamborghini expressed the further belief that NCDL could not shield itself from liability for failing to equip the vehicles with air bags by claiming that it had no reason to know, despite exercising due care, that such equipment was needed.

Agency Analysis: NHTSA has long taken the position that RIs are not subject to the requirements of standards that are being phased in, but must comply with those requirements once they apply to 100 percent of a manufacturer's production. The requirement for air bags to be installed at the driver's and front outboard passenger's seating position applies to 100 percent of passenger cars manufactured on or after September 1, 1997. As a consequence, an RI can meet the automatic protection requirements of the standard by installing conforming automatic seat belts in passenger cars manufactured prior to that date. Therefore, NCDL or another RI could meet the standard by installing automatic seat belts in 1996 and 1997 Lamborghini Diablo passenger cars manufactured prior to September 1, 1997. Vehicles manufactured on or after that date would require the installation of U.S.-model air bag systems to meet the standard.

The agency further notes that conformity packages submitted for vehicles imported under this decision must demonstrate that the vehicle is equipped with components that allow it to achieve compliance with the standard. Any modification or replacement of components necessary to meet the requirements of the standard must be shown to bring the vehicle into compliance. Such proof must be submitted by an RI as part of any conformity package submitted for nonconforming 1996 and 1997 Lamborghini Diablo passenger cars.

(c) *FMVSS No. 214 Side Impact Protection:* NCDL claimed in the petition that the vehicles, as originally manufactured, meet the requirements of this standard. Lamborghini disputed this in its response, and noted that it had been granted a temporary exemption from the dynamic requirements of the standard with respect to vehicles manufactured prior

to September 1, 2006 (citing notice of grant at 59 FR 59458). Lamborghini further contended that the issue of whether NCDL is subject to the requirements covered by the exemption must be resolved before it submits a conformity package for any of the affected vehicles.

NCDL countered with the observation that regardless of whether the vehicle is U.S. certified or not, the doors in all 1992 through 1996 and 1998 Lamborghini Diablo Coupes are equipped with door beams, and in fact, all have the same replacement part number. NCDL further contended that it should be accorded the same temporary exemption from FMVSS No. 214 as was granted to Lamborghini.

In response, Lamborghini acknowledged that it was mistaken in stating that the doors on the non-U.S. certified vehicles differ from those on U.S.-certified models. Lamborghini noted, however, that modifications were needed to the fuel filler neck and gas tank to conform the vehicles not only to FMVSS No. 301 Fuel System Integrity (as discussed below), but to FMVSS Nos. 214 as well.

Agency Analysis: In situations where the original manufacturer has been granted a temporary exemption from one or more requirements of applicable standards under 49 CFR part 555, an RI is still required to conform a vehicle covered by such an exemption to all applicable FMVSS, including requirements covered by the temporary exemption. This is because temporary exemptions under 49 CFR part 555 are granted only to the petitioning manufacturer, and cannot be exercised by any other party, including an RI. As a consequence, NCDL or other RIs must conform the subject non-U.S. certified Diablos to the dynamic impact requirements of the standard. Lamborghini's acknowledgment that non-U.S. certified Lamborghini Diablos of the model years in question were equipped with the same doors as those installed on U.S.-certified vehicles eliminates the need for the vehicles to be conformed to the static requirements of the standard. NHTSA notes that the other modifications described by Lamborghini would not preclude the vehicles from being modified to conform to FMVSS No. 214 in a manner sufficient to be deemed eligible for importation. Conformity packages submitted for vehicles imported under the decision must demonstrate that the vehicle is equipped with components that allow it to achieve compliance with the standard.

(d) *FMVSS No. 301 Fuel System Integrity:* NCDL stated in the petition

that the vehicles, as originally manufactured, meet the requirements of this standard. Lamborghini countered that the vehicles do not conform and contended that modifications were needed to the fuel filler neck and gas tank to bring the vehicles into compliance with this standard as well as FMVSS Nos. 214 (as noted above).

Agency Analysis: NHTSA concluded that non-U.S. certified Lamborghini Diablo passenger cars modified as described by Lamborghini will meet the requirements of FMVSS No. 301. The agency further notes that those modifications would not preclude the vehicles from being deemed eligible for importation. Conformity packages submitted for vehicles imported under the decision must demonstrate that the vehicle is equipped with components that allow it to achieve compliance with the standard.

(e) 49 CFR Part 581 Bumper Standard: NCDL stated in the petition that U.S.-model bumper supports must be installed in the vehicles to meet the requirements of this standard. Lamborghini countered that Bumper Standard compliance issues are irrelevant to whether a vehicle can be deemed eligible for importation, as that decision must be predicated on the vehicle's capability of being modified to conform to the FMVSS alone, and the Bumper Standard is not an FMVSS.

Agency Analysis: The agency agrees with Lamborghini that Bumper Standard compliance issues are not relevant to an import eligibility decision for the reasons given. The agency observes, however, that because a vehicle that is not originally manufactured to comply with the Bumper Standard must be modified to comply with the standard before it can be admitted permanently into the United States, conformance with the Bumper Standard must be shown in the conformity package submitted to NHTSA to allow release of the DOT conformance bond furnished at the time of vehicle importation.

Conclusion

In view of the above considerations, NHTSA 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-416 is the vehicle eligibility number assigned to the 1996 Lamborghini Diablo Coupe and Roadster and the 1997 Roadster, and

VCP-26 is the vehicle eligibility number assigned to the 1997 Lamborghini Diablo Coupe admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA decided that 1996 Lamborghini Diablo Coupe and Roadster passenger cars and 1997 Lamborghini Diablo Roadster passenger cars that were not originally manufactured to comply with all applicable FMVSS, are substantially similar to 1996 Lamborghini Diablo Coupe and Roadster passenger cars and 1997 Lamborghini Roadster passenger cars 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 FMVSS. In addition, the agency decided that 1997 Lamborghini Diablo Coupe passenger cars that were not originally manufactured to comply with all applicable FMVSS are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS.

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: October 26, 2006.

Jeffrey Giuseppe,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. E6-18518 Filed 11-2-06; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Nos. NHTSA-2003-15470 and NHTSA-2003-16031]

Denial of Petitions for Import Eligibility for Nonconforming 2001-2002 Mitsubishi Evolution VII and 2003 Mitsubishi Evolution VIII Left Hand Drive Passenger Cars

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Denial of Petitions for Import Eligibility for nonconforming 2001-2002 Mitsubishi Evolution VII and 2003 Mitsubishi Evolution VIII left hand drive passenger cars.

SUMMARY: This document sets forth the reasons for denial of two petitions submitted to the National Highway Traffic Safety Administration (NHTSA) requesting the agency to decide that left-hand drive (LHD) 2001-2002 Mitsubishi

Evolution VII and 2003 Mitsubishi Evolution VIII LHD passenger cars that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States. The petitions contended that 2001-2002 Mitsubishi Evolution VII LHD passenger cars are eligible for importation because they have safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS, and that 2003 Mitsubishi Evolution VIII LHD passenger cars are eligible for importation because they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified as complying with the safety standards (the U.S.-certified version of 2003 Mitsubishi Evolution VIII LHD passenger cars), and are capable of being readily altered to conform to those standards.

DATES: These denials were effective December 21, 2004. The agency notified the petitioner at that time that the subject petitions were being denied under 49 CFR 593.7(e).

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202-366-3151).

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 FMVSS shall be refused admission into the United States unless NHTSA has decided that the 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 FMVSS.

Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence that NHTSA decides to be adequate.

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**