

Issued on: December 2, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-97-3164]

Decision That Nonconforming 1988-1989 Audi 80 Passenger Cars Are Eligible for Importation

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

ACTION: Notice of decision by NHTSA that nonconforming 1988-1989 Audi 80 passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1988-1989 Audi 80 passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and sale in the United States and certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 1988-1989 Audi 80), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective as of December 8, 1997.

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

SUPPLEMENTARY INFORMATION:

Background

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

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with

NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Champagne) (Registered Importer R-90-009) petitioned NHTSA to decide whether 1988-1989 Audi 80 passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on August 5, 1997 (62 FR 42156) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

One comment was received in response to the notice, from Volkswagen of America, Inc. (Volkswagen), the U.S. representative of Audi AG, the vehicle's manufacturer. In its comment, Volkswagen observed that the alterations identified in the petition are the minimum that are necessary to conform non-U.S. certified 1988-1989 Audi 80 passenger cars to the applicable Federal motor vehicle safety standards. Volkswagen further observed that in addition to differences in the bumper system, modifications were made to the body components and structure of U.S. certified 1988-1989 Audi 80 passenger cars to achieve compliance with the Bumper Standard found in 49 CFR part 581.

Petitioners for eligibility determinations are not required to submit arguments in support of the capability of a non-conforming vehicle to comply with the Bumper Standard. Under statute, eligibility determinations are based solely on the capability of a vehicle to comply with the Federal motor vehicle safety standards.

However, a passenger motor vehicle that does not meet the Bumper Standard at the time of importation must be brought into compliance after importation in order to comply with the law. Therefore, a vehicle eligibility notice affords a forum through which issues of compliance with the Bumper Standard can be raised and discussed. However, NHTSA has no authority to deny an eligibility petition solely on the basis that the vehicle is incapable of being conformed to meet the Bumper Standard.

Volkswagen's first observation, as described above, appears to be generally

supportive of the petition. Although Volkswagen's second observation identifies a potential need for alterations beyond those specified in the petition to conform non-U.S. certified 1988-89 Audi 80 passenger cars to the Bumper Standard, the company nowhere contends that these alterations cannot be readily made. The petitioner and other RIs seeking to import 1988-89 Audi 80s under this exemption should recognize Volkswagen's concern and may be assured that NHTSA will carefully examine data they submit in support of their certification of compliance with the Bumper Standard.

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-223 is the eligibility number assigned to vehicles admissible under this decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 1988-1989 Audi 80 passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are substantially similar to 1988-1989 Audi 80 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 Federal motor vehicle safety standards.

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

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DEPARTMENT OF THE TREASURY

[Treasury Directive Number 12-53]

Delegation of Authority to Make Decisions on Appeals of the Initial Denial of Records Under the Freedom of Information Act

Dated: December 1, 1997.

1. Delegation

a. This Directive delegates to the Deputy Assistant Secretary (Human Resources) the authority to make appeal decisions on the initial denial of records or other adverse determinations made