

**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.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2004-16948; Notice 2]

#### Denial of Petition for Import Eligibility for 2003-2004 CF Moto CF125T-2 Motorcycles

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Denial of petition for Import Eligibility for 2003-2004 CF Moto CF125T-2 Motorcycles.

**DISCUSSION:** This document sets forth the reasons for the denial of a petition submitted to the National Highway Traffic Safety Administration (NHTSA) under 49 U.S.C. 30141(a)(1)(B). The petition, which was submitted by U.S. SPECS of Aberdeen, Maryland (Registered Importer 03-321), requested NHTSA to decide that 2003-2004 CF Moto CF125T-2 motorcycles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) are eligible for importation into the United States. In the petition, U.S. SPECS contended that these vehicles are eligible for importation under 49 U.S.C. 30141(a)(1)(B) because they have safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS.

NHTSA published a notice in the **Federal Register** on January 29, 2004 (69 FR 4355) that contained a thorough description of the petition, and solicited public comments upon it. Following publication of the notice, NHTSA requested U.S. SPECS to submit test data or other information to demonstrate that 2003-2004 CF Moto CF125T-2 motorcycles comply with, or are capable of being altered to comply with, the requirements of Standard Nos. 122 Motorcycle Brake Systems and 123 Motorcycle Controls and Displays. U.S. SPECS was unable to submit this information to NHTSA. Accordingly, NHTSA has concluded that the petition does not clearly demonstrate that 2003-2004 CF Moto CF125T-2 motorcycles are eligible for importation. The petition must therefore be denied under 49 CFR 593.7(e).

In accordance with 49 U.S.C. 30141(b)(1), NHTSA will not consider a new import eligibility petition covering this vehicle until at least three months from the date of this notice.

**Authority:** 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.7; delegations of authority at 49 CFR 1.50 and 501.8.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2004-17022; Notice 2]

#### Decision That Nonconforming 1997 Land Rover Defender 90 Multi-Purpose Passenger Vehicles Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of decision by National Highway Traffic Safety Administration that nonconforming 1997 Land Rover Defender 90 multi-purpose passenger vehicles are eligible for importation.

**SUMMARY:** This document announces a decision by the National Highway Traffic Safety Administration (NHTSA) that certain 1997 Land Rover Defender 90 multi-purpose passenger vehicles (MPVs) that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) 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 that were certified by their manufacturer as complying with the safety standards (the U.S. certified version of the 1997 Land Rover Defender 90 MPV), and they are capable of being readily altered to conform to the standards.

**DATES:** This decision was effective March 18, 2004.

**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 motor vehicle is substantially similar to a

motor vehicle originally manufactured for importation into and sale in the United States, certified as required 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 as 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**.

Barry W. Taylor Enterprises, Inc., of Richmond, California ("BTE") (Registered Importer 01-280), petitioned NHTSA to decide whether 1997 Land Rover Defender 90 MPVs are eligible for importation into the United States. NHTSA published notice of the petition on February 12, 2004 (69 FR 7066) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

One comment was received in response to the notice of the petition, from J.K. Technologies, L.L.C., of Baltimore, Maryland ("JK"), another Registered Importer. In this comment, JK asserted, on the basis of information from the 1998 edition of the National Insurance Crime Bureau (NICB) Passenger Vehicle Identification Manual, that the vehicle manufacturer had not originally manufactured for importation into, and sale in, the United States Land Rover Defender 90 model MPVs during the 1997 model year. JK observed that owing to the absence of a substantially similar U.S. certified version of the vehicle, the petition should be processed under 49 U.S.C. 30141(a)(1)(B), instead of 49 U.S.C. 30141(a)(1)(A).

NHTSA subsequently contacted Land Rover North America ("LRNA"), the