

Standard No. 114 *Theft Protection*: Installation of a supplemental warning buzzer system that includes a steering lock mounted micro-switch to meet the requirements of this standard.

Standard No. 115 *Vehicle Identification*: Installation of a vehicle identification plate near the left windshield post to meet the requirements of this standard.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles Other than Passenger Cars*: Installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection*: Installation of a supplemental seat belt warning buzzer and warning light system that includes a micro-switch mounted on the driver's-side seat belt latch to meet the requirements of this standard.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL-401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.] It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above 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. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**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: May 25, 2007.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*  
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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2007-28263]

#### Notice of Receipt of Petition for Decision That Nonconforming 2006 Harley Davidson FX, FL, and XL Motorcycles Are Eligible for Importation

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

**ACTION:** Notice of receipt of petition for decision that nonconforming 2006

Harley Davidson FX, FL, and XL motorcycles are eligible for importation.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2006 Harley Davidson FX, FL, and XL 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 because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

**DATES:** The closing date for comments on the petition is July 2, 2007.

**ADDRESSES:** Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL-401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.] 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>.

**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 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.

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**.

Milwaukee Motorcycle Imports, Inc. of Milwaukee, Wisconsin ("MMI") (Registered Importer 99-192) has petitioned NHTSA to decide whether non-U.S. certified 2006 Harley Davidson FX, FL, and XL motorcycles are eligible for importation into the United States. The vehicles that MMI believes are substantially similar are 2006 Harley Davidson FX, FL, and XL motorcycles that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it carefully compared non-U.S. certified 2006 Harley Davidson FX, FL, and XL motorcycles to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

MMI submitted information with its petition intended to demonstrate that non-U.S. certified 2006 Harley Davidson FX, FL, and XL motorcycles, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2006 Harley Davidson FX, FL, and XL motorcycles are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 106 *Brake Hoses*, 111 *Rearview Mirrors*, 116 *Brake Fluid*, 119 *New Pneumatic Tires for Vehicles other than Passenger Cars*, 122 *Motorcycle Brake Systems*, and 205 *Glazing Materials*.

The petitioner further contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated below:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: Inspection of all vehicles and installation, on vehicles that are not already so equipped, of U.S.-model components to meet the requirements of this standard.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars*: (a) Installation of a tire information placard; (b) inspection of all vehicles to ensure compliance with rim marking requirements, and replacement of rims that are not properly marked.

Standard No. 123 *Motorcycle Controls and Displays*: Installation of a

U.S.-model speedometer reading in miles per hour and a U.S.-model odometer reading in miles.

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 but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above 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. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**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: May 25, 2007.

**Claude H. Harri,**

*Director, Office of Vehicle, Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2006-25544]

#### SS II of America, Inc.; Denial of Application for a Temporary Exemption From the Air Bag Requirements of FMVSS No. 208

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Denial of application for a temporary exemption from provisions of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection*.

**SUMMARY:** This document denies the petition of SS II of America, Inc. (SS II) for a temporary exemption from the air bag requirements of FMVSS No. 208 for the SS II Shelby Series II from September 1, 2006 through July 31, 2008. The basis for the application was that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.<sup>1</sup> We have determined that it would not be in the

<sup>1</sup> To view the application, go to: <http://dms.dot.gov/search/searchFormSimple.cfm> and enter the docket number set fourth in the heading of this document.

public interest or consistent with the Safety Act to grant an economic hardship exemption to permit this vehicle to be sold without air bags.

**FOR FURTHER INFORMATION CONTACT:** Ms. Dorothy Nakama, Office of the Chief Counsel, NCC-112, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: (202) 366-2992; Fax: (202) 366-3820.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

SS II is a privately-held company that was incorporated in the State of Nevada in 2005 and began operations in January 2006. According to the petitioner, SS II acquired the tooling for the Shelby Series 1 vehicle under a licensing agreement from Shelby American Corporation, pursuant to which SS II has the right to produce 250 units of the Shelby Series II, a convertible sports car based upon the Shelby Series 1 design. The Shelby Series II would utilize the same chassis as the Shelby Series 1, but use modified exterior, interior, and powertrain components. SS II operates independently and is not affiliated with any other vehicle manufacturer.

In a supplement to its petition, SS II stated that Shelby American Inc. (another small volume manufacturer) produced Shelby Series 1 vehicles for sale only in model year 1999, and these vehicles were sold without an inflatable restraint system, because NHTSA granted that company a temporary exemption under Part 555 (*see* 64 FR 6736 (Feb. 10, 1999)). As a result, when SS II acquired the tooling for the Shelby Series 1, there was no air bag system, so development efforts in this area must, by necessity, start from a very fundamental level.

The petitioner argued that it tried in good faith, but could not bring the vehicle into compliance with the air bag requirements of FMVSS No. 208, and that it would incur substantial economic hardship if it cannot sell vehicles in the U.S. after September 1, 2006.

**A. Eligibility.** SS II is a U.S. company incorporated in Nevada in 2005. The company is a small volume manufacturer of specialty sports cars with approximately 30 employees. The organization obtained the rights to produce 250 "Shelby" vehicles under a licensing agreement from Shelby American Corporation. However, SS II is an independent automobile manufacturer; no vehicle manufacturer has an ownership interest in SS II, and the reverse is likewise true.

As a relatively new company, SS II has not produced any vehicles in prior

years. According to its current forecasts, SS II anticipates the following production of Shelby Series II vehicles over calendar years (CY) 2006-2008: 86 vehicles in CY 2006; 120 vehicles in CY 2007, and 44 vehicles in CY 2008.

**B. Requested exemption.** SS II stated its intention to certify compliance of Shelby II vehicles with all applicable U.S. standards by July 31, 2008, including advanced air bags. The company envisions a later generation of Shelby III vehicles that would similarly comply with all applicable standards. Accordingly, SS II seeks an exemption from the requirements of S4.1.5.3 and S14 of FMVSS No. 208 from the date of approval of its petition to July 31, 2008.

##### II. SS II's Statement of Economic Hardship

The financial documents submitted to NHTSA by the petitioner indicate that the SS II Shelby Series II project will result in financial losses unless SS II obtains a temporary exemption. As discussed below, the company has invested significant resources to ensure that the Shelby Series II meets current U.S. standards, and it has plans for the development of an inflatable restraint system that meets the "advanced air bag" requirements of FMVSS No. 208.

As of the time of the application, SS II has invested over \$1.4 million on the design, development, and homologation of the Shelby Series II project in order to have the vehicle meet U.S. standards—not including the air bag requirements which are the subject of the present petition for temporary exemption. The company has stated that it cannot hope to attain profitability if it incurs additional research and development expenses at this time.

SS II stated that costs associated with air bag engineering and development (including materials, tooling, testing, and test vehicles) have been estimated to be almost \$4.2 million. In its petition, SS II reasoned that sales in the U.S. market must commence in order to finance this work and that the exemption is necessary to allow the company to "bridge the gap" until fully compliant vehicles can be funded, developed, tooled, and introduced.

If the exemption is denied, SS II projects a net loss of nearly \$4.8 million over the period from calendar years 2006-2008. However, if the petition is granted, the company anticipates a net profit of over \$1.7 million during that same period.<sup>2</sup> According to the

<sup>2</sup> It should be noted that the two sets of financial projections supplied by SS II reflect slightly different timeframes. For the scenario in which the agency denies the company's requested exemption,