

Federal Actions to Address Environmental Justice in Minority and Low Income Populations, E.O. 11593 Protection and Enhancement of Cultural Resources, E.O. 13007 Indian Sacred Sites, E.O. 13287 Preserve America, E.O. 13175 Consultation and Coordination with Indian Tribal Governments, E.O. 11514 Protection and Enhancement of Environmental Quality, E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this activity.)

**Authority:** 23 U.S.C. 139(l)(1).

Issued on: July 30, 2007.

**Maiser Khaled,**

*Director, Project Development & Environment, Federal Highway Administration, California Division.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2007-27995; Notice 2]

#### Decision That Nonconforming 1994 and 1996 Left-Hand and Right-Hand Drive Jeep Cherokee Multipurpose Passenger Vehicles Are Eligible for Importation

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

**ACTION:** Notice of decision by the National Highway Traffic Safety Administration (NHTSA) that nonconforming 1994 and 1996 left-hand drive (LHD) and right-hand drive (RHD) Jeep Cherokee multipurpose passenger vehicles (MPVs) are eligible for importation.

**SUMMARY:** This document announces a decision by NHTSA that certain 1994 and 1996 LHD and RHD Jeep Cherokee 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 (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 (the U.S.-certified version of the 1994 and 1995 LHD and RHD Jeep Cherokee MPVs), and (2) they are capable of being readily altered to conform to the standards.

**DATES:** This decision is effective [insert date of letter notifying RI that petition has been granted].

**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.

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**.

G&K Automotive Conversion, Inc. of Santa Ana, California ("G&K") (Registered Importer 90-007) petitioned NHTSA to decide whether 1994 and 1996 LHD and RHD Jeep Cherokee MPVs are eligible for importation into the United States. In its petition, G&K compared these nonconforming vehicles to substantially similar U.S.-certified 1994 and 1996 LHD and RHD models. NHTSA published notice of the petition on April 26, 2007 (72 FR 20915) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. Comments were received in response to the notice of the petition from Nippon Security, Inc., doing

business as Yokohama Trading LLC, Yokohama Motors Ltd., and Yokohama Trading of Japan (collectively "Yokohama Trading").

NHTSA's analysis of the petition and Yokohama Trading's comments are set forth below, with regard to each of the issues raised in those comments.

##### *Whether the Vehicles Are in Fact Nonconforming.*

*Yokohama Trading's Contention:* Yokohama Trading disputed G&K's characterization of the subject vehicles as nonconforming by contending that:

The vehicles already bear valid U.S. vehicle identification numbers (VINs), are certified as complying with U.S. Environmental Protection Agency (EPA) standards, and meet the safety requirements of the FMVSS and therefore should not be considered "non-conforming," but returned U.S. goods for importation purposes and allowed in the country without modifications.

Vehicles intended for use by U.S. Postal carriers are EXEMPT from the FMVSS under the Federal Motor Carrier Safety Regulations at 49 CFR 390.3(f).

The vehicles are in fact conforming vehicles so long as their use is restricted to U.S. Postal Service (USPS) Rural Route Carriers as they are exempt from full compliance with FMVSS guidelines, notwithstanding the fact that, except for a few inconsequential features, they meet those guidelines.

*NHTSA's Response:* The assignment of a U.S.-complaint VIN to a vehicle does not signify that the vehicle complies with all applicable FMVSS. Instead, as provided in NHTSA's certification regulations at 49 CFR part 567, the vehicle must bear a label, permanently affixed by its original manufacturer, certifying that the vehicle complies with all applicable FMVSS in effect on the vehicle's date of manufacture. The vehicles that are the subject of the petition were manufactured by Chrysler Corporation for sale in markets outside the United States such as Japan, and consequently were labeled "For Export Only." As such, they cannot be regarded for importation purposes as conforming motor vehicles.

The regulations cited by Yokohama Trading, 49 CFR part 390 Federal Motor Carrier Safety Regulations, are regulations issued by the Federal Motor Carrier Safety Administration (FMCSA), an agency within DOT that is separate from NHTSA, for the purpose of regulating commercial motor vehicles and their operation in the United States. Section 390.3(f) of those regulations provides that the Federal Motor Carrier Safety Regulations do not apply, among other things, to transportation

performed by the Federal government. These regulations (which only apply to vehicles with a weight rating in excess of 10,000 pounds, far heavier than the vehicles that are the subject of the petition) are not issued or administered by NHTSA, and cannot and do not establish any exemption from the requirements of the FMVSS that pertain to motor vehicles manufactured or imported for sale or use in the United States.

Although there are certain exemptions in FMVSS No. 208 Occupant Crash Protection and other standards for vehicles that are "designed to be exclusively sold to the U.S. Postal Service" (see, e.g., paragraph S4.2.2 of 49 CFR 571.208), the vehicles that are the subject of the petition were manufactured for sale in markets other than the United States and were labeled by their manufacturer "For Export Only." As such, they were not designed to be exclusively sold to the U.S. Postal Service and therefore do not qualify for any of these exemptions. It is also worth noting that there is no general exemption from the FMVSS for U.S. Postal Service vehicles. Vehicles manufactured for the U.S. Postal Service must be labeled by their manufacturer as conforming to all applicable FMVSS in effect on their date of manufacture, in the same manner that is required under NHTSA's certification regulations at 49 CFR part 567 for any other motor vehicle manufactured for sale or use in the United States.

*Whether Necessary Conformance Modifications May Only Be Performed by Registered Importers*

*Yokohama Trading's Contention:* That parties other than importers registered with NHTSA (RIs) could perform some of the modifications to conform the subject vehicles to the FMVSS, on the theory that those modifications do not require any special techniques.

*NHTSA's Response:* This argument has no bearing on whether the vehicles that are the subject of the petition are capable of being modified to conform to all applicable FMVSS. As such, it provides no basis for the denial of the petition. In point of fact, the petition was filed under 49 U.S.C.

30141(a)(1)(A), which requires a showing that the vehicles are "capable of being readily altered to conform to all applicable FMVSS." NHTSA's regulations at 49 CFR 592.6, which specify the duties of an RI, require an RI to personally witness each modification performed on a vehicle to effect compliance, or to know that the person who performed the necessary modifications is an employee of that RI,

so that the RI can certify that the vehicle has been brought into compliance with all applicable Federal motor vehicle safety and bumper standards.

*Canadian Imports That Do Not Require an RI*

*Yokohama Trading's Contention:* That Canadian vehicles are often missing required labeling and are still allowed to be imported into the U.S. without the need for the services of an RI.

*NHTSA's Response:* This is another issue that has no bearing on whether the vehicles that are the subject of the petition are capable of being modified to conform to all applicable FMVSS. As a consequence, it also provides no basis for denying the petition. In point of fact, NHTSA's regulations at 49 CFR 591.5(g) do permit a motor vehicle that is not a salvage motor vehicle, a repaired salvage motor vehicle, or a reconstructed motor vehicle to be imported for personal use without the need to engage the services of an RI if certain requirements are met. Those requirements are that the vehicle be certified by its original manufacturer as complying with all applicable Canadian motor vehicle safety standards and that NHTSA be informed by the vehicle's original manufacturer that the vehicle complies with all applicable Federal motor vehicle safety, bumper, and theft prevention standards, or that it complies with all such standards except for the labeling requirements of FMVSS Nos. 101 Controls and Displays and 110 or 120 Tire Selection and Rims, and/or the specifications of FMVSS No. 108 Lamps, Reflective Devices, and Associated Equipment relating to daytime running lamps. Proof of such conformity must be furnished in the form of a letter from the original manufacturer. The letter must be presented to U.S. Customs and Border Protection at the port of entry along with a completed HS-7 Declaration form declaring the vehicle under Box 2B on that form.

*Whether Yokohama Trading is a Manufacturer Yokohama Trading's Contention:* That it has filed the proper paperwork and been granted approval to be a motor vehicle manufacturer in the U.S.

*NHTSA's Response:* This is another issue that has no bearing on whether the vehicles that are the subject of the petition are capable of being modified to conform to all applicable FMVSS. As such, it also provides no basis for denying the petition. In point of fact, NHTSA does not approve any manufacturers or products. Instead, it is the manufacturer's responsibility to ensure that any motor vehicle or motor

vehicle equipment item that it manufactures for sale in the U.S. conforms to all applicable FMVSS. The agency's regulations at 49 CFR part 567 require manufacturers to affix to vehicles offered for sale in the U.S. labels certifying that the vehicle conforms to all applicable FMVSS in effect on the vehicle's date of manufacture. Other than issuing the standards to which the vehicles must be certified, NHTSA plays no role in the certification process.

Manufacturers of motor vehicles and motor vehicle equipment items that are subject to the FMVSS must file identifying information with NHTSA within 30 days from the date they begin to manufacture those products, as required by the agency's regulations at 49 CFR part 566 Manufacturer Identification. The acceptance of such a filing from the manufacturer, however, does not constitute agency approval of the manufacturer or its products. We have searched our manufacturer database and found no record of manufacturer identifying information being submitted by Yokohama Trading pursuant to 49 CFR part 566.

Because none of the issues raised by Yokohama Trading have any bearing on whether 1994 & 1996 Jeep Cherokee LHD & RHD MPVs are capable of being modified to conform to applicable FMVSS, they provide no basis for NHTSA to deny the petition. Accordingly, the agency has 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-493 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

**Final Decision**

Accordingly, on the basis of the foregoing, NHTSA has decided that 1994 and 1996 LHD and RHD Jeep Cherokee MPVs that were not originally manufactured to comply with all applicable FMVSS are substantially similar to 1994 and 1996 LHD and RHD Jeep Cherokee MPVs originally manufactured for 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.

**Note**

NHTSA has been informed by DaimlerChrysler Corporation, the successor to Chrysler Corporation, the original manufacturer of the subject vehicles, that Chrysler Corporation manufactured for sale in the United States, and certified as conforming to the FMVSS, not only the 1994 and 1996 RHD Jeep Cherokees to which the nonconforming vehicles that are the subject of the instant petition have been compared, but also certain 1995 RHD Jeep Cherokee MPVs. NHTSA has previously determined that nonconforming 1995 LHD Jeep Cherokee MPVs are eligible for importation and has assigned vehicle eligibility number VSP-180 to those vehicles. See notice of final decision at 61 FR 51739 (October 3, 1996). In light of the information furnished by DaimlerChrysler, NHTSA has concluded that nonconforming 1995 RHD Jeep Cherokee MPVs may also be imported under eligibility number VSP-180.

**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: August 1, 2007.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

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**DEPARTMENT OF THE TREASURY****Office of the Comptroller of the Currency****FEDERAL DEPOSIT INSURANCE CORPORATION****Agency Information Collection Activities; Proposed Revision of Information Collection; Renewal; Comment Request**

**AGENCIES:** Office of the Comptroller of the Currency (OCC), Treasury; and Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Joint notice and request for comments.

**SUMMARY:** The OCC and FDIC (Agencies), as part of their continuing effort to reduce paperwork and respondent burden, invite the public and other Federal agencies to comment on proposed revisions to a continuing information collection, as required by the Paperwork Reduction Act of 1995. The Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently

valid Office of Management and Budget (OMB) control number. The Agencies are soliciting comments on proposed revisions to the information collections titled: "Interagency Bank Merger Act Application." The General Information and Instructions section has been revised to delete information about the Bank Insurance Fund (BIF), the Savings Association Insurance Fund (SAIF), and the Oakar statutory provisions. In addition, corresponding legal citations on the form to these provisions are being deleted. The Agencies also solicit comment on the renewal without change to the information collections titled: "Interagency Biographical and Financial Report" and "Interagency Notice of Change in Control." The OCC solicits comment on the renewal without change to its "Interagency Notice of Change in Directors or Senior Executive Officers" information collection. Additionally, the OCC is making other clarifying changes to the *Comptroller's Licensing Manual* (Manual).

**DATES:** You should submit written comments by October 9, 2007.

**ADDRESSES:** Interested parties are invited to submit comments to any or all of the Agencies and the OMB Desk Officer. All comments, which should refer to the OMB control number, will be shared among the Agencies:

**OCC:** Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mail Stop 1-5, Attention: 1557-0014, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874-4448, or by electronic mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). You may personally inspect and photocopy comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874-5043. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

**FDIC:** Steven Hanft, Clearance Officer, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. All comments should refer to "Interagency Bank Merger Act Application," the "Interagency Biographical and Financial Report," or the "Interagency Notice of Change in Control," as appropriate. Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on

business days between 7 a.m. and 5 p.m. [e-mail address: [comments@fdic.gov](mailto:comments@fdic.gov)]. All comments received will be posted without change to <http://www.fdic.gov/regulations/laws/federal/notices.html> including any personal information provided. Comments may be inspected and photocopied in the FDIC Public Information Center, Room E-1002, 3501 Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 4 p.m. on business days.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer for the Agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503, or by fax to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:** You may request additional information from:

**OCC:** Mary Gottlieb, OCC Clearance Officer, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. For subject matter information, you may contact Yoo Jin Na at (202) 874-4604, Licensing Activities, Licensing Department, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

**FDIC:** Steven Hanft, Clearance Officer, (202) 898-3907, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:** Proposal to extend for three years, with revision, the following currently approved collections of information:

**OCC's Information Collection Title:** Comptroller's Licensing Manual (Manual). The specific portions of the Manual covered by this notice are those that pertain to the "Business Combinations," "Branches and Relocations," "Capital and Dividends," "Charters," "Change in Bank Control," "Comments to Other Agencies," "General Policies and Procedures," "Investment in Bank Premises," "Investment in Subsidiaries and Equities," "Management Interlocks," and "Public Notice and Comments" booklets of the Manual and various portions to which the OCC is making technical and clarifying changes.

**All Agencies' Report Title and FDIC's Information Collection Title:** Interagency Bank Merger Act Application.

**All Agencies' Report Titles and FDIC's Information Collection Title:** Interagency Biographical and Financial Report and Interagency Notice of Change in Control.