Ongoing Collaboration

17. What actions should the Commission take to promote ongoing collaboration among consumers with hearing loss, the communications industry, and the hearing aid industry?

a. In July 2003, the ATIS Incubator Solutions Program #4 (AISP.4) (Incubator), was created to investigate methods of enhancing interoperability and usability between hearing aids and wireless handsets. The Incubator has performed invaluable work in bringing together wireless device manufacturers, service providers, and consumers to discuss and develop solutions to hearing aid compatibility problems and in proposing to the Commission consensus plans to best meet the needs of both the industry and consumers with hearing loss. The Bureau understands that this body is now approaching the end of its institutional life. In the absence of the Incubator, how can the Commission best ensure that the industry and consumers will continue collaborating to address new technological and market developments in a timely manner. Could the Commission's Accessibility and Innovation Initiative, described at *http://www.broadband.gov/accessibilityandinnovation/,* provide support for such collaboration?

b. The Bureau also seeks comment on how best to promote increased collaboration between the communications and hearing aid industries. Could the Accessibility and Innovation Initiative be an appropriate venue for these conversations as well?

Federal Communications Commission.

Ruth Milkman,

Chief, Wireless Telecommunications Bureau.

[FR Doc. 2011–801 Filed 1–13–11; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 567, 591, 592, and 593

[Docket No. NHTSA 2009–0143; Notice 1]

RIN 2127–AK32

Certification; Importation of Vehicles and Equipment Subject to Federal Safety, Bumper, and Theft Prevention Standards; Registered Importers of Vehicles Not Originally Manufactured To Conform to the Federal Motor Vehicle Safety Standards

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes several amendments to the regulations pertaining to registered importers ("RIs") of motor vehicles not originally manufactured to comply with all applicable Federal motor vehicle safety, bumper, and theft prevention standards. The agency proposes amending RI application and renewal requirements to enable the agency to deny or revoke registration to entities that have been convicted of a crime related to the importation, purchase, or sale of a motor vehicle or motor vehicle equipment. Also, the RI would be required to certify that it destroyed or exported nonconforming motor vehicle equipment removed from a vehicle during conformance modifications. The agency is also proposing new requirements for motor vehicles imported under import eligibility petitions, adopting a clearer definition of the term "model year" for import eligibility purposes, and requiring that import eligibility petitions include the type classification and gross vehicle weight rating ("GVWR") of the subject vehicle. This notice also proposes several amendments to the RI regulations that would include adding citations to provisions that can be used as a basis for the non-automatic suspension of an RI registration, deleting redundant text from another provision, and revising several sections to include the agency's current mailing address.

DATES: Comments should be submitted early enough to ensure that Docket Management receives them by February 28, 2011.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, *see* the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

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 published in the **Federal Register** (65 FR 19477–78 (Apr. 11, 2000)) or you may visit *http://www.dot.gov/privacy/privacyactnotices/.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: For non-legal issues contact Clint Lindsay, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590 (202–366–5288). For legal issues contact Nicholas Englund, Office of Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590 (202–366–5263).

SUPPLEMENTARY INFORMATION:

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I. Background of This Rulemaking Action

A. The 1968 Importation Regulations (19 CFR 12.80) and the Imported Vehicle Safety Compliance Act of 1988 (Pub. L. 100–562)

The National Traffic and Motor Vehicle Safety Act of 1966 as amended ("the Safety Act"), now codified at 49 U.S.C. Chapter 301 ("Motor Vehicle Safety"), requires imported vehicles to meet Federal motor vehicle safety standards ("FMVSS") as well as bumper and theft prevention standards. Effective January 10, 1968, a regulation jointly issued by NHTSA and the United States Customs Service ("Customs"), 12 CFR 12.80, allowed permanent importation of motor vehicles not originally manufactured to meet applicable FMVSS if, within 120 days, the importer demonstrated that the vehicle had been brought into compliance with those standards.

The Imported Vehicle Safety Compliance Act of 1988 (Pub. L. 100–562, "the 1988 Act"), which became effective on January 31, 1990, limited the importation of vehicles that did not comply with the FMVSS to those capable of being modified to comply. To enhance oversight, the 1988 Act required that necessary modifications be performed by "registered importers" ("RIs"). RIs are business entities that have proven to NHTSA that they are technically and financially capable of importing nonconforming motor vehicles and of performing the necessary modifications on those vehicles so that they conform to all applicable FMVSS. See generally, 49 U.S.C. 30141–30147.

B. Previous Regulatory Actions

1. The 2000 Notice of Proposed Rulemaking (65 FR 69810 (Nov. 20, 2000))

As mandated by the 1988 Act, the agency issued regulations covering the RI program (49 CFR parts 591 through 594) which superseded 12 CFR 12.80. *See* 54 FR 40069, Sept. 29, 1989.

After about a decade of experience with the initial regulations under the 1988 Act, the agency identified a number of unanticipated difficulties in administering the RI program. To address these difficulties and to ensure that imported vehicles were properly brought into conformance, the agency tentatively concluded that more information from applicants and more specificity about the duties of RIs would be necessary. NHTSA published a Notice of Proposed Rulemaking ("NPRM") on November 20, 2000 seeking to clarify RI duties and application requirements. 65 FR 69810, Nov. 20, 2000. The NPRM proposed amendments clarifying the registration, suspension, and revocation procedures for RIs.

2. The 2004 Final Rule (69 FR 52070 (Aug. 24, 2004))

After considering the comments to the NPRM, the agency published a final rule amending the importation regulations on August 24, 2004. 69 FR 52070, Aug. 24, 2004. These amendments established new requirements for RI applicants and further delineated the duties of RIs. The amendments also clarified the procedures for suspending or revoking RI registrations.

II. Proposed Substantive Amendments to the RI Regulations

A. The Agency May Deny or Revoke the RI Status of Entities Convicted of Certain Crimes

The statute authorizing the RI program directs the agency to "establish procedures for registering a person who complies with requirements prescribed by the Secretary [of Transportation] by regulation under this subsection [49 U.S.C. 30141(c)] * * * " As part of its responsibilities, an RI has the duty to ensure that each nonconforming vehicle that it imports or agrees to modify is brought into compliance with all applicable Federal motor vehicle safety and bumper standards, that an accurate statement of conformity is submitted to NHTSA certifying the vehicle's compliance following the completion of the modifications, and that the vehicle is not released for operation on the public roads until NHTSA releases the conformance bond. The agency approves RIs for the specific purpose of carrying out these important safety responsibilities. In this respect, each RI occupies a position of public trust to ensure that nonconforming vehicles imported under its auspices are properly conformed to all applicable standards before they are operated on public roads in the United States.

Congress provided a non-exhaustive list of requirements that NHTSA should adopt to promote integrity in the RI program. These include record keeping requirements, records and facilities inspection authority, and establishing technical and financial requirements. The statute does not explicitly address denying, suspending, or revoking RI registrations except in circumstances in which a person had failed to comply with motor vehicle regulations, has failed to pay required fees, or has already had a registration revoked.

Conviction of a crime related to the importation, purchase, or sale of a motor vehicle or motor vehicle equipment is, in NHTSA's view, inconsistent with holding a position of public trust such as being an RI.

The 2004 Rule (69 FR 52070, Aug. 24, 2004) required applicants to disclose the Social Security numbers of RI principals so the agency could perform criminal background checks. *See* 69 FR 52074, Aug. 24, 2004. The primary goal of these background checks was to ensure RI accountability and compliance with legal requirements. *Id.* at 52073–74. Applications that did not disclose Social Security numbers would be denied. *Id.* Two commenters to that final rule supported denying registration to applicants with a felony record involving motor vehicles or the motor vehicle business; no one opposed it. *Id.* at 52074.

After adopting the rule, a petition for reconsideration challenged the use of RIs' Social Security numbers to perform background checks. *See* 70 FR 57797, Oct. 4, 2005. In response, the agency reassessed the need for applicants to submit Social Security numbers. NHTSA determined that disclosure of Social Security numbers was unnecessary. *Id.* Accordingly, the agency amended sections 592.5(a)(4)(ii) and (iii), eliminating requirements that RI applicants disclose Social Security numbers. *Id.*

We now propose amending the RI regulations to prevent entities convicted of certain crimes from gaining or maintaining RI status. We propose amending 49 CFR 592.5(e)(1) to state that the agency may deny registration to applicants who have been convicted of a crime related to the importation, purchase or sale of motor vehicles or motor vehicle equipment. We also propose amending the regulations to allow the agency to deny registration to an applicant if any person associated with direct or indirect ownership or control of the applying entity, or any person employed by or associated with the applicant or applying entity, has been convicted of a crime related to the

importation, purchase or sale of motor vehicles or motor vehicle equipment. These offenses include, but are not limited to, title fraud, odometer fraud, or the sale of stolen vehicles. For the purposes of this rulemaking, the phrase "convicted of a crime" means a criminal conviction, whether entered on a verdict or plea, including a plea of *nolo contendere,* for which sentence has been imposed, whether convicted in U.S. or foreign jurisdictions.

Similarly for RIs seeking to renew their registration, we propose adding a new paragraph (i) to 49 CFR 592.5 that would allow the agency to deny registration renewal to RIs who have been convicted of a motor vehicle related crime.

The integrity of the RI program is also vulnerable to abuse when an entity, after becoming an RI, is convicted of a motor vehicle related crime. A convicted entity, possessing current registration and knowing that its registration will not be renewed, may have little incentive to faithfully follow its duties as an RI. The agency believes waiting until the end of the fiscal year to deny registration renewal to a convicted entity is an unacceptable risk. To protect the program from this risk, we propose amending Section 592.5(f) to state that an existing RI or any person who directly or indirectly owns or controls, or has common ownership or control of the RI's business, must not be convicted of a crime related to the importation, purchase, or sale of a motor vehicle or motor vehicle equipment. After the RI has been convicted, RI status may be revoked under Section 592.7(b).

B. Information Submitted in Annual RI Registration Renewal Must Be True and Correct

Under 49 CFR 592.5(a)(11), parties applying for RI status must certify that all information provided in the application is true and correct. As noted above, RIs occupy a position of public trust by certifying that imported nonconforming vehicles have been brought into conformity with all applicable safety standards. In deciding whether to register an applicant as an RI, the agency must be able to trust that the information provided in the application is accurate and truthful. If the agency discovers that an applicant submitted false or inaccurate information, the application may be denied. 49 CFR 592.5(e)(1).

NHTSA's regulations require RIs to annually renew their registrations. When evaluating a request for renewal, the Administrator must be able to rely on the accuracy and truthfulness of the annual statement submitted in support of that request, under 49 CFR 592.5(f) and 592.6(k). However, existing RIs are not currently required to certify that the renewal request is truthful. Therefore, we are proposing to amend § 592.5(f) and § 592.6(k) to require an RI to certify that all the information submitted in its annual renewal statement is true and correct. Any RI making a false or inaccurate certification in this statement may have its registration suspended or revoked pursuant to § 592.7(b).

C. RIs Must Certify Destruction or Exportation of Nonconforming Motor Vehicle Equipment Removed From Imported Vehicles During Conformance Modifications

The 1988 Act allows an RI to permanently import nonconforming vehicles if NHTSA has determined that the vehicle can be modified to comply with all applicable FMVSS. RIs must often remove nonconforming motor vehicle equipment items and replace the components with equipment meeting applicable FMVSS. Motor vehicle equipment items subject to the FMVSS include tires, wheels, brake hoses, brake fluid, seat belt assemblies, lighting equipment, and glazing.

NHTSA has previously directed RIs to destroy or export the noncompliant equipment they remove from the vehicles they conform and to certify to NHTSA that they have done so in the statements of conformity that they submit for those vehicles.

Despite these efforts, there have been instances where nonconforming equipment removed from vehicles by RIs has been offered for sale. To help ensure that this noncompliant equipment does not enter interstate commerce, we propose amending § 592.6(d) to require RIs to certify that such equipment has been destroyed or exported. This certification would be made in the statement of conformity RIs submit to the agency upon the completion of all conformance modifications. Failing to certify the destruction or exportation of nonconforming equipment items removed from imported vehicles would result in the agency withholding release of the DOT conformance bond furnished for the vehicle at its time of entry and may also subject the RI to the suspension or revocation of its registration.

D. Establishing Procedures for Importation of Motor Vehicles for the Purpose of Preparing an Import Eligibility Petition

A motor vehicle not originally manufactured to meet applicable FMVSS may not be imported on a permanent basis unless NHTSA determines, on its own initiative or upon the petition of an RI, that the vehicle is eligible for importation. 49 U.S.C. 30141(a)(1)(A).

Two categories of vehicles are eligible for importation under section 30141(a)(1). The first are vehicles that can be readily altered to conform to the FMVSS and are substantially similar to vehicles certified as conforming to those standards (i.e., U.S.-certified counterparts). The second category covers vehicles that do not have a substantially similar U.S.-certified counterpart but are capable of being altered to comply with all applicable FMVSS. In the latter category, proof of compliance is based on dynamic test data or evidence that NHTSA decides adequately demonstrates compliance. After NHTSA decides that a particular model and model year vehicle is eligible for importation, the agency assigns the vehicle a unique vehicle eligibility number that permits entry of the vehicle into the United States.

To develop a petition, an RI may need to physically examine at its facility in the United States a motor vehicle that was not certified by its manufacturer as complying with all applicable FMVSS and compare that vehicle to a U.S.-certified vehicle of the same model and model year. If there is no substantially similar U.S.-certified vehicle, the RI may need to import as many as two motor vehicles in order to conduct crash tests and submit to NHTSA in conjunction with its petition the resultant test data or other evidence that the agency decides is adequate to show that the vehicle has safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS. NHTSA has previously informed RIs that only one vehicle may be imported for the purpose of preparing an import eligibility petition, unless destructive test data is needed, in which case the agency will authorize the importation of one additional vehicle.

These allowances have been made on an *ad hoc* basis. In May 2006, NHTSA amended the HS–7 Declaration form by including a new Box 13 to permit the entry of nonconforming vehicles by RIs for the purpose of preparing an import eligibility petition. When it amended the form, the agency did not make corresponding amendments to 49 CFR part 591 to reflect the new contents of the HS–7 Declaration form. The agency is now proposing such an amendment to § 591.5.

NHTSA seeks to adopt a rule that will facilitate import eligibility petitions

without imposing unnecessary burdens on RIs or on the agency. To this end, NHTSA encourages commenters to state whether importing one vehicle is sufficient for the purpose of preparing an import eligibility petition for a substantially similar U.S.-certified vehicle and whether the importation of two vehicles is sufficient where destructive crash test data is required to prove compliance with all applicable FMVSS. Under today's proposal, an RI seeking to import a vehicle needed for preparing an import eligibility petition would inform NHTSA that it will, or has, petitioned the agency for an import eligibility decision. The RI would then need NHTSA's written permission to import the vehicle. RIs would be required to follow this procedure and could not declare the vehicle under Box 3 as one that has already been determined eligible for importation, or enter an agency-assigned vehicle eligibility number on the form. Improper use of an agency-assigned vehicle eligibility number on the HS–7 Declaration form for a vehicle imported to prepare an eligibility petition will be considered a violation of 49 U.S.C. 30112(a) and 49 CFR 592.6(a), which requires an RI to assure that the vehicle it imports is eligible for importation pursuant to 49 CFR part 593. Such a violation would subject the RI to the suspension or revocation of its registration. *See* 49 CFR 592.7(b)(1).

Vehicles imported for the purpose of preparing an import eligibility petition would only be authorized to remain in the United States for a limited time. The importing RI would be required to file an import eligibility petition with the agency within 180 days of the vehicle's entry date. The RI would be required to declare that it will destroy, export, or abandon the vehicle to the United States if NHTSA dismisses or denies the petition, if the RI withdraws the petition, or if the RI does not file a petition within 180 days from the date of entry. The RI would be required to have the vehicle destroyed, delivered to Customs for exportation, or abandoned to the United States within 30 days from the date of the dismissal, denial, or withdrawal of the RI's petition, as appropriate, or within 210 days from the date of the vehicle's entry if the RI fails to submit a petition. The RI would also be required to submit to NHTSA documentary proof of the vehicle's destruction, exportation, or abandonment within 15 days from the date of such action.

An RI would not need to obtain a DOT conformance bond when importing a nonconforming vehicle for the purpose of preparing an import eligibility petition because these bonds are only needed when NHTSA has decided that a particular vehicle is capable of being modified to meet U.S. standards. The proposal thus relies on the use of a Temporary Importation Bond ("TIB"). The TIB serves as the RI's promise that the vehicle, which is imported on a temporary basis for up to one year for the purpose of testing or inspection, will be exported or destroyed. The RI must post a TIB with U.S. Customs and Border Protection ("CBP") for twice the amount of duty, taxes, etc. that would otherwise be due at the time the vehicle is imported. If the RI does not export or destroy the vehicle, it is subject to forfeiture of the TIB and penalties for violations of NHTSA's regulations including civil penalties and the suspension or revocation of the RI's registration.

The agency is also proposing that once an eligibility petition is granted, the RI must furnish a DOT conformance bond, export the vehicle, abandon the vehicle to the United States, or destroy it. If the RI intends to bring the vehicle into compliance, a complete conformance package must be submitted to the agency within 120 days from the date the petition is granted. If the vehicle has been destroyed, the RI must submit documentary proof of the destruction to the agency within 30 days from the date destruction. These recitals would be reflected in the text that the agency is proposing to add to § 591.5.

E. Adopting a Clearer Definition of the Term "Model Year" for the Purpose of Import Eligibility Decisions

When an import eligibility petition is based on the substantial similarity of the subject vehicle to a U.S.-certified counterpart, section 30141(a)(1)(A) requires the agency to make the eligibility decision on a model and model year basis. If there is no substantially similar U.S.-certified counterpart, the statute does not specify that the decision be made on a model year basis.

Vehicles manufactured for sale in the United States are typically assigned model year designations for marketing purposes. Although the model year traditionally begins on September 1, it can begin on other dates as well. A date that is more important from the agency's perspective is the vehicle's "date of manufacture," defined as the date on which manufacturing operations are completed on a vehicle at its place of main assembly. *See* 49 CFR 571.7 and 49 CFR 567.4(g)(2). The agency uses a vehicle's date of manufacture to identify the specific FMVSS requirements that the vehicle must be certified to meet. Manufacturers of vehicles intended for sale in the U.S. must affix to those vehicles a label that, among other things, identifies the vehicle's date of manufacture and certifies that the vehicle complies with all applicable FMVSS in effect on that date. 49 U.S.C. 30115; 49 CFR 567.4(g). The model year designation that a manufacturer assigns to a U.S.-certified vehicle has no bearing on the vehicle's compliance with applicable FMVSS.

Many European manufacturers do not use a model year designation for vehicles manufactured for their own markets. Instead, they rely on the calendar year in which the vehicle is produced. Moreover, the countries in which these vehicles are produced generally do not assign model year designations. Although, as previously noted, September 1 through August 31 is commonly accepted as the model year for the purpose of marketing vehicles in the United States, these dates have limited relevance, if any, to vehicles that are produced for sale abroad. Consequently, the agency is proposing to amend 49 CFR 593.4 by deleting "the calendar year that begins on September 1 and ends on August 31 of the next calendar year," as one of the alternative definitions of the term "model year," and adopting in its place "the calendar year (i.e., January 1 through December 31) in which manufacturing operations are completed on the vehicle at its place of main assembly." This language corresponds to 49 CFR 567.4(g)(2), which identifies how the date of manufacture is to be selected for the purpose of a vehicle's certification label.

This change should eliminate much of the confusion now confronting RIs over the issue of whether a given vehicle manufactured for sale abroad has a substantially similar U.S.-certified counterpart of the same model year.

After an RI performs all modifications necessary to conform a vehicle to all applicable Federal motor vehicle safety and bumper standards, and remedies all noncompliances and defects that are the subject of any pending safety recalls, the RI must permanently affix to the vehicle a certification label that meets the content requirements of 49 CFR 567.4(k). Under 49 CFR 567.4(k)(4)(i), the RI must identify the vehicle's model year or year of manufacture on the label. We propose to amend 49 CFR 567.4(k)(4)(i) to reflect the proposed definition of model year that would be added to 49 CFR 593.4.

F. Requiring Import Eligibility Petitions To Identify the Type Classification and Gross Vehicle Weight Rating ("GVWR") of the Subject Vehicles

In making import eligibility determinations, the agency determines the safety standards applicable to a particular vehicle by, among other things, taking account of the model, model year, the type classification, and the gross vehicle weight rating ("GVWR") of the vehicle. The various type classifications that a vehicle can be assigned are defined in the agency's regulations at 49 CFR 571.3. Those type classifications include passenger car, multipurpose passenger vehicle ("MPV"), truck, bus, motorcycle, trailer, and low speed vehicle ("LSV"). The regulations also define GVWR as the loaded weight of the vehicle as specified by the original manufacturer. 49 CFR 571.3.

The agency has ready access to the type classification and GVWR for U.S.-certified vehicles. Manufacturers of U.S.-certified vehicles must identify the type classification on the vehicle's certification label. *See* 49 CFR 567.4. Manufacturers must also identify on the certification label the GVWR they have assigned to the vehicle. 49 CFR 567.4(g)(3). However, determining the type classification and GVWR of a motor vehicle without a substantially similar U.S.-certified counterpart can be difficult. The agency may expend considerable time and effort ascertaining this information, thereby delaying the processing of the petition.

To rectify this situation, NHTSA is proposing that all import eligibility petitions must include the type classification and the GVWR assigned to the vehicle by its original manufacturer. Under 49 CFR 593.6(b), petitions must now include the model and model year of the subject vehicle, as well as data, views, and arguments demonstrating that the vehicle has safety features that comply with, or are capable of being modified to comply with, all applicable FMVSS. This proposal would amend 49 CFR 593.6(b) by adding language to require identification of the vehicle's type classification and GVWR as defined in 49 CFR 571.3.

G. Identifying a Violation of Regulations in Part 592 as a Basis for The Non-Automatic Suspension or Revocation of an RI Registration

NHTSA is required by statute to establish procedures for revoking or suspending an RI's registration for not complying with a requirement of 49 U.S.C. 30141–30147, or any of 49 U.S.C. 30112, 30115, 30117–30122, 30125(c), 30127, or 30166, or any regulations issued under these sections. 49 U.S.C. 30141(c)(4). Regulations implementing this provision are found at 49 CFR 592.7. The agency amended § 592.7(b) as part of the 2004 rule to list the regulations, if violated, that are grounds for suspension or revocation. These regulations were identified as including, but not being limited to, parts 567, 568, 573, 577, 591, 593, and 594. Part 592 was inadvertently omitted from this list (which was not exclusive); we now propose amending the provision to add Part 592.

H. Deletion of Redundant Text From 49 CFR 592.5(a) Identifying Contents of the RI Application

49 CFR 592.5(a)(4)(v) requires an application for registration as an RI to include the statement that "the applicant has never had a registration revoked pursuant to § 592.7, nor is it, nor was it, directly or indirectly, owned or controlled by, or under common ownership or control with, a Registered Importer that has had a registration revoked pursuant to § 592.7." This requirement is also expressed, in identical language, in § 592.5(a)(6). To correct this redundancy, we propose deleting the text at § 592.5(a)(4)(v).

III. Technical Corrections

Revisions to Certain Provisions To Reflect the Agency's New Street Address

Sections 591.6(f)(1), 592.5(a)(1), 592.8(b), 593.5(b)(2), and 593.10(a), prescribe requirements for submitting information to NHTSA and list the agency's address. The agency will amend these sections to reflect the agency's new street address. This does not require notice and comment but, for ease of administration, we are including it in this notice.

IV. Effective Date

The amendments proposed in this notice would become effective 60 days after issuance of the final rule, apart from those revising provisions that identify the agency's street address.

V. Rulemaking Analyses and Notices Regulatory Text

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, Oct. 4, 1993), provides for making determinations as to whether a regulatory action is "significant" and therefore subject to Office of Management and Budget ("OMB") review and subject to the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking is not significant. Accordingly, the Office of Management and Budget has not reviewed this rulemaking document under Executive Order 12886. Further, NHTSA has determined that the rulemaking is not significant under the Department of Transportation's regulatory policies and procedures. NHTSA currently anticipates the costs of the final rule to be so minimal as not to warrant preparation of a full regulatory evaluation. The action does not involve any substantial public interest or controversy. There would be no substantial effect upon State and local governments. There would be no substantial impact upon a major transportation safety program. A regulatory evaluation analyzing the economic impact of the final rule establishing the RI program, adopted on September 29, 1989, was prepared, and is available for review in the docket.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"), whenever an agency is required to publish a notice of proposed rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity "which operates primarily within

the United States." See 13 CFR 121.105(a). No regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

The agency has considered the effects of this proposed rulemaking under the Regulatory Flexibility Act, and certifies that if the proposed amendments are adopted they would not have a significant economic impact upon a substantial number of small entities.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. 605(b)). The proposed amendments would primarily affect entities modifying nonconforming vehicles that are small businesses within the meaning of the Regulatory Flexibility Act. At present, 65 such entities are registered with NHTSA. The proposed amendments would not significantly increase operating costs for any of these entities or impose any additional financial burden upon them.

Small governmental jurisdictions would not be affected at all since they are generally neither importers nor purchasers of nonconforming motor vehicles.

C. Executive Order 13132 (Federalism)

NHTSA has examined today's NPRM pursuant to Executive Order 13132 (64 FR 43255; Aug. 10, 1999) and believes that no additional consultation with States, local governments, or their representatives is mandated beyond the rulemaking process. The agency believes that the NPRM, if made final, would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. This NPRM, if made final, would not have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

D. National Environmental Policy Act

NHTSA has analyzed this action for the purposes of the National Environmental Policy Act. The action would not have a significant effect upon the environment because it is not likely to change the volume of motor vehicles imported through RIs.

E. Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988 "Civil Justice Reform," this agency has considered whether this proposed rule would have any retroactive effect. NHTSA concludes that this proposed rule would not have any retroactive effect. Judicial review of a rule based on this proposal may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

F. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 ("UMRA") requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with the base year of 1995). Before promulgating a rule for which a written assessment is needed, Section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and to adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of Section 205 do not apply when they are inconsistent with applicable law. Moreover, Section 205 allows NHTSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted. Because a final rule based on this proposal would not require the expenditure of resources beyond $100 million annually, this action is not subject to the requirements of Sections 202 and 205 of the UMRA.

G. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?
—Are the requirements in the proposed rule clearly stated?
—Does the proposed rule contain technical language or jargon that is unclear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this document.

H. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. Today's NPRM includes collections of information that are part of "Importation of Vehicles and Equipment Subject to the Federal Motor Vehicle Safety, Bumper, and Theft Prevention Standards," OMB control number 2127–0002. This clearance is valid though November 30, 2010. NHTSA has submitted to OMB a request for renewal of OMB control number 2127–0002. The request for renewal addresses the minor increase in the collection of information that would result if this NPRM is made final.

I. Executive Order 13045

Executive Order 13045 applies to any rule that (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned rule is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rulemaking is not economically significant and no analysis of its impact on children is required.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs NHTSA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or

adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers ("SAE"). The NTTAA directs the agency to provide Congress, through the OMB, with explanations when we decide not to use available and applicable voluntary consensus standards.

After conducting a search of available sources, we have concluded that there are no voluntary consensus standards applicable to this proposed rule.

K. Public Participation

How do I prepare and submit comments?

Your comments must be written in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management identified at the beginning of this document, under **ADDRESSES**.

How can I be sure that my comments were Rrceived?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given at the beginning of this document under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at the address given at the beginning of this document under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation, 49 CFR part 512.

Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date identified at the beginning of this notice under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a final rule, we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address and times given at the beginning of this document under **ADDRESSES**.

You may also read the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Federal Docket Management System ("FDMS") Web page *http://www.regulations.gov.*

(2) On that page, click on "search for dockets."

(3) On the next page (*http://www.regulations.gov/fdmspublic/component/main*), select NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION from the drop-down menu in the Agency field, enter the Docket ID number and title shown at the heading of this document, and select "RULEMAKING" from the drop-down menu in the Type field.

(4) After entering that information, click on "submit."

(5) The next page contains docket summary information for the docket you selected. Click on the comments you wish to see. You may download the comments. Although the comments are imaged documents, instead of the word processing documents, the "pdf" versions of the documents are word searchable. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

L. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number ("RIN") to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN that appears in the heading on the first page of this document to find this action in the Unified Agenda.

List of Subjects in 49 CFR parts 567, 591, 592, and 593

Imports, Motor Vehicle Safety, Motor Vehicles, Reporting and Recordkeeping Requirements.

In consideration of the foregoing, the agency proposes to amend part 567, Certification, part 591, Importation of Vehicles and Equipment Subject to Federal Safety, Bumper and Theft Prevention Standards; part 592, Registered Importers of Vehicles Not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards; and part 593, Determinations that a Vehicle Not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards is Eligible for Importation, in Title 49 of the Code of Federal Regulations as follows:

PART 567—CERTIFICATION

1. The authority citation for part 567 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30166, 32502, 32504, 33101–33104, 33108, and 33109; delegation of authority at 49 CFR 1.50.

2. In *§ 567.4,* revise the second sentence in paragraph (k)(4)(i) to read as follows:

§ 567.4 Requirements for manufacturers of motor vehicles.

* * * * *

(k) * * *

(4) * * *

(i) * * * "Model year" is used as defined in § 593.4 of this chapter.

* * * * *

PART 591—IMPORTATION OF VEHICLES AND EQUIPMENT SUBJECT TO FEDERAL SAFETY, BUMPER AND THEFT PREVENTION STANDARDS

1. The authority citation for part 591 continues to read as follows:

Authority: Pub. L. 100–562, 49 U.S.C. 322(a), 30117, 30141–30147; delegation of authority at 49 CFR 1.50.

2. Add § 591.5(l) to read as follows:

§ 591.5 Declarations required for importation.

* * * * *

(l) The vehicle does not conform to all applicable Federal Motor Vehicle Safety and Bumper Standards (but does conform to applicable Federal Theft Prevention Standards) but the importer is eligible to import it because:

(1) The importer has registered with NHTSA pursuant to Part 592 of this chapter, and such registration has not been revoked or suspended;

(2) The importer has informed NHTSA that (s)he intends to submit, or has already submitted, a petition requesting that NHTSA determine whether the vehicle is eligible for importation; and

(3) The importer has:

(i) Submitted to the Administrator a letter requesting permission to import the vehicle for the purpose of preparing an import eligibility petition; and

(ii) Received written permission from the Administrator to import the vehicle.

3. Amend § 591.6 by revising the last sentence of paragraph (f)(1) and adding a new paragraph (g) to read as follows:

§ 591.6 Documents accompanying declarations.

* * * * *

(f) * * *

(1) * * * The request shall be addressed to Director, Office of Vehicle Safety Compliance, West Building—Fourth Floor, Room W43–481, Mail Code NVS–220, 1200 New Jersey Avenue, SE, Washington, DC 20590.

* * * * *

(g) A declaration made pursuant to § 591.5(l) shall be accompanied by the following documentation:

(1) A letter from the Administrator authorizing importation pursuant to § 591.5(l). Any person seeking to import a motor vehicle pursuant to this section must submit, in advance of such importation, a written request to the Administrator containing a full and complete statement identifying the vehicle, its original manufacturer, model, model year (if assigned) or date of manufacture (if a model year is not assigned), VIN, the vehicle classification (the various classifications are defined in § 571.3), and the Gross Vehicle Weight Rating (GVWR) assigned to the vehicle by its manufacturer. The statement must also declare that the specific purpose of importing this vehicle is to prepare a petition to the Administrator requesting a determination whether the vehicle is eligible for importation pursuant to part 593 and that the importer has filed, or intends to file within 180 days of the vehicle's entry date, a petition pursuant to § 593.5. The request must be addressed to Director, Office of Vehicle Safety Compliance, Fourth Floor, Room W43–481, Mail Code NVS–220, 1200 New Jersey Avenue, SE., Washington, DC 20590.

4. In § 591.7, add paragraph (f) to read as follows:

§ 591.7 Restrictions on importations.

* * * * *

(f) If a vehicle has entered the United States under a declaration made pursuant to § 591.5(l) and:

(1) If the Administrator of NHTSA dismisses the petition or decides that the vehicle is not eligible for importation, or if the importer withdraws the petition or fails to submit a petition covering the vehicle within 180 days from the date of entry, the importer must deliver the vehicle, unless it is destroyed, to the Secretary of Homeland Security for export, or abandon the vehicle to the United States, within 30 days from the date of the dismissal, denial, or withdrawal of the importer's petition, as appropriate, or within 210 days from the date of entry if the importer fails to submit a petition covering the vehicle, and furnish NHTSA with documentary proof of the vehicle's exportation, abandonment, or destruction within 15 days from the date of such action; or

(2) If the Administrator grants the petition, the importer must:

(i) Furnish a bond, in an amount equal to 150 percent of the entered value of the vehicle as determined by the Secretary of the Treasury, within 15 days from the date the importer is notified that the petition has been granted, unless the vehicle has been destroyed, and bring the vehicle into conformity with all applicable Federal motor vehicle safety and bumper standards within 120 days from the date the petition is granted; or,

(ii) Deliver the vehicle to the Secretary of Homeland Security for export within 30 days from the date the importer is notified that the petition has been granted; or

(iii) Abandon the vehicle to the United States within 30 days from the date the importer is notified that the petition has been granted; or

(iv) Destroy the vehicle within 30 days from the date the importer is notified that the petition has been granted; and

(v) Furnish NHTSA with documentary proof of the vehicle's exportation, abandonment, or destruction within 15 days from the date of such action.

PART 592—REGISTERED IMPORTERS OF VEHICLES NOT ORIGINALLY MANUFACTURED TO CONFORM TO THE FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 592 continues to read as follows:

Authority: Pub. L. 100–562, 49 U.S.C. 322(a), 30117, 30141–30147; delegation of authority at 49 CFR 1.50.

2. In § 592.4, add the definition of "Convicted of a crime" to read as follows:

§ 592.4 Definitions.

* * * * *

Convicted of a crime means receiving a criminal conviction in the United States or in a foreign jurisdiction, whether entered on a verdict or plea, including a plea of *nolo contendere,* for which sentence has been imposed.

* * * * *

3. In § 592.5, revise paragraph (a)(1), remove paragraph (a)(4)(v), redesignate paragraph (a)(4)(vi) as paragraph (a)(4)(v), revise paragraph (e)(1), revise paragraph (f), and add paragraph (i) to read as follows:

§ 592.5 Requirements for registration and its maintenance.

(a) * * *

(1) Is headed with the words "Application for Registration as Importer", and submitted in three copies to: Director, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, Fourth Floor, Room W43–481, Mail Code NVS–220, 1200 New Jersey Avenue, SE., Washington, DC 20590.

* * * * *

(e)(1) The Administrator:

(i) Shall deny registration to an applicant who (s)he decides does not comply with the requirements of paragraph (a) of this section;

(ii) Shall deny registration to an applicant whose previous registration has been revoked;

(iii) May deny registration to an applicant who has been convicted of, or whose business is directly or indirectly owned or controlled by, or under common ownership or control with, a person who has been convicted of, a crime related to the importation, purchase, or sale of a motor vehicle or motor vehicle equipment, including, but not limited to, offenses such as title fraud, odometer fraud, auto theft, or the sale of stolen vehicles; and

(iv) May deny registration to an applicant that is or was owned or controlled by, or under common ownership or control with, or in affinity with, a Registered Importer whose registration has been revoked. In determining whether to deny an application, the Administrator may consider whether the applicant is comprised in whole or in part of relatives, employees, major shareholders, partners, or relatives of former partners or major shareholders of

a Registered Importer whose registration has been revoked.

* * * * *

(f) In order to maintain its registration, a Registered Importer must:

(1) Not be convicted of, or have any person associated with direct or indirect ownership or control of the registered importer's business or any person employed by or associated with the registered importer who is convicted of, a crime related to the importation, purchase, or sale of motor vehicles or motor vehicle equipment. These offenses include, but are not limited to, title fraud, odometer fraud, or the sale of stolen vehicles.

(2) File an annual statement. The annual statement must be titled "Yearly Statement of Registered Importer" and include the following written statements:

(i) "I certify that I have read and understand the duties of a Registered Importer, as set forth in 49 CFR 592.6, and that [name of Registered Importer] continues to comply with the requirements for being a Registered Importer."

(ii) "I certify that all information provided in each of my previous annual statements, submitted pursuant to § 592.6(q), or changed in any notification that [name of Registered Importer] may have provided to the Administrator in compliance with § 592.6(l), remains correct and that all the information provided in this annual statement is true and correct."

(iii) "I certify that I understand that, in the event that its registration is suspended or revoked, or lapses, [name of Registered Importer] will remain obligated to notify owners and to remedy noncompliance issues or safety related defects, as required by 49 CFR 592.6(j), for each vehicle for which [name of Registered Importer] has furnished a certificate of conformity to the Administrator."

(3) Include with its annual statement a current copy of the Registered Importer's service insurance policy. Such statements must be filed not later than September 30 of each year; and

(4) Pay an annual fee and any other fee that is established under part 594 of this chapter. An annual fee must be paid not later than September 30 of any calendar year for the fiscal year that begins on October 1 of that calendar year. The Registered Importer must pay any other fee not later than 15 days after the date of the written notice from the Administrator.

* * * * *

(i) The Administrator may deny registration renewal to any applicant who has been convicted of, or whose business is directly or indirectly owned or controlled by, or under common ownership or control with, a person who has been convicted of a crime related to the importation, purchase, or sale of a motor vehicle or motor vehicle equipment, including, but not limited to, title fraud, odometer fraud, or the sale of stolen vehicles.

4. In § 592.6, add a sentence immediately before the last sentence of paragraph (d)(1) and revise paragraph (k) to read as follows:

§ 592.6 Duties of a registered importer.

* * * * *

(d) * * *

(1) * * * The Registered Importer shall also certify that it has destroyed or exported any noncompliant motor vehicle equipment items that were removed from an imported vehicle in the course of performing conformance modifications. * * *

* * * * *

(k) Provide an annual statement, certifying that the information therein is true and correct, and pay an annual fee as required by § 592.5(f).

* * * * *

5. In § 592.7, revise the last sentence of paragraph (b)(1) to read as follows:

§ 592.7 Suspension, revocation, and reinstatement of suspended registrations.

* * * * *

(b) * * *

(1) * * *

These regulations include, but are not limited to, parts 567, 568, 573, 577, 591, 592, 593, and 594 of this chapter.

* * * * *

6. In § 592.8, revise the third sentence of paragraph (b) of to read as follows:

§ 592.8 Inspection; release of vehicle and bond.

* * * * *

(b) * * * Each submission shall be mailed by certified mail, return receipt requested, or by private express delivery service to: Director, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, Fourth Floor, Room W43–481, Mail Code NVS–220, 1200 New Jersey Avenue, SE., Washington, DC 20590 or delivered in person. * * *

PART 593—DETERMINATIONS THAT A VEHICLE NOT ORIGINALLY MANUFACTURED TO CONFORM TO THE FEDERAL MOTOR VEHICLE SAFETY STANDARDS IS ELIGIBLE FOR IMPORTATION

1. The authority citation for part 593 continues to read as follows:

Authority: 49 U.S.C. 322 and 30141(b); delegation of authority at 49 CFR 1.50.

2. In § 593.4, revise the definition of "Model Year" to read as follows:

§ 593.4 Definitions.

* * * * *

Model year means the year used by a manufacturer to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually produced, or the model year as designated by the vehicle's country of origin, or, if neither the manufacturer nor the country of origin has made such a designation, the calendar year (*i.e.,* January 1 through December 31) in which manufacturing operations are completed on the vehicle at its place of main assembly.

* * * * *

3. In § 593.5, revise paragraph (b)(2) to read as follows:

§ 593.5 Petitions for eligibility determinations.

* * * * *

(b) * * *

(2) Be headed with the words "Petition for Import Eligibility Determination" and submitted in three copies to: Director, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, Fourth Floor, Room W43–481, Mail Code NVS–220, 1200 New Jersey Avenue, SE., Washington, DC 20590.

* * * * *

4. In § 593.6, revise paragraph (b)(1) of to read as follows:

§ 593.6 Basis for petition.

* * * * *

(b) * * *

(1) Identification of the model and model year of the vehicle for which a determination is sought, as well as the gross vehicle weight rating (GVWR) and type classification of the vehicle, as defined by § 571.3 of this chapter, (e.g., passenger car, multipurpose passenger vehicle, bus, truck, motorcycle, trailer, low-speed vehicle).

* * * * *

Issued on: December 20, 2010.

Daniel C. Smith,

Senior Associate Administrator for Vehicle Safety.

[FR Doc. 2011–295 Filed 1–13–11; 8:45 am]

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