

requirements to the minimum necessary to achieve our stated purposes. At that time, NHTSA determined that the industry's current state-of-the-art EDRs largely met the purposes of part 563. Thus, it was unnecessary to specify requirements for additional sensors or other hardware that would increase EDR costs appreciably. NHTSA stated in the final rule that the most significant technology cost could result from the need to upgrade data storage.

The cost of data storage, long-term or short-term, has drastically reduced over the years.⁴ Regardless of the storage type, costs are now a fraction of what they were even 10 years ago.⁵ A recent study from NHTSA looking at EDR technologies reported that information provided by industry indicated that a typical recorded event requires about 2 kilobytes (Kb) of memory depending on the manufacturer.⁶ Information from manufacturers also indicated that the typical microprocessor used in vehicle applications, in approximately the 2013 timeframe, had 32 Kb or 64 Kb of flash data as part of the air bag control module (ACM) and that only a fraction of the memory is dedicated to the EDR data. This study also estimated the total memory usage for all Table I and Table II data elements, listed at 49 CFR 563.7, recorded for the minimum required duration and frequency requirements in part 563. It reported that to record Table I and II data elements would require 0.072 Kb and 0.858 Kb of memory storage, respectively.

In addition, NHTSA now estimates that 99.5 percent of model year 2021 light vehicles have a compliant EDR, meaning manufacturers have largely already incurred the cost of meeting the part 563 requirements. Given that EDRs are installed on nearly all new light vehicles, the large amount of storage that is part of the air bag control module (32 kb or 64 kb), the small fraction required for EDR data (<1 kb), and the negligible costs for data storage, NHTSA continues to believe that there would be no additional costs or negligible costs associated with the Part 563 requirements. Therefore, the cost burden for this collection of information is discussed qualitatively.

Part 563 only applies to vehicles voluntarily-equipped with EDRs. Therefore, any burden is based on the differences in cost between a compliant

and non-compliant EDR. In considering additional burden for compliant EDRs, NHTSA considered: (1) The additional burden of meeting the 10-day data crash survivability requirement; and (2) the additional burden of meeting the data format requirements. Part 563 requires that an EDR must function during and after the compliance tests specified in FMVSS Nos. 208 and 214. The EDR's stored data is required to be downloadable 10 days after the crash tests. This requirement provides a basic functioning and survivability level for EDRs, but does not ensure that EDRs survive extremely severe crashes, fire, or fluid immersion. The burden for data survivability can include costs for an additional power supply and enhancements for computer area network (CAN) such as wiring, data bus, and harness. However, before part 563 was established the agency had not documented an EDR survivability problem except in rare and extremely severe events such as fire and submergence. Thus, the agency does not believe vehicle manufacturers incur additional costs to comply with the ability to retrieve the essential data elements 10 days after the crash test.

With regard to the memory capacity required to meet the part 563 data requirements, due to proprietary concerns, the adequacy of existing memory capacity of part 563 non-compliant vehicles is not known. However, we believe that the part 563 requirements are comparable to the current industry EDR practices. In terms of the burden associated with software algorithm changes to meet the data format requirements, the agency believes that, in the event a vehicle manufacturer needs to redesign their software algorithm, the redesign would be minor (e.g., changing the specifications in their codes). The agency estimates that the cost of algorithm redesign would be negligible on a per vehicle basis and it would be an upfront cost (i.e., not a recurring burden).

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of

automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29.

R. Ryan Posten,

*Associate Administrator for Rulemaking,
National Highway Traffic Safety
Administration.*

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0107; Notice 2]

Notice of Denial of Petition for Decision That Nonconforming Model Year 2014-2018 Chevrolet Cheyenne Trucks Are Eligible for Importation

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

ACTION: Denial of petition for determination of import eligibility.

SUMMARY: Diversified Vehicle Services, Inc. (DVS or Petitioner) has petitioned NHTSA for a decision that model year (MY) 2014-2018 Chevrolet Cheyenne Trucks (TKs), which were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS), are eligible for importation into the United States. In its petition, DVS claims that these vehicles are eligible for import because they are substantially similar to Chevrolet Silverado TKs originally manufactured for sale in the United States and certified by their manufacturer as complying with all applicable FMVSS, and because they are capable of being readily altered to conform to the standards. This document announces the denial of DVS's petition.

FOR FURTHER INFORMATION CONTACT: Robert Mazurowski, Office of Vehicle Safety Compliance, NHTSA (202-366-1012).

SUPPLEMENTARY INFORMATION:

I. Background

A motor vehicle that was not originally manufactured to conform to all applicable FMVSS may be eligible for import into the United States if NHTSA determines that the motor vehicle is: (1) Substantially similar to a motor vehicle originally manufactured for importation into and certified for sale in the United States, (2) of the same model year as the model of the motor

⁴ <https://www.computerworld.com/article/3182207/cw50-data-storage-goes-from-1m-to-2-cents-per-gigabyte.html>

⁵ <https://hbllok.net/blog/posts/2017/12/17/historical-cost-of-computer-memory-and-storage-4/>

⁶ DOT HS 812 929, <https://www.nhtsa.gov/document/light-vehicle-event-data-recorder-technologies>

vehicle to which it is being compared, and (3) capable of being readily altered to conform to all applicable FMVSS. See 49 U.S.C. 30141(a)(1)(A).¹ If NHTSA determines that a nonconforming vehicle is import eligible, any such nonconforming vehicle imported into the United States must be modified into conformance and certified as conforming by a registered importer before it is sold or otherwise released from the custody of the registered importer. 49 U.S.C. 30146(a)(1); 49 CFR 592.6.²

Petitions for import eligibility decisions may be submitted by either manufacturers or registered importers and must comply with the requirements set forth in 49 CFR 593.6. A petition based on the existence of a substantially similar conforming vehicle manufactured for import and certified for sale in the United States must include, among other things, “[d]ata, views and arguments demonstrating that the vehicle [which is the subject of the petition] is substantially similar to the vehicle identified by the petitioner” as a comparison vehicle. *Id.* § 593.6(a)(4). The petition also must include, with respect to each of the FMVSS applicable to the comparison vehicle, “data, views, and arguments demonstrating that the vehicle [which is the subject of the petition] either was originally manufactured to conform to such standard, or is capable of being readily modified to conform to such standard.” *Id.* § 593.6(a)(4).

As specified in 49 CFR 593.7, NHTSA publishes notice of each petition that it receives in the **Federal Register** and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides whether the vehicle is eligible for importation based on the petition, its review of any comments received, and the agency’s own analysis. NHTSA will grant a petition for import eligibility if it “determines that the petition clearly demonstrates that the vehicle model is eligible for importation” and will deny the petition if it “determines that the petition does not clearly demonstrate that the vehicle model is eligible for importation.” 49 CFR 593.7(e)–(f). NHTSA then publishes its decision and the reasons for it in the **Federal Register**. *Id.*

¹ This provision was codified at 15 U.S.C. 1397(c)(3)(A) prior to the 1994 recodification of the transportation laws.

² A registered importer is an importer that has registered with NHTSA under 49 CFR part 592 and is therefore authorized to modify and then certify imported vehicles as compliant with all applicable FMVSS.

II. Summary of Petition

DVS, a registered importer located in Indianapolis, Indiana, has petitioned NHTSA to decide whether nonconforming MY 2014–2018 Chevrolet Cheyenne TKs (the Subject Vehicles) are eligible for importation into the United States. Petitioner contends the Subject Vehicles are substantially similar to MY 2014–2018 Chevrolet Silverado TKs (the Comparison Vehicles) sold in the United States and certified by their manufacturer as conforming to all applicable FMVSS. The Chevrolet Cheyenne is a pick-up truck manufactured by General Motors (GM) for sale in Mexico. GM does not sell Cheyenne pick-up trucks in the United States.

DVS’s petition requests an import eligibility decision for five separate model years (MY 2014–2018) of the Subject Vehicles, but it does not distinguish between these different model years, does not state that it included a vehicle from each of these five model years in its analysis, and does not state that it compared each model year of the Subject Vehicles to the same model year of the Comparison vehicles.³ The petition includes no representations and states no factual basis for any representations regarding the similarity of the different model years of either the Subject Vehicles or the Comparison Vehicles.

Petitioner nonetheless asserts it compared the Subject Vehicles to the Comparison Vehicles and “believe[s]” they are substantially similar in that the Subject Vehicles comply with “the great majority of the standards” to which the Comparison Vehicles are certified. Petitioner states that it further “believe[s]” that the Subject Vehicles are capable of being readily modified to conform to all remaining standards.” Petitioner states that these beliefs are “based on information obtained during a detailed inspection of the [Subject Vehicles] for which this determination is sought” and that it “reviewed all available parts, service, and sales literature in order to thoroughly compare the two vehicles.” Petitioner provides no details regarding its “detailed inspection” and does not identify any of the “parts, service, and sales literature” it reviewed.

Specifically, Petitioner claims that, based on this comparison, it determined

³ NHTSA previously granted DVS permission to temporarily import multiple 2015 Chevrolet Cheyenne vehicles for purposes of preparing its petition. See 49 CFR 571.5(l). Nothing in DVS’s petition suggests that its analysis involves any model year of the Subject Vehicles other than these 2015 Chevrolet Cheyenne vehicles.

that the Subject Vehicles, as originally manufactured, conform to: FMVSS Nos. 102, *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect*; 103, *Windshield Defrosting and Defogging Systems*; 104, *Windshield Wiping and Washing Systems*; 106, *Brake Hoses*; FMVSS No. 108, *Lamps, Reflective Devices and Associated Equipment*; FMVSS No. 110, *Tire Selection and Rims*; 111, *Rearview Mirrors*; 113, *Hood Latch System*; 114, *Theft Protection and Rollaway Prevention*; 116, *Motor Vehicle Brake Fluids*; 118, *Power-Operated Window, Partition, and Roof Panel System*; 119, *New Pneumatic Tires*; 124, *Accelerator Control Systems*; 126, *Electronic Stability Control Systems*; 135, *Light Vehicle Brake Systems*; 138, *Tire Pressure Monitoring Systems*; 201, *Occupant Protection in Interior Impact*; 202, *Head Restraints*; 203, *Impact Protection for Driver from Steering Control*; 204, *Steering Control Rearward Displacement*; 205, *Glazing Materials*; 206, *Door Locks and Door Retention Components*; 207, *Seating Systems*; 208, *Occupant Crash Protection*; 209, *Seat Belt Assemblies*; 210, *Seat Belt Assembly Anchorages*; 212, *Windshield Mounting*; 213, *Child Restraint Systems*; 214, *Side Impact Resistance*; 216, *Roof Crush Resistance*; 219, *Windshield Zone Intrusion*; 301, *Fuel System Integrity*; and 302, *Flammability of Interior Materials*. Petitioner also states the Subject Vehicles comply with 49 CFR part 541, *Anti-Theft/Parts Marking Requirements*; and 49 CFR part 565, *VIN Requirements*.

Petitioner states that the Subject Vehicles, as built, are noncompliant with FMVSS No. 101, *Controls and Displays*, but contends that they can readily be conformed to this standard with replacing the faceplate for the instrument cluster with one that includes the word “BRAKE.” Petitioner additionally states that a reference and certification label will be added to the left front door post area to meet the requirements of 49 CFR part 567, *Certification Requirements*. Petitioner states that the Subject Vehicles have a gross vehicle weight rating “GVWR range of 6,800–7,200 lbs.,” but provides no information regarding the GVWR of the Comparison Vehicles, as required by the applicable regulations. See 49 CFR 593.6(a)(1).

III. Public Comments

A Notice of Receipt of DVS’s Petition was published in the **Federal Register** for public comment for a period of 30 days. 85 FR 81268 (Dec. 15, 2020). One public comment was submitted in response to the Notice of Receipt. GM,

the manufacturer of both the Subject Vehicles and the Comparison Vehicles, commented that;

GM does not recommend that these vehicles be granted eligibility for importation into the United States. The owners of these vehicles will find it very difficult or impossible to get safety-critical repairs in the US.

GM further explained in its comment that its dealers in the US are only authorized to service US-designated vehicles under the terms of their existing franchise agreements, and that the Vehicle Identification Number (VIN) will not be recognized by the GM Multiple Diagnostic Interface (MDI) tool used at a US GM dealership.⁴

IV. NHTSA's Analysis

A petition to determine import eligibility must include all information required under the applicable authorities and must also include data, views, and arguments demonstrating the conclusions advanced by the petition. DVS's petition fails to meet these requirements because it does not include sufficient supporting information and relies almost exclusively on unsupported conclusory allegations. The petition fails to distinguish between five different model years of the Subject Vehicles and Comparison Vehicles or even confirm that DVS compared vehicles of the same model year. See 49 U.S.C.

30141(a)(1)(A)(iii). The petition also fails to provide "the gross vehicle weight rating (GVWR) of" the Comparison Vehicles. 49 CFR 593.6(a)(1). The petition does not provide adequate "[d]ata, views and arguments demonstrating" that the Comparison Vehicles are "substantially similar" to the Subject Vehicles. *Id.* § 593.6(a)(4). The petition also fails to provide, "[w]ith respect to each Federal motor vehicle safety standard" applicable to the Comparison Vehicles, "data, views, and arguments demonstrating" that the Subject Vehicles either were "originally manufactured to conform to such standard, or [are] capable of being readily modified to conform to such standard." *Id.* § 593.6(a)(5).

As the basis for its assertion that the Subject Vehicles are compliant with the FMVSS identified above, Petitioner simply repeats the statement that the "MX-Cheyenne complies with the requirements of this standard and is identical to the U.S.-vehicle with respect to those requirements" following a reference to each of these

standards. Petitioner offers no factual or analytical support for any of these conclusory assertions. For two of the standards (FMVSS No. 138 (tire pressure monitoring systems) and FMVSS No. 208 (occupant crash protection)), Petitioner identifies various components by part number and states that the Subject Vehicles and the Comparison Vehicles employ identical components. Petitioner did not submit any parts catalogs or any other technical resource for any model year of either the Subject Vehicles or the Comparison Vehicles to verify these assertions and fails to explain why the usage of identical parts would demonstrate that the Subject Vehicles, as built, were compliant with these standards. For FMVSS No. 214 (side impact resistance), Petitioner states that it "removed the interior trim on a door of [a Subject Vehicle] and confirm[ed] that the vehicle is originally equipped with door beams to comply with the requirements of this standard." This level of examination and analysis does not demonstrate compliance for the Subject Vehicles because meeting the performance requirements of FMVSS No. 214 requires far more than the existence of door beams. See 49 CFR 571.214.

As part of its analysis of DVS's petition, NHTSA requested additional information from GM, the manufacturer of both the Subject Vehicles and the Comparison Vehicles.⁵ In response to NHTSA's question regarding the compliance of the Subject Vehicles with FMVSS requirements, GM explained that the Subject Vehicles, as built, fail to conform with the speedometer and odometer display requirements in FMVSS No. 101 (controls and displays), the tire placard requirements in FMVSS No. 110 (tires and rims), the language visibility requirements of FMVSS No. 135 (brake systems), and the passenger air bag telltale and visor warning requirements in FMVSS No. 208 (occupant crash protection). This information directly contradicts Petitioner's assertion that the Subject Vehicles, as built, were compliant with these requirements.

In regard to the Subject Vehicles, GM also explained that tire pressure monitoring systems (TPMS) are not required in Mexico, and each imported vehicle would therefore have to be checked to verify that it had an optional FMVSS No. 138 compliant TPMS installed at the time of manufacture. This information directly contradicts Petitioner's assertion that all Subject

Vehicles, as built, are equipped with a FMVSS No. 138 compliant TPMS. Finally, GM explained that there is a unique engine and manual transmission combination available for the Subject Vehicles in Mexico, and that GM has no documentation demonstrating compliance of vehicles so equipped with FMVSS No. 102 (transmission shift position sequence), FMVSS No. 114 (rollaway prevention), and FMVSS No. 124 (accelerator control). Petitioner provided no information regarding this particular engine and transmission combination, no basis for identifying its presence or absence in the Subject Vehicles, and no information regarding whether Subject Vehicles with this unique engine and transmission combination could be modified to conform with the relevant FMVSS.

V. NHTSA's Decision

Petitioner has failed to demonstrate that the Subject Vehicles are substantially similar to the Comparison Vehicles, failed to demonstrate that its comparison of the Subject Vehicles to the Comparison Vehicles involved vehicles of the same model year, and failed to demonstrate that the Subject Vehicles are either compliant with or capable of being readily altered to comply with all applicable FMVSS. The petition is therefore denied. Pursuant to 49 CFR 593.7(e), NHTSA will not consider a new petition covering the models that are the subject of this decision until at least three months from the date of this notice of denial.

(Authority: 49 U.S.C. 30118, 30120; Delegations of authority at 49 CFR 1.95 and 501.8)

Joseph Kolly,

Acting Associate Administrator for Enforcement.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0025; Notice 2]

Combi USA, Denial of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Denial of petition.

SUMMARY: Combi USA (Combi), has determined that certain Combi USA BabyRide rear-facing child restraint

⁴ A copy of the comment submitted by GM may be found at docket ID: NHTSA-2020-0107-0002.

⁵ A copy of GM's response may be found at docket ID: NHTSA-2020-0107-0003.