DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–5402]

Notice of Receipt of Petition for Decision that Nonconforming 1993–1998 BMW K1100 and K1200 Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1993–1998 BMW K1100 and K1200 motorcycles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1993–1998 BMW K1100 and K1200 motorcycles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 19, 1999.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 am to 5 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

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 Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified 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 Federal motor vehicle safety standards.

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**.

Champagne Imports of Lansdale, Pennsylvania (''Champagne'') (Registered Importer 90–009) has petitioned NHTSA to decide whether non-U.S. certified 1993–1998 BMW K1100 and K1200 motorcycles are eligible for importation into the United States. The vehicles which Champagne believes are substantially similar are 1993–1998 BMW K1100 and K1200 motorcycles that were manufactured for importation into, and sale in, the United States and certified by their manufacturer, Bayerische Motoren Werke, A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1993–1998 BMW K1100 and K1200 motorcycles to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that non-U.S. certified 1993–1998 BMW K1100 and K1200 motorcycles, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1993–1998 BMW K1100 and K1200 motorcycles are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 106 *Brake Hoses*, 111 *Rearview Mirrors*, 116 *Brake Fluid*, 119 *New Pneumatic Tires for Vehicles other than Passenger Cars*, and 122 *Motorcycle Brake Systems*.

Petitioner additionally contends that the vehicles are capable of being readily altered to meet the following standard, in the manner indicated:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) Installation of U.S.-model head lamp assemblies; (b) installation of U.S.-model reflectors on vehicles that are not already so equipped.

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

Standard No. 123 *Motorcycle Controls and Displays*: Installation of a U.S.-model speedometer calibrated in miles per hour.

The petitioner also states that a vehicle identification number plate will be affixed to the vehicle to meet the requirements of 49 CFR part 565.

Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 13, 1999.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 99–9707 Filed 4–16–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–5403]

Notice of Receipt of Petition for Decision that Nonconforming 1998 and 1999 Lexus RX300 Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1998 and 1999 Lexus RX300 multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1998 and 1999 Lexus RX300 MPVs that were not originally

manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 19, 1999.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

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 Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified 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 Federal motor vehicle safety standards.

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**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (''Champagne'') (Registered Importer 90–009) has petitioned NHTSA to decide whether 1998 and 1999 Lexus RX300 MPVs that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States. The vehicles which Champagne believes are substantially similar are 1998 and 1999 Lexus RX300 MPVs that were manufactured for sale in the United States and certified by their manufacturer, Toyota Motor Corporation, as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1998 and 1999 Lexus RX300 MPVs to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S. certified 1998 and 1999 Lexus RX300 MPVs, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1998 and 1999 Lexus RX300 MPVs are identical to their U.S. certified counterparts with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence* * * *, 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 119 *New Pneumatic Tires for Vehicles other than Passenger Cars,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked ''Brake'' for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the appropriate symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies that incorporate headlamps with DOT markings; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies; (d) installation of a center high mounted stop lamp on vehicles that are not already so equipped.

Standard No. 111 *Rearview Mirror:* Replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 118 *Power Window Systems:* Rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

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

Standard No. 206 *Door Locks and Door Retention Components:* Replacement of the rear door locks and rear door locking buttons.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer; (c) replacement of the driver's and passenger's side air bags and knee bolsters with U.S.-model components on vehicles that are not already so equipped. The petitioner states that the vehicles are equipped with combination lap and shoulder restraints that adjust by means of an automatic retractor and release by means of a single push button at both front designated seating positions, with combination lap and shoulder restraints that release by means of a single push button at both rear outboard designated seating positions, and with a lap belt in the rear center designated seating position.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicles to meet the requirements of 49 CFR part 565.

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

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the

docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 13, 1999.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 99–9708 Filed 4–16–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–5116; Notice 2]

Johnston Sweeper Co.; Grant of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 105

For the reasons explained in this notice, we are granting the application by Johnston Sweeper Company of Chino, California (''JSC''), for an exemption until March 1, 2002, from requirements of Motor Vehicle Safety Standard No. 105, *Hydraulic and Electric Brake Systems,* that became effective March 1, 1999. JSC applied for an exemption on the basis that ''compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.'' 49 CFR 555.6(a).

We published notice of receipt of the application on February 24, 1999 (64 FR 9215).

The discussion that follows is based on information contained in JSC's application.

Why JSC Needs a Temporary Exemption

On and after March 1, 1999, S5.5 of Standard No. 105 requires any motor vehicle with a GVWR greater than 10,000 pounds, except for a vehicle that has a speed attainable in 2 miles of 30 mph or less, to be equipped with an antilock brake system (''ABS''), as specified in S5.5.1 of the standard. JSC manufactures street sweepers. One of these, the Model M4000, is a ''truck'' as defined by our regulations. The M4000 is hydrostatically driven, and has two braking systems: Hydrostatic braking and hydraulically-braked front and rear axles. Both axles are specifically manufactured for JSC by proprietary axle manufacturers who produce customized versions of existing conventional vehicle axles, in order to make them economically viable. As far as JCS can ascertain, it is unique in producing a hydrostatically-driven vehicle that can achieve highway speeds of up to 60 mph. A supplier had promised axles by August 1998 that would be compatible with ABS control systems leading JSC to expect that it could conform with the new requirements of Standard No. 105 effective March 1, 1999. However, for the reasons discussed below, the supplier is unable to fulfill its commitment to JCS in a timely manner.

Why Compliance Would Cause JSC Substantial Economic Hardship

JSC produced 303 sweepers in 1998. Its net losses over the past three fiscal years have averaged $1,690,815 annually. It estimates that ''the loss of sales by not being granted an exemption would result in 20% less turnover.'' JSC stated that it employs 170 persons and contributes more than $30,000,000 to the American economy, and, if its application is denied, this would have a measurable effect on its employment force and the company's economic contributions.

JCS stated that it believes it will need 18 to 24 months to complete compliance work after receipt of prototype axles, in order to assure the reliability and endurance of its vehicles when the system is put into production.

How JSC Has Tried To Comply With the Standard in Good Faith

During 1997, JSC concluded a long search to find a manufacturer prepared to design and manufacture economically-viable front and rear axle and brake assemblies compatible with ABS control systems. Its supplier promised to provide axles by August 1998. According to JSC, ''the supplier subsequently acquired another axle manufacturer and instigated a rationalization review of the resulting combined product ranges.'' As a result, the supplier has decided not to produce the original axle design. JCS does not expect suitable prototypes to be available until mid to late 1999. The company has approached other axle manufacturers but has not yet located a better alternative. After it receives prototype axles, significant testing will be required to integrate the ABS with hydrostatic braking and to ensure the reliability and durability of the axles and braking system.

Why Exempting JSC Would Be Consistent With the Public Interest and Objectives of Motor Vehicle Safety

JCS said that it is a leading provider of road sweepers to municipalities, airports, and the like, which benefits the public by helping to reduce health hazards (''air borne, on the ground and in run-off water''). The company believes that the fact that its sweepers are reliable, durable, and cost effective is also in the public interest.

The sweepers operate at average speeds of from 2 to 8 mph for approximately 80 to 90 percent of the time, ''well below the limit requiring ABS brakes.'' JSC stated that its sweepers ''have inherently safe braking (hydrostatic) since the retardation force applied is proportional to the tractive effort being applied, at the time.''

Our Findings and Agreement With Johnston's Arguments

Well in advance of the effective date of the new requirements, Johnston found a supplier who would provide front and rear axle and brake assemblies compatible with ABS control systems. However, the supplier has decided not to produce the axle design agreed upon, and will not be able to provide an alternative axle until mid-1999. This last-minute change has prevented Johnston from complying with Standard No. 105 on March 1, 1999. The company has registered net losses in each of its past three fiscal years, and if it does not receive a temporary exemption, these losses can be expected to deepen.

Denial of its application would ''have a measurable effect on its employment force'' which numbers 170 persons, as well as reducing the number of sweepers available for the sanitary needs of municipalities. Although the sweepers are capable of highway speeds of up to 60 miles per hour, they are intended for use on city streets which are zoned for much lower speeds. The operating speeds average 2 to 8 miles per hour while the streets are being swept, below the level of effectiveness of ABS systems.

On the basis of the foregoing, we hereby find that a temporary exemption would be in the public interest and consistent with the objectives of traffic safety. We further find that compliance at this time would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

The Temporary Exemption

Accordingly, Johnston Sweeper Company is hereby granted NHTSA Temporary Exemption No. 99–4 from