



U.S. Department of Transportation
**National Highway Traffic Safety
Administration**



April 15, 2022

VIA EMAIL & REGISTERED MAIL

Mr. Thomas Hattey
President
Metro Auto Importer, LLC
1180 South Gratiot Ave.
Clinton Township, MI 48036
th6591@aol.com

NEF-230

**Re: Metro Auto Importer, LLC
Registered Importer No. R-95-91
NHTSA File No. IC 2021-040**

**Notice of Automatic Suspension of the Registered Importer Registration of
Metro Auto Importer, LLC for 270 Days**

Dear Mr. Hattey:

We are writing to provide Metro Auto Importer, LLC (Metro Auto Importer) with written notice that the National Highway Traffic Safety Administration (NHTSA or the agency) has determined that Metro Auto Importer knowingly submitted false and misleading certifications of conformance regarding nonconforming vehicles it imported from Canada. The agency has further determined that, as an appropriate consequence for these false and misleading certifications of conformance, Metro Auto Importer's registered importer (RI) registration should be automatically suspended. *See* 49 U.S.C. § 30141(c)(4)(B); 49 C.F.R. § 592.7(a)(2). **As of the date of this notice, the RI registration of Metro Auto Importer is automatically suspended for a period of 270 days, unless NHTSA subsequently decides it is appropriate to reinstate the registration at an earlier date.** *See* 49 C.F.R. § 592.7(c)(2).

As set forth more fully below with references to supporting evidence, NHTSA has determined that Metro Auto Importer submitted false and misleading certifications of conformance to NHTSA regarding twelve (12) separate vehicles. Each of these vehicles was imported under a sworn declaration from Metro Auto Importer (or its agent) acknowledging that the vehicle did not comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS). On the same day it signed the sworn declaration for each vehicle, Metro Auto Importer also signed a certification of conformance that was submitted to NHTSA. In each of these certifications, Metro Auto Importer stated that it had taken possession of the vehicle, modified the vehicle into conformance at one of its facilities in the United States, and placed a certification label on the vehicle confirming its conformance with all applicable FMVSS. In each of these certifications, a principal of Metro Auto Importers further stated that he had personally witnessed the modifications that had been made to the vehicle to conform it with all applicable FMVSS. Each of these certifications was necessarily false and misleading because it was made and signed

before the vehicle was even admitted into the United States, because it misrepresented the actual date the vehicle entered the United States, and because the certification indicated that no conformance modifications were actually made to the vehicle.

Metro Auto Importer is entitled to seek reconsideration of this decision by presenting data, views, and arguments in writing and/or in person (via teleconference or videoconference), within 30 days from the date of this notice. 49 C.F.R. § 592.7(b)(7). Any such written presentation must be submitted by Metro Auto Importer and any such meeting must take place no later than **May 16, 2022**. Instructions for requesting an in person (via teleconference or videoconference) meeting are set forth below.

If Metro Auto Importer requests reconsideration of this decision, NHTSA will notify Metro Auto Importer of its decision no later than 30 days after Metro Auto Importer submits any data, views, and arguments in support of its request for reconsideration. *Id.* If Metro Auto Importer does not request reconsideration or does not present any data, views, or arguments in support of any such request, the automatic suspension will remain in effect for the full 270 days.

Effect of Metro Auto Importer's Automatic Suspension

Metro Auto Importer's RI registration is automatically suspended as of the date of this notice. During the term of this automatic suspension, Metro Auto Importer is not considered a RI, does "not have the rights and authorities" of a RI, and "must cease importing, and will not be allowed to import, vehicles for resale." 49 C.F.R. § 592.7(d)(1). As required by the regulations, NHTSA will notify U.S. Customs and Border Protection (CBP) of this automatic suspension not later than the first business day after the date of this notice. *Id.*

Within thirty (30) days of the date of this notice and with respect to each imported, nonconforming vehicle currently in its possession, Metro Auto Importer must either 1) conform the vehicle, affix to it a certification label, and submit a certification of conformance to NHTSA (all within 120 days of the vehicle's entry into the United States) or 2) export the vehicle. 49 C.F.R. § 592.7(d)(2)-(3). Separately, with respect to any vehicle imported pursuant to 49 C.F.R. § 591.5(f)(2)(ii) that Metro Auto Importer has agreed to bring into compliance with all applicable standards and for which it has not furnished a certification of conformance to NHTSA, Metro Auto Importer must immediately notify the owner of the vehicle in writing that its registration has been suspended. *Id.* § 592.7(d)(4).

Metro Auto Importer remains obligated under 49 C.F.R. § 592.6(i) to notify owners and to remedy noncompliances or safety related defects for each vehicle for which it has furnished a certification of conformance to NHTSA. *Id.* § 592.7(e).

The RI registration of Metro Auto Importer will remain suspended until January 11, 2023, 270 days from the date of this Notice of Automatic Suspension or on such earlier date as NHTSA may subsequently determine is appropriate. *Id.* § 592.7(c)(5). As a pre-condition of its reinstatement, Metro Auto Importer will be required to pay any outstanding annual fees, submit any outstanding annual statements, and otherwise comply with the requirements applicable to RIs. *See* 49 C.F.R. Part 592.

NHTSA's Investigation of Metro Auto Importer

NHTSA has reviewed documents submitted by Metro Auto Importer to NHTSA and U.S. Customs and Border Protection (CBP). Based on this review, NHTSA has determined that Metro Auto Importer knowingly submitted false and misleading certifications (as described below) to NHTSA and that an automatic suspension of the RI registration of Metro Auto Importer for 270 days is an appropriate sanction under the circumstances. As explained below, NHTSA's determination of an appropriate suspension is based on the number and nature of the violations, considered in the context of other RI suspensions imposed by the agency.

The Registered Importer Program

Under the National Traffic and Motor Vehicle Safety Act, as amended (Safety Act), 49 U.S.C. Chapter 301, vehicles that the fabricating manufacturers have not certified as complying with all applicable FMVSS may not be imported into the United States. There are limited exceptions to this prohibition. One of these exceptions is that a nonconforming vehicle may be imported under the registered importer (RI) program. Under this program, a vehicle may be imported if the agency has determined that the particular make, model, and model year of the vehicle is capable of being modified to comply with all applicable FMVSS. This is referred to as import eligibility. *See* 49 U.S.C. § 30141(a); 49 C.F.R. §§ 591.5(f), 593.8(a).

The importer of a motor vehicle must make specific declarations regarding the status of the vehicle that allow CBP to determine whether a vehicle is eligible for import. If the vehicle conforms with and is properly certified as conforming with all applicable FMVSS, the importer must declare that the vehicle conforms and is properly certified as conforming. 49 C.F.R. § 591.5(b). This declaration is made on the DOT HS-7 form by checking Box 2A, and the entry of the vehicle under this declaration is commonly referred to as a Box 2A entry.¹ If the vehicle is nonconforming and being imported through the RI program because NHTSA has determined that the vehicle is capable of being conformed, the importer must so declare and further declare that it is a RI or that it has a contract with a RI to conform the vehicle and that it has posted a bond to ensure conformity. 49 C.F.R. § 591.5(f). This declaration is made on the DOT HS-7 form by checking Box 3, and the entry of the vehicle is commonly referred to as a Box 3 entry.

If an import-eligible vehicle enters the United States through the RI program (under Box 3 on the DOT HS-7), the RI must furnish a DOT conformance bond for the vehicle. *See* 49 U.S.C. § 30141(d); 49 C.F.R. §§ 591.5(f)(1), 591.6(c), 591.8, 592.6(a). The RI must also, after the vehicle enters the United States, modify the nonconforming vehicle to comply with all applicable FMVSS. *See* 49 U.S.C. § 30146(a); 49 C.F.R. § 592.6(c). Conformance modifications may only be performed by a RI and must be performed at one of the RI's facilities approved for this purpose, and a RI is not permitted to delegate, contract with others, or have non-employee agents perform conformance modifications. *See* 49 U.S.C. § 30146(a); 49 C.F.R. § 592.6(c), (d)(1). Consistent with this requirement, all applicants to become a RI are required to demonstrate their

¹ The DOT HS-7 form is available at https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/hs7_rv9-tag.pdf.

own technical competence to perform these modifications and obtain any licenses necessary under State or local law. *See* 49 U.S.C. § 30141(c)(1)(C); 49 C.F.R. § 592.5(a)(5)(iii) & (a)(9)(i).

Following completion of all conformance modifications and recall repairs, the RI must permanently attach to the vehicle a certification label that identifies the RI, certifies that the vehicle complies with all applicable FMVSS, and otherwise complies with 49 C.F.R. § 567.4. *See* 49 U.S.C. § 30146(a)(3); 49 C.F.R. § 592.6(c). The RI must also submit, within 120 days after importing the vehicle, a certification to the agency that includes, among other things, affirmative statements that the vehicle has been modified to comply with all applicable FMVSS and that the vehicle is not subject to any safety recalls or that all noncompliances or defects that are the subject of safety recalls have been remedied. *See* 49 C.F.R. § 592.6(d)(1), (5). The regulations set forth specific requirements for the certification, which are described in more detail below.

This summary of the RI program is not intended to provide a complete statement of the statutes and regulations applicable to a RI or the legal requirements of the RI program.

A Registered Importer's Knowledge of Its Regulatory Duties

To ensure that a RI knows its legal duties and the importance of compliance with those duties, each applicant to be a RI must certify as follows:

I certify that I have read and understood the duties of a Registered Importer, as set forth in 49 CFR 592.6, and that [name of applicant] will comply with each such duty.

49 C.F.R. § 592.5(a)(11). To maintain its registration, a RI must file an annual statement that includes the following certification of continued compliance:

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 RI] continues to comply with the requirements for being a Registered Importer.

49 C.F.R. § 592.5(f)(2)(i).

Consistent with these requirements, Metro Auto Importer has annually certified that it knows and understands the duties of a RI.

Registered Importer Suspensions and Revocations

The regulations also specify the basis and process for suspensions or revocation of the registration of a RI. *See* 49 U.S.C. § 30141(c)(4); 49 C.F.R. § 592.7. NHTSA may impose an “automatic suspension” under the circumstances and process set forth in 49 C.F.R. § 592.7(a) and a “non-automatic suspension or revocation” under the circumstances and process set forth in 49 C.F.R. § 592.7(b).

NHTSA is authorized to automatically suspend the registration of a RI if, among other things, it decides that the RI “has knowingly filed a false or misleading certification.” 49 C.F.R. § 592.7(a)(2). If the agency makes such a decision, it must “promptly notify the RI in writing that its registration is automatically suspended” and inform the RI “of the facts and conduct upon which the decision is based, and the period of suspension.” *Id.* The suspension “begins as of the date indicated in [NHTSA’s] written notification.” *Id.* The written notification must provide the RI with “an opportunity to seek reconsideration of the decision by presenting data, views, and arguments in writing and/or in person, within 30 days.” *Id.*

If the RI seeks reconsideration, NHTSA must then notify the RI in writing of its decision on the RI’s request for reconsideration not later than 30 days after the RI submits data, views, and arguments in support of the request.” *Id.* When a registration has been automatically suspended based on NHTSA’s finding that the RI knowingly filed a false or misleading certification, the RI’s “registration will be reinstated after the expiration of the period of suspension specified by the [agency], or such earlier date as the [agency] may subsequently decide is appropriate.” *Id.* § 592.7(c)(2).

Metro Auto Importer’s Opportunity to Seek Reconsideration

The agency is automatically suspending the registration of Metro Auto Importer for two hundred and seventy (270) days. NHTSA believes that this automatic suspension is an appropriate sanction based on the facts, circumstances, conduct, and violations set forth in this notice. If Metro Auto Importer seeks reconsideration of this decision, it should respond in writing and/or in person (via teleconference or videoconference) within 30 days, **by May 16, 2022**, and present any data, views, and arguments in support of its request for reconsideration.

If Metro Auto Importer requests a meeting with NHTSA to present data, views, and arguments in person (via teleconference or videoconference), it should contact Jeff Eyres in NHTSA’s Office of Chief Counsel at 202.913.4307 or jeffrey.eyres@dot.gov to propose dates and times for such a meeting. Any such teleconference or videoconference meeting will take place with representatives of NHTSA’s Office of Enforcement and Office of Chief Counsel. The purpose of any in-person meeting requested by Metro Auto Importer is for Metro Auto Importer to present data, views, and arguments in support of its request for reconsideration. *See* 49 C.F.R. § 592.7(a)(2). It is not a formal adjudication hearing or proceeding subject to 5 U.S.C. §§ 556-557 and does not otherwise confer rights on Metro Auto Importer to question NHTSA employees or compel the attendance of witnesses or the production of documents.

Following receipt and review of any data, views, and arguments timely submitted in writing or in person (via teleconference or videoconference), NHTSA will decide, based on the available information, whether the automatic suspension will remain in place or be modified or whether Metro Auto Importer’s RI registration will be reinstated. *See* 49 C.F.R. § 592.7(a)(2), (c)(2). NHTSA will inform Metro Auto Importer of its decision in writing. *Id.* Judicial review of a final agency action is available in a United States District Court. *See* 5 U.S.C. § 704.

Additional Information

This action is the automatic suspension of the registration of Metro Auto Importer. A RI that violates the statutes and regulations applicable to the RI program may also be subject to additional civil or criminal legal action, as appropriate. *See, e.g.*, 49 U.S.C. §§ 30163, 30165, 30170. A RI that violates the regulations applicable to the RI program may separately be subject to a proposed revocation or additional suspension of its RI registration. *See* 49 C.F.R. § 592.7(b)(2). A RI that violates the regulations applicable to the RI program may also be required to forfeit the conformance bond it furnished at the time it imported a nonconforming vehicle. *See* 49 C.F.R. §§ 591.8(e); 592.9.

NHTSA's statement regarding regulatory enforcement fairness for small businesses and its policy against retaliation for expressing concern about enforcement action is available on its website. *See* <https://www.nhtsa.gov/laws-regulations/rights-small-entities-enforcement-fairness-and-policy-against-retaliation>.

Metro Auto Importer's Knowing Submission of False and Misleading Certifications

NHTSA has determined that Metro Auto Importer knowingly submitted twelve (12) false and misleading certifications of conformance to NHTSA in violation of 49 U.S.C. § 30146(a)(1) and 49 C.F.R. § 592.6(d). Each of these certifications were knowingly false and misleading in that each of them stated that, as of the date the certification was made, Metro Auto Importer had taken possession of the vehicle, modified the vehicle into conformance at an approved facility in the United States, and placed a certification label on the vehicle confirming its conformance with all applicable FMVSS. In fact, as of the date each of these certifications was made, the vehicle that was the subject of the certification had not yet been admitted into the United States. Each of these certifications was also knowingly false and misleading in that, although the owner of Metro Auto Importer certified that he "personally witnessed" each of the modifications made to bring each of the vehicles into conformance, the certification also states that no conformance modifications were made to the vehicle.

A RI may not release an imported, nonconforming vehicle unless it first submits to NHTSA a certification of conformance for that vehicle, in the manner prescribed by NHTSA. 49 U.S.C. § 30146(a)(1). NHTSA's regulations include specific requirements for both the process and the substance of the RI's certification of conformance. *See* 49 C.F.R. § 592.6.

The regulations provide that, prior to submitting a certification of conformance, a RI must:

[t]ake possession of the vehicle and perform all modifications necessary to conform the vehicle to all Federal motor vehicle safety and bumper standards that apply to the vehicle at a facility that it has identified to [NHTSA]."

Id. § 592.6(c). Each of the facilities a RI identifies to NHTSA for the conformance, repair, and storage of vehicles must be in the United States. *See id.* § 592.5(a)(5)(i). The RI must also, at one of these facilities:

permanently affix to the vehicle at that facility, upon completion of conformance modifications and remedy of all noncompliances and defects that are the subject of any pending safety recalls, a label that identifies the [RI] and states that the [RI] certifies that the vehicle complies with all Federal motor vehicle safety and bumper standards that apply to the vehicle.

Id. The RI must therefore, after the vehicle is imported into the United States, take possession of the vehicle, perform all necessary conformance modifications, and affix the required certification label at an approved facility in the United States.

NHTSA regulations also include specific requirements for the certification of conformance. *See* 49 C.F.R. § 592.6(d). The requirements include:

- 1) Per 49 C.F.R. § 592.6(d)(1), the certification must be submitted to NHTSA within “120 days” after the entry of the vehicle into the United States and demonstrate that the RI “has brought the motor vehicle into conformity with all applicable Federal motor vehicle safety and bumper standards in effect at the time the vehicle was manufactured by the fabricating manufacturer”;
- 2) Per 49 C.F.R. § 592.6(d)(1), the certification must also include “verbatim” one of the following two alternative statements confirming the basis for certification:
 - “I know that the vehicle that I am certifying conforms with all applicable Federal motor vehicle safety and bumper standards because I personally witnessed each modification performed on the vehicle to effect compliance”; or
 - “I know that the vehicle I am certifying conforms with all applicable Federal motor vehicle safety and bumper standards because the person who performed the necessary modifications to the vehicle is an employee of [RI name] and has provided full documentation of the work that I have reviewed, and I am satisfied that the vehicle as modified complies”;
- 3) Per 49 C.F.R. § 592.6(d)(3), the “certification must be signed and submitted by a principal of the Registered Importer designated in its registration application . . . with an original hand-written signature and not with a signature that is stamped or mechanically applied”;
- 4) Per 49 C.F.R. § 592.6(d)(4), the “certification . . . must specify the location of the facility where the vehicle was conformed, and the location where [NHTSA] may inspect the motor vehicle”;
- 5) Per 49 C.F.R. § 592.6(d)(5), the “certification . . . must state and contain substantiation either that the vehicle is not subject to any safety recalls as of the time of such certification, or, alternatively, that all noncompliances and defects that are the subject of those safety recalls have been remedied”;

- 6) Per 49 C.F.R. § 592.6(d)(6)-(7), the “certification must include” a) the “make, model, model year and date of manufacture, odometer reading, VIN . . . and Customs Entry Number” for the vehicle; b) a copy of the conformance bond given at the time of entry for the vehicle; c) the vehicle's import eligibility number; d) a copy of the HS-7 Declaration form for the vehicle (unless a broker made an electronic entry); e) unaltered front, side, and rear photographs of the vehicle; f) unaltered photographs of the original manufacturer's certification label and the certification label of the RI affixed to the vehicle; and g) the policy number of the service insurance policy furnished with the vehicle and the full corporate or other business name of the insurer that issued the policy;
- 7) Per 49 C.F.R. § 592.6(d)(6)-(7), when a RI certifies a make, model, and model year of a motor vehicle for the first time, its certification also “must include” a statement that the submission is the RI’s “initial certification submission for the make, model, and model year of the vehicle” and a “description, with respect to each standard for which modifications were needed, of the modifications performed”; and
- 8) Per 49 C.F.R. § 592.6(d)(6)-(7), for a RI’s second and subsequent certification submissions for a given make, model, and model year vehicle, if the RI conformed the vehicle in the same manner as it stated in its initial certification, it may say so in a subsequent submission and need not provide the description with respect to each standard for which modifications were needed, of the modifications performed.

RIs submit certifications of conformance to NHTSA on a NHTSA statement of conformity form.² The form includes entries for required certification information such as vehicle make, model, model year, VIN, odometer reading, the customs entry number, the vehicle eligibility code, the location where the vehicle was conformed, and the location where the vehicle is available for inspection.

The NHTSA certification form also includes a list of FMVSS the RI uses to identify the safety standards to which the vehicle was conformed. With respect to each FMVSS, the RI darkens an oval under a column to provide an “O,” an “M,” or an “N” response. As the form explains, by filling in the “O” oval and response on a particular FMVSS, a RI is representing to NHTSA as part of its certification that the vehicle conformed with this FMVSS as originally manufactured; by filling in the “M” oval and response, a RI is representing to NHTSA as part of its certification that the vehicle was modified to conform with the FMVSS after it was originally manufactured; and by filling in the “N” oval and response, a RI is representing to NHTSA as part of its certification that this particular FMVSS is not applicable to this vehicle. In addition to the FMVSS, the form also requires a similar designation regarding the vehicle’s compliance with Part 567 requirements regarding a certification label. *See* 49 C.F.R. Part 567.

After completing this form with the required information and attaching the required supporting documentation, the RI marks one of two statements regarding the factual basis for the

² A blank copy of the form is included as Exhibit AU.

certification (set forth verbatim from 49 C.F.R. § 592.6(d)(1)), marks one of two statements regarding the absence or completion of any open recalls (as required by 49 C.F.R. § 592.6(d)(5)), and then a previously designated principal of the RI signs and dates the certification with an original signature. A determination that a RI has knowingly submitted a false or misleading certification and is subject to an automatic suspension under 49 C.F.R. § 592.7(a)(2) is therefore based on the agency's review of all the information included in the RI's certification.

Based on information obtained by the agency through its investigation, NHTSA has good cause to conclude that Metro Auto Importer has knowingly violated these legal requirements and submitted false and misleading certifications with respect to the following twelve (12) vehicles:

With respect to each of the twelve vehicles at issue, Metro Auto Importer:

- 1) Signed and submitted a sworn declaration (the HS-7 form) to the Federal government prior to importing the vehicle stating that the vehicle did not comply with all applicable FMVSS and then submitted this declaration to NHTSA as part of its certification of conformance for the vehicle;
- 2) Signed, on the same day as it signed the sworn declaration on the HS-7 (and before the vehicle was even released for entry into the United States), a false or misleading certification of conformance that was submitted to NHTSA stating that the principal signing the certification knew the vehicle conformed to all applicable FMVSS because the principle had personally witnessed each such modification; and
- 3) As part of the certification it submitted to NHTSA: a) falsely stated the date the vehicle entered the United States, b) represented that, as of the date of the certification, no modifications had been made to the vehicle to conform it to any applicable FMVSS, and c) represented that, as of the date of the certification, a certification label had been affixed to the vehicle.

Metro Auto Importer certifies on an annual basis that it is familiar with and complies with regulations applicable to RIs. *See* 49 C.F.R. § 592.5(f)(2)(i). Metro Auto Importer knew, therefore, that it was required to take possession of each of the vehicles, perform all necessary conformance modifications, and affix a certification label at one of its designated facilities in the United States prior to making and submitting an accurate and truthful certification of conformance. *Id.* § 592.6(c)-(d).

For each of these twelve vehicles, Metro Auto Importer submitted a DOT HS-7 Form to CBP that included a "Box 3" sworn declaration, made under 49 C.F.R. § 591.5(f), stating that "[t]he vehicle does not conform to all applicable" FMVSS. The "Entry and PGA [Partner Government Agency] data" maintained by CBP for each of these vehicles confirms the "Box 3" declaration made by Metro Auto Importer stating that the vehicle does not conform with all applicable FMVSS and also documents the date on which CBP first released the vehicle for entry into the United States.

The certification of conformance Metro Auto Importer submitted to NHTSA for each of these vehicles includes an affirmative representation that, as of the date of the certification, the vehicle had been fully conformed to all applicable FMVSS at an approved facility in the United States. Specifically, Thomas Hattey, the Metro Auto Importer principal who signed the certifications for each of these vehicles, certified that:

I know that the vehicle I am certifying conforms with all applicable Federal motor vehicle safety and bumper standards because I personally witnessed each modification performed on the vehicle to effect compliance.

Mr. Hattey signed and dated each of these certifications on a date prior to the date on which the vehicle was first permitted entry into the United States by CBP. Mr. Hattey signed and dated the certification for each vehicle on the same day as he signed and dated the HS-7 Form for each of vehicle. These certifications were necessarily knowingly false. Mr. Hattey could not have witnessed modifications or certified conformance to all applicable FMVSS before these nonconforming vehicles were even permitted entry into the United States. Mr. Hattey signed both the HS-7 Form submitted to CBP and the certification of conformance submitted to NHTSA. The agency therefore concludes that these false and misleading statements were knowingly made in the certifications submitted to NHTSA.

As part of its certification of conformance to NHTSA for each of these vehicles, Metro Auto Importer also misrepresented the actual date of entry of the vehicle into the United States by stating an earlier (false) date, thereby obscuring the fact that each of these certifications were made prior to the date the vehicle was actually released for entry into the United States. Metro Auto Importer, as the importer of record for each of these vehicles, knew when the vehicle entered the United States and when Metro Auto Importer took possession of the vehicle. The agency therefore concludes that these false and misleading statements were knowingly made in the certifications submitted to NHTSA.

On the certification of conformance it submitted to NHTSA for each of these vehicles, Metro Auto Importer represented that the vehicle either conformed to the FMVSS at the time of its original manufacture (by filling in the “O” oval) or that the FMVSS was inapplicable to the vehicle (by filling in the “N” oval). Metro Auto Importer did not represent, with respect to any FMVSS, that the vehicle had been modified into compliance with that FMVSS (by filling in the “M” oval). This representation – that no conformance modifications were made to the vehicle – cannot be reconciled with Metro Auto Importer’s sworn declaration on the HS-7 Form that the vehicle was not compliant with all applicable FMVSS and Mr. Hattey’s certification (on behalf of Metro Auto Importer) that he knew the vehicle was fully compliant because he personally witnessed each modification made to effect compliance. Because Mr. Hattey signed the certification based on his alleged personal witnessing of these modifications, the agency concludes that these false and misleading statements were knowingly made in certifications submitted to NHTSA.

On the certification of conformance it submitted to NHTSA for each of these vehicles, Metro Auto Importer represented (by filling in the “M” oval) that, as of the date of the certification, it had affixed a certification label on the vehicle, thereby complying the vehicle to Part 567. Metro Auto Importer made this representation with respect to each of the vehicles before the vehicle

was permitted entry into the United States. A RI is required to affix a certification label in the United States after it modifies the vehicle into conformance. *See* 49 C.F.R. § 592.6(c). The agency therefore concludes that Metro Auto Importer knowingly made these false and misleading statements in certifications submitted to NHTSA.

The evidence supporting NHTSA's determination with respect to each of these twelve vehicles is set forth below. On the certification of conformance it submitted for each of these vehicles, Metro Auto Importer stated that the certification was its "initial certification for this make, model, and model year." Metro Auto Importer was therefore required to provide a "description, with respect to each standard for which modifications were needed, of the modifications performed" for each of these vehicles. 49 C.F.R. § 592.6(d)(6). As explained above, however, the certifications Metro Auto Importer submitted for these vehicles reflected that no conformance modifications were made to any of these vehicles.

Vehicle AI – 2019 Ford Expedition, VIN 1FMJK2AT9KEA66535

Date CBP released vehicle for entry into United States: **January 16, 2021**
Date of signature on Metro Auto Importer's DOT HS-7 import form: **January 15, 2021**
Date of entry represented by Metro Auto Importer in its certification: **January 15, 2021**
Date of Metro Auto Importer's Certification of Conformance: **January 15, 2021**

Documents relating to Vehicle AI, including those referenced above in the description of this violation, are included in Exhibit AI.

Vehicle AJ – 2018 Ford F-250 SD, VIN 1FT7W2B67JEC15261

Date CBP released vehicle for entry into United States: **January 7, 2021**
Date of signature on Metro Auto Importer's DOT HS-7 import form: **January 6, 2021**
Date of entry represented by Metro Auto Importer in its certification: **January 6, 2021**
Date of Metro Auto Importer's Certification of Conformance: **January 6, 2021**

Documents relating to Vehicle AJ, including those referenced above in the description of this violation, are included in Exhibit AJ.

Vehicle AK – 2019 Ford F-250 SD, VIN 1FT7W2BT6KEG60517

Date CBP released vehicle for entry into United States: **January 7, 2021**
Date of signature on Metro Auto Importer's DOT HS-7 import form: **January 6, 2021**
Date of entry represented by Metro Auto Importer in its certification: **January 6, 2021**
Date of Metro Auto Importer's Certification of Conformance: **January 6, 2021**

Documents relating to Vehicle AK, including those referenced above in the description of this violation, are included in Exhibit AK.

Vehicle AL – 2017 Ford F-150, VIN 1FTFW1EG2HFC47307

Date CBP released vehicle for entry into United States: **January 16, 2021**
Date of signature on Metro Auto Importer's DOT HS-7 import form: **January 15, 2021**
Date of entry represented by Metro Auto Importer in its certification: **January 15, 2021**
Date of Metro Auto Importer's Certification of Conformance: **January 15, 2021**

Documents relating to Vehicle AL, including those referenced above in the description of this violation, are included in Exhibit AL.

Vehicle AM – 2016 Chevrolet Silverado 2500, VIN 1GC1KXE80GF284582

Date CBP released vehicle for entry into United States: **January 7, 2021**
Date of signature on Metro Auto Importer's DOT HS-7 import form: **January 6, 2021**
Date of entry represented by Metro Auto Importer in its certification: **January 6, 2021**
Date of Metro Auto Importer's Certification of Conformance: **January 6, 2021**

Documents relating to Vehicle AM, including those referenced above in the description of this violation, are included in Exhibit AM.

Vehicle AN – 2018 GMC Yukon XL, VIN 1GT12REG7JF278711

Date CBP released vehicle for entry into United States: **January 16, 2021**
Date of signature on Metro Auto Importer's DOT HS-7 import form: **January 15, 2021**
Date of entry represented by Metro Auto Importer in its certification: **January 15, 2021**
Date of Metro Auto Importer's Certification of Conformance: **January 15, 2021**

Documents relating to Vehicle AN, including those referenced above in the description of this violation, are included in Exhibit AN.

Vehicle AO – 2015 GMC Sierra 1500, VIN 1GTV2TEC0FZ402108

Date CBP released vehicle for entry into United States: **January 26, 2021**
Date of signature on Metro Auto Importer's DOT HS-7 import form: **January 12, 2021**
Date of entry represented by Metro Auto Importer in its certification: **January 12, 2021**
Date of Metro Auto Importer's Certification of Conformance: **January 12, 2021**

Documents relating to Vehicle AO, including those referenced above in the description of this violation, are included in Exhibit AO.

Vehicle AP – 2018 Chevrolet Silverado 2500, VIN 1GC1KUEY3JF116442

Date CBP released vehicle for entry into United States: **February 3, 2021**
Date of signature on Metro Auto Importer's DOT HS-7 import form: **February 2, 2021**
Date of Metro Auto Importer's Certification of Conformance: **February 2, 2021**
Date of entry represented by Metro Auto Importer in its certification: **February 2, 2021**

Documents relating to Vehicle AP, including those referenced above in the description of this violation, are included in Exhibit AP.

Vehicle AQ – 2018 Ford F-150, VIN 1FTFW1EG5JFC32838

Date CBP released vehicle for entry into United States: **February 3, 2021**
Date of signature on Metro Auto Importer's DOT HS-7 import form: **February 2, 2021**
Date of entry represented by Metro Auto Importer in its certification: **February 2, 2021**
Date of Metro Auto Importer's Certification of Conformance: **February 2, 2021**

Documents relating to Vehicle AQ, including those referenced above in the description of this violation, are included in Exhibit AQ.

Vehicle AR – 2017 Ford F-350 SD, VIN 1FT8W3DT3HED28714

Date CBP released vehicle for entry into United States: **February 28, 2021**
Date of signature on Metro Auto Importer's DOT HS-7 import form: **February 27, 2021**
Date of entry represented by Metro Auto Importer in its certification: **February 27, 2021**
Date of Metro Auto Importer's Certification of Conformance: **February 27, 2021**

Documents relating to Vehicle AR, including those referenced above in the description of this violation, are included in Exhibit AR.

Vehicle AS – 2017 Dodge 1500, VIN 1C6RR7MT7HS534162

Date CBP released vehicle for entry into United States: **February 27, 2021**
Date of signature on Metro Auto Importer's DOT HS-7 import form: **February 26, 2021**
Date of entry represented by Metro Auto Importer in its certification: **February 26, 2021**
Date of Metro Auto Importer's Certification of Conformance: **February 26, 2021**

Documents relating to Vehicle AS, including those referenced above in the description of this violation, are included in Exhibit AS.

Vehicle AT – 2020 Dodge Durango, VIN 1C4SDJGJ1LC356414

Date CBP released vehicle for entry into United States: **January 31, 2021**
Date of signature on Metro Auto Importer's DOT HS-7 import form: **January 26, 2021**
Date of entry represented by Metro Auto Importer in its certification: **January 26, 2021**
Date of Metro Auto Importer's Certification of Conformance: **January 26, 2021**

Documents relating to Vehicle AT, including those referenced above in the description of this violation, are included in Exhibit AT.

Appropriate Length of Suspension

Although the regulations applicable to RIs specify the appropriate bases for a suspension, they do not specify or provide guidelines for the appropriate length of a suspension. *See* 49 C.F.R. §

592.7. This determination is left to the agency's judgment and discretion. To determine the appropriate length of a RI suspension, NHTSA considers the unique facts of each enforcement action, including the number of and the nature of the violations committed by the RI. NHTSA also considers other RI suspensions previously imposed by the agency to ensure it is utilizing a consistent approach in its determination of an appropriate suspension in these enforcement actions.

In this case, NHTSA has determined that an automatic suspension of the RI registration of Metro Auto Importer for 270 days is appropriate based upon the agency's determination that Metro Auto Importer knowingly submitted false and misleading certifications for twelve (12) separate vehicles. The violations committed by Metro Auto Importer were serious, intentional, and systemic. NHTSA previously has explained that:

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.³

Metro Auto Importer betrayed the public trust of its RI registration and jeopardized public safety by repeatedly and knowingly submitting false and misleading certifications of conformity that misrepresented the actual date of entry for the vehicles and that were signed and dated before the nonconforming vehicles had even entered the United States. Each of these certifications, which reflected that no conformance modifications were ever actually made to the vehicle, was signed by a principal of Metro Auto Importer with the false representation that he knew the vehicle complied with all applicable FMVSS because he had "personally witnessed each modification." A significant suspension is therefore appropriate.

NHTSA also finds that an automatic suspension of 270 days in this case, based on the knowing submission of twelve false and misleading certifications of conformance, is consistent with other RI suspensions recently imposed by the agency. *See, e.g., Notice of Suspension of VIP Traders* (Dec. 15, 2021) (340 day suspension); *Notice of Suspension of Automotive Services Company* (Dec. 15, 2021) (180 day suspension); *Notice of Suspension of Northern Imports* (Dec. 15, 2021) (75 day suspension); *Notice of Automatic Suspension of Diversified Vehicle Services* (June 30, 2021) (365 day automatic suspension).

³ *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*, 76 Fed. Reg. 2631, 2632 (Jan. 14, 2011).

For all these reasons, NHTSA has determined that the RI registration of Metro Auto Importer should be suspended for 270 days.

Confidential Business Information

All confidential business information provided in response to this Notice of Automatic Suspension must be submitted directly to the Office of Chief Counsel as described in the following paragraphs.

If you claim that any of the information you provide in any submission in response to this Notice of Automatic Suspension constitutes confidential business information (CBI), you must comply with 49 C.F.R. Part 512. This information is intended to help you comply with that regulation. A current version of the regulation is available at <http://www.ecfr.gov> by selecting Title 49 “Transportation,” selecting “Parts 500 – 599” and then selecting Part 512 “Confidential Business Information.”

You must email any confidentiality request to Jeff Eyres, Office of Chief Counsel, at jeffrey.eyres@dot.gov. To facilitate social distancing due to COVID-19, NHTSA is treating electronic submission as an acceptable method for submitting confidentiality requests to the agency under 49 C.F.R. Part 512. <https://www.nhtsa.gov/coronavirus/submission-confidential-business-information>. Do not send a duplicate hardcopy of a confidentiality request to NHTSA.

What to include with a confidentiality request:

- a. You must include a request letter that contains supporting information, pursuant to 49 C.F.R. § 512.8. *See Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356 (2019). Your request must also include a certificate, pursuant to 49 C.F.R. § 512.4(b) and 49 C.F.R. Part 512, Appendix A.
- b. You are required to submit an unredacted, “confidential version” of the submission for which you are requesting confidential treatment. Pursuant to 49 C.F.R. § 512.6, the words “ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION” or “CONFIDENTIAL BUSINESS INFORMATION” (as applicable) must appear at the top of each page containing information claimed to be confidential, and if the information for which confidential treatment is requested is contained within a page, clearly mark the specific information claimed to be confidential by enclosing it within brackets: “[].”
- c. You are also required to submit a redacted, “public version” of the submission for which you are requesting confidential treatment. Pursuant to 49 C.F.R. § 512.5(a)(2), the redacted “public version” should include redactions of any information for which you are seeking confidential treatment (i.e., the only information that should be unredacted is information for which you are not seeking confidential treatment).

Response Due Date

If Metro Auto Importer seeks reconsideration of this automatic suspension, any written submission of data, views, and arguments in support of a request for reconsideration must be provided to NHTSA **on or before May 16, 2022**. Any such written submission must be submitted to Brodie Mack, Chief of the Import and Certification Division in the NHTSA's Office of Vehicle Safety Compliance, at brodie.mack@dot.gov, with a copy to Jeff Eyres, in NHTSA's Office of Chief Counsel, unless it includes confidential business information and is submitted to the Office of Chief Counsel under the process described above. Any response by Metro Auto Importer should include a reference to NHTSA File ICD-2021-040.

If Metro Auto Importer requests the opportunity to present data, views, and arguments in support of a request for reconsideration in person (via teleconference or videoconference), it must make this request by contacting Jeff Eyres at 202.913.4307 or jeffrey.eyres@dot.gov. If Metro Auto Importer does not timely seek reconsideration of this automatic suspension or does not timely submit data, views, or arguments in support of a request for reconsideration, the automatic suspension will remain in place until January 11, 2023.

Sincerely,

Anne L. Collins
Associate Administrator for Enforcement

Enclosures: Exhibit list and listed exhibits