



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



May 20, 2022

VIA EMAIL & REGISTERED MAIL

Mr. Vincent Bisbee
President
Bisbee Importing, Inc.
101 S. Main Street
Davison, MI 48423
Johng@bisbeeimporting.com

NEF-230
ICD-2021-008

**Re: Bisbee Importing, Inc.
Registered Importer No. R-09-365
NHTSA File No. ICD-2021-008**

**Notice of Automatic Suspension of the Registered Importer Registration of
Bisbee Importing, Inc. for 270 Days**

Dear Mr. Bisbee:

We are writing to provide Bisbee Importing, Inc. (Bisbee Importing) with written notice that the National Highway Traffic Safety Administration (NHTSA or the agency) has determined that Bisbee Importing 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, Bisbee Importing'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 Bisbee Importing 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). The facts and conduct upon which this decision is based are set forth below.

As set forth more fully below with references to supporting evidence, NHTSA has determined that Bisbee Importing submitted false and misleading certifications of conformance to NHTSA regarding thirteen (13) 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). The certification submitted to NHTSA by Bisbee Importing for each of these vehicles was false and misleading because it falsely stated that applicable FMVSS were not applicable to the vehicle and falsely stated that the vehicle, as originally manufactured, conformed with inapplicable FMVSS with which it did not conform. The certifications for some of these vehicles were further false and misleading because they reflected that no conforming modifications had been performed on the vehicles, but the principal signing the certification on behalf of Bisbee Importing stated that he had personally witnessed the modifications being performed. The certifications for some of these

vehicles were further false and misleading because they falsely stated the date of entry of the vehicle into the United States. The certification for one of the vehicles was also false and misleading because it falsely stated that the vehicle was eligible for import under the RI program and identified an inapplicable import eligibility code.

Bisbee Importing 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 Bisbee Importing and any such meeting must take place no later than **June 19, 2022**. Instructions for requesting an in-person (via teleconference or videoconference) meeting are set forth below.

If Bisbee Importing requests reconsideration of this decision, NHTSA will notify Bisbee Importing of its decision no later than 30 days after Bisbee Importing submits any data, views, and arguments in support of its request for reconsideration. *Id.* If Bisbee Importing 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 Bisbee Importing's Automatic Suspension

Bisbee Importing's RI registration is automatically suspended as of the date of this notice. During the term of this automatic suspension, Bisbee Importing 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 in the United States, Bisbee Importing 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 Bisbee Importing has agreed to bring into compliance with all applicable standards and for which it has not furnished a certification of conformance to NHTSA, Bisbee Importing must immediately notify the owner of the vehicle in writing that its registration has been suspended. *Id.* § 592.7(d)(4).

Bisbee Importing 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 Bisbee Importing will remain suspended through February 14, 2023 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, Bisbee Importing 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 Bisbee Importing

NHTSA has reviewed documents submitted by Bisbee Importing to NHTSA and U.S. Customs and Border Protection (CBP). Based on this review, NHTSA has determined that Bisbee Importing knowingly submitted false and misleading certifications (as described below) to NHTSA and that an automatic suspension of the RI registration of Bisbee Importing 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 Federal Motor Vehicle Safety Standards (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

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

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 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, Bisbee Importing 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).

Requirement of “Knowingly” Submitting a False or Misleading Certification

As stated above, NHTSA is authorized to automatically suspend the registration of a RI if it “decides that a [RI] has knowingly filed a false or misleading certification.” 49 C.F.R. § 592(a). This regulatory authority was enacted pursuant to a statutory mandate providing that NHTSA “shall establish procedures . . . for automatically suspending a registration . . . for knowingly filing a false or misleading certification under section 30146 of this title.” 49 U.S.C. § 30141(c)(4)(B). Neither the regulation nor the statutory mandate, however, define the term “knowingly.”

The Supreme Court has explained that, with respect to criminal statutes, “unless the text of the statute dictates a different result, the term ‘knowingly’ merely requires proof of knowledge of the fact that constitutes the offense.” *Bryan v. United States*, 524 U.S. 184, 193 (1998). This does not mean that a criminal defendant must have knowledge of the law being violated; the defendant must know the facts that make his conduct fit the definition of the offense “even if he does not know that those facts give rise to a crime.” *Elonis v. United States*, 575 U.S. 723, 735 (2015) (citing *Staples v. United States*, 511 U.S. 600, 608 n.3 (1994)). Other Federal courts have applied this same construction of the term “knowingly” in construing civil statutes. *See Statoil USA E&P Inc. v. Dep’t of the Interior*, 352 F. Supp. 3d 748, 762 (S.D. Tex. 2018); *In re Toll Roads Litigation*, 2018 WL 6131178, at *8 (E.D. Cal. 2018).

Consistent with this authority, a RI “has knowingly filed a false or misleading certification,” and therefore is subject to an automatic suspension under 49 C.F.R. 592.7(a)(2), if it submits a certification to NHTSA with the knowledge that it contains false or misleading information. A RI has knowledge that a certification is false or misleading if it is in possession of information that makes the certification false or misleading. A certification may be false or misleading

regardless of whether a RI has an intent to deceive the agency in its submission of that certification and regardless of whether the false or misleading statement or omission is material to motor vehicle safety. *See* 49 C.F.R. § 592.7(a)(2).²

Bisbee Importing’s Opportunity to Seek Reconsideration

The agency is automatically suspending the registration of Bisbee Importing 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 Bisbee Importing seeks reconsideration of this decision, it should respond in writing and/or in-person (via teleconference or videoconference) within 30 days, by June 19, 2022, and present any data, views, and arguments in support of its request for reconsideration.

If Bisbee Importing requests a meeting with NHTSA to present data, views, and arguments in person (via teleconference or videoconference), it should contact Sean Ward in NHTSA’s Office of the Chief Counsel at 202.913.3155 or sean.ward@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 the Chief Counsel. The purpose of any in-person meeting requested by Bisbee Importing is for Bisbee Importing 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 Bisbee Importing 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 Bisbee Importing’s RI registration will be reinstated. *See* 49 C.F.R. § 592.7(a)(2), (c)(2).

² When NHTSA published this final rule, it explained that it was rejecting a commenter’s suggestion that an automatic suspension be limited to circumstances involving a deliberate intent to deceive on a material issue relating to motor vehicle safety because any such limitation would be inconsistent with the statutory mandate:

Congress also directed us to establish procedures for automatically suspending a registration of a RI that has knowingly filed a false or misleading certification. 49 U.S.C. 30141(c)(4)(B). We proposed rules to implement this provision. Two commenters supported our proposal. Auto Enterprises suggested that such a suspension should only occur if we found that the RI “knowingly and deliberately attempted to deceive NHTSA on a material issue that could be reasonably viewed as having the potential of endangering motor vehicle safety.” However, this would limit the statutory provision, which refers only to knowingly filing a false or misleading certification. The limiting elements of “material issue” and “potential of endangering motor vehicle safety” are not specified by the statute. A RI is presumed to know the truth or falsity of what its principal has signed.

NHTSA will inform Bisbee Importing 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 Bisbee Importing. 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>.

Bisbee Importing's Knowing Submission of False and Misleading Certifications of Conformance

NHTSA has determined that Bisbee Importing knowingly submitted thirteen (13) 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 false and misleading for the specific reasons set forth below, including falsely representing the date the vehicle entered the United States, falsely representing that the vehicle was eligible for import under an inapplicable import eligibility code, falsely stating that the principal signing the certification personally witnessed conformance modifications being made to the vehicle, falsely stating that applicable FMVSS were inapplicable to the vehicle, and falsely stating that the vehicle complied with certain FMVSS that were inapplicable to the vehicle and with which the vehicle did not comply.

These same certifications were knowingly false and misleading. Bisbee Importing, as the importing RI, knew when each of the vehicles entered the United States and when it took possession of each of the vehicles at one of its authorized facilities in the United States. Bisbee Importing therefore knew that many of the certifications were necessarily false because, as set forth below, they were made before the vehicles had entered the United States, before Bisbee Importing took possession of the vehicles, before Bisbee Importing could have performed any conformance modifications at any of its authorized facilities in the United States, and before the principal signing the certifications could have witnessed any of the modifications. The statement in many of these certifications that the principal signing the certifications had personally witnessed each of the conformance modifications was also knowingly false because the certification statements represented that no modifications had been made to these vehicles. Likewise, Bisbee Importing knew that its representations regarding the FMVSS applicable to each of the vehicles were false and misleading because the gross vehicle weight rating (GVWR) of each of the vehicles (which, along with the vehicle type, is used to determine the applicable

FMVSS) was stated on both the original fabricating manufacturer's certification label and Bisbee Importing's certification label and because Bisbee Importing submitted photographs of both labels as part of the certification it submitted to NHTSA for each of the vehicles. Bisbee Importing was in possession of information demonstrating that each of these certifications was false and misleading when it was submitted to NHTSA, and they were therefore knowingly false and misleading.

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.³ 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 form also includes an entry for the RI to state whether it is submitting its first certification for this make, model, and model year of a motor vehicle.

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 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 Bisbee Importing has knowingly violated these legal requirements and submitted false and misleading certifications with respect to the following thirteen (13) vehicles:

Group 1 Vehicles

With respect to each of the four (4) vehicles in Group 1 (Vehicle J, Vehicle K, Vehicle L, and Vehicle M), Bisbee Importing or its agent submitted a sworn declaration (HS-7 form) to the United States government in support of the vehicle’s entry into the United States stating that the vehicle was noncompliant with all applicable FMVSS. Bisbee Importing then submitted a certification of conformance to NHTSA for each of the vehicles reflecting that no conformance modifications were made to the vehicle. As part of the certification, Vincent (Vince) Bisbee, the principal who signed each of these certifications of conformance, nonetheless represented that he

³ A blank copy of the form is included as Exhibit V.

knew the vehicle conformed to all applicable FMVSS because he had “personally witnessed” the performance of the modifications.

Each of these certifications was knowingly false and misleading because Bisbee Importing knew that each of the vehicles was nonconforming when it was imported and also knew that each of the certification forms it submitted to NHTSA represented that Bisbee Importing performed no modifications to the vehicles to conform them to the applicable FMVSS. Because Bisbee Importing performed no conforming modifications to the vehicle, it also knew that the representation by its principal in each of the certifications that he “know[s] the vehicle . . . conforms with all applicable Federal motor vehicle safety and bumper standards because [he] personally witnessed each modification performed on the vehicle to effect compliance” was necessarily false. Alternatively, if Bisbee Importing did make conforming modifications on any of these vehicles and if the principal did witness those modifications being performed, then each of the certifications was still necessarily false and misleading because it represented that no modifications were made to the vehicle.

In the certification of conformance that Bisbee Importing submitted for each of these vehicles, it also falsely stated the date the vehicle entered the United States, and falsely stated that FMVSS 110 (tire selection and rims),⁴ FMVSS 118 (power operated window systems),⁵ FMVSS 135 (light vehicle brake systems),⁶ FMVSS 216 (roof crush resistance),⁷ and FMVSS 301 (fuel system integrity)⁸ were not applicable to the vehicle. Each of these certifications was knowingly false and misleading because Bisbee Importing knew, based on the photographs of the certification labels included with each of the certifications it submitted to NHTSA, that the GVWR of each the vehicles was less than 10,000 pounds and that, with one exception, each of the referenced standards therefore applied to each of these vehicles.⁹

⁴ FMVSS 110 “applies to motor vehicles with a gross vehicle weight rating (GVWR) of 4,536 kilograms (10,000 pounds) or less.” 49 C.F.R. § 571.110, S2.

⁵ FMVSS 118 “applies to passenger cars, multipurpose passenger vehicles, and trucks with a gross vehicle weight rating of 4,536 kilograms [10,000 pounds] or less.” 49 C.F.R. § 571.118, S2.

⁶ FMVSS 135 “applies to passenger cars manufactured on or after September 1, 2000 and to multi-purpose passenger vehicles, trucks and buses with a gross vehicle weight rating (GVWR) of 3,500 kilograms (7,716 pounds) or less, manufactured on or after September 1, 2002.” 49 C.F.R. § 571.135, S3.

⁷ FMVSS 216a “applies to passenger cars, and to multipurpose passenger vehicles, trucks and buses with a GVWR of 4,536 kilograms (10,000 pounds) or less.” 49 C.F.R. § 571.216a, S3.1(a).

⁸ FMVSS 301 “applies to passenger cars, and to multipurpose passenger vehicles, trucks and buses that have a GVWR of 4,536 kg [10,000 pounds] or less and use fuel with a boiling point above 0 °C.” 49 C.F.R. § 571.301, S3.

⁹ The one exception relates to Vehicle M, which has a GVWR of 8,730 pounds. FMVSS 110, 118, 216a, and 301 therefore apply to this vehicle, but FMVSS 135, which applies to vehicles with a GVWR of 7,716 pounds or less, does not apply this vehicle.

Vehicle J – 2016 Ford F-150, VIN 1FTEW1EG3GFB57822

Date CBP released vehicle for entry into United States: **March 4, 2021**
Date of signature on Bisbee Importing's DOT HS-7 import form: **March 4, 2021**
Date of entry represented by Bisbee Importing in its certification: **March 3, 2021**
Date of Bisbee Importing's Certification of Conformance: **March 4, 2021**
Gross Vehicle Weight Rating: **7,000 pounds**

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

Vehicle K – 2016 Ford F-150, VIN 1FTFW1EF5GFB87044

Date CBP released vehicle for entry into United States: **March 4, 2021**
Date of signature on Bisbee Importing's DOT HS-7 import form: **March 4, 2021**
Date of entry represented by Bisbee Importing in its certification: **March 3, 2021**
Date of Bisbee Importing's Certification of Conformance: **March 4, 2021**
Gross Vehicle Weight Rating: **7,050 pounds**

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

Vehicle L – 2017 GMC Sierra 1500, VIN 1GTV2LEC4HZ383775

Date CBP released vehicle for entry into United States: **March 4, 2021**
Date of signature on Bisbee Importing's DOT HS-7 import form: **March 4, 2021**
Date of entry represented by Bisbee Importing in its certification: **March 3, 2021**
Date of Bisbee Importing's Certification of Conformance: **March 4, 2021**
Gross Vehicle Weight Rating: **7,200 pounds**

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

Vehicle M – 2016 Nissan Titan, VIN 1N6AA1F43GN509012

Date CBP released vehicle for entry into United States: **March 4, 2021**
Date of signature on Bisbee Importing's DOT HS-7 import form: **March 4, 2021**
Date of entry represented by Bisbee Importing in its certification: **March 3, 2021**
Date of Bisbee Importing's Certification of Conformance: **March 4, 2021**
Gross Vehicle Weight Rating: **8,730 pounds**

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

Group 2 Vehicles

With respect to each of the eight (8) vehicles in Group 2 (Vehicle N, Vehicle O, Vehicle P, Vehicle Q, Vehicle R, Vehicle S, Vehicle T, and Vehicle U), Bisbee Importing submitted a certification of conformance to NHTSA for each of these vehicles falsely stating the date of entry of the vehicle into the United States, falsely stating that FMVSS 135 (light vehicle brake systems) was not applicable to the vehicle, and falsely stating that the vehicle, as originally manufactured, complied with FMVSS 404 (platform lift installations)¹⁰ and FMVSS 500 (low-speed vehicles).¹¹

Each of these certifications was knowingly false and misleading. Bisbee Importing, as the RI and importer of these vehicles, knew the date that each of the vehicles actually entered the United States and the date on which it took possession of each of the vehicles at one of its approved facilities in the United States. Bisbee Importing therefore knew that these certifications falsely stated the date of entry for each of the vehicles. Each of these certifications was knowingly false and misleading with respect to the representation that FMVSS 135 was not applicable to the vehicle because Bisbee Importing knew, based on the photographs of the certification labels included with each of the certifications it submitted to NHTSA, that the GVWR of each the vehicles was less than 7,716 pounds. Each of these certifications was also knowingly false and misleading with respect to the representation that the vehicle, as originally manufactured, complied with FMVSS 404 and FMVSS 500. Based on its possession of each of these vehicles and the photographs submitted with each of the certifications, Bisbee Importing knew that none of these vehicles was equipped with a platform lift and that none of these vehicles was a low-speed vehicle.

Vehicle N – 2017 Chevrolet Camaro, VIN 1G1FH3D76H0111815

Date CBP released vehicle for entry into United States: **November 27, 2020**

Date of signature on Bisbee Importing's DOT HS-7 import form: **January 14, 2021**

Date of entry represented by Bisbee Importing in its certification: **November 25, 2020**

Date of Bisbee Importing's Certification of Conformance: **December 2, 2020**

Gross Vehicle Weight Rating: **4,687 pounds**

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

Vehicle O – 2017 GMC Sierra 1500, VIN 1GTV2LEC4HZ406228

Date CBP released vehicle for entry into United States: **November 26, 2020**

¹⁰ FMVSS 404 “applies to motor vehicles manufactured on and after July 1, 2005, that are equipped with a platform lift designed to carry standing passengers who may be aided by canes or walkers, as well as persons seated in wheelchairs, scooters, and other mobility aids, into and out of the vehicle.” 49 C.F.R. § 571.404, S3.

¹¹ FMVSS 500 “applies to low-speed vehicles.” 49 C.F.R. § 571.500, S3. The maximum speed of a low-speed vehicle cannot exceed 25 miles per hour. *Id.* § 571.571.3(b).

Date of signature on Bisbee Importing's DOT HS-7 import form: **January 14, 2021**
Date of entry represented by Bisbee Importing in its certification: **November 25, 2020**
Date of Bisbee Importing's Certification of Conformance: **November 28, 2020**
Gross Vehicle Weight Rating: **7,200 pounds**

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

Vehicle P – 2016 Chevrolet Equinox, VIN 2GNFLFEK6G6152730

Date CBP released vehicle for entry into United States: **November 30, 2020**
Date of signature on Bisbee Importing's DOT HS-7 import form: **January 14, 2021**
Date of entry represented by Bisbee Importing in its certification: **November 25, 2020**
Date of Bisbee Importing's Certification of Conformance: **November 30, 2020**
Gross Vehicle Weight Rating: **5,070 pounds**

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

Vehicle Q – 2017 Chevrolet Equinox, VIN 2GNFLGE39H6207400

Date CBP released vehicle for entry into United States: **November 30, 2020**
Date of signature on Bisbee Importing's DOT HS-7 import form: **January 14, 2021**
Date of entry represented by Bisbee Importing in its certification: **November 25, 2020**
Date of Bisbee Importing's Certification of Conformance: **November 30, 2020**
Gross Vehicle Weight Rating: **5,300 pounds**

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

Vehicle R – 2018 GMC Sierra 1500, VIN 3GTU2NEC4JG122918

Date CBP released vehicle for entry into United States: **November 26, 2020**
Date of signature on Bisbee Importing's DOT HS-7 import form: **January 14, 2021**
Date of entry represented by Bisbee Importing in its certification: **November 25, 2020**
Date of Bisbee Importing's Certification of Conformance: **November 30, 2020**
Gross Vehicle Weight Rating: **7,200 pounds**

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

Vehicle S – 2019 Buick Enclave, VIN 5GAEVCKWXKJ169886

Date CBP released vehicle for entry into United States: **December 2, 2020**
Date of signature on Bisbee Importing's DOT HS-7 import form: **January 14, 2021**
Date of entry represented by Bisbee Importing in its certification: **November 24, 2020**
Date of Bisbee Importing's Certification of Conformance: **December 2, 2020**

Gross Vehicle Weight Rating: **6,394 pounds**

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

Vehicle T – 2017 Buick Enclave, VIN 5GAKVCKDXHJ279699

Date CBP released vehicle for entry into United States: **November 30, 2020**

Date of signature on Bisbee Importing's DOT HS-7 import form: **December 7, 2020**

Date of entry represented by Bisbee Importing in its certification: **November 25, 2020**

Date of Bisbee Importing's Certification of Conformance: **November 30, 2020**

Gross Vehicle Weight Rating: **6,459 pounds**

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

Vehicle U – 2019 Mazda CX-9, VIN JM3TCBDY7K0317946

Date CBP released vehicle for entry into United States: **November 26, 2020**

Date of signature on Bisbee Importing's DOT HS-7 import form: **January 14, 2021**

Date of entry represented by Bisbee Importing in its certification: **November 25, 2020**

Date of Bisbee Importing's Certification of Conformance: **November 30, 2020**

Gross Vehicle Weight Rating: **5,816 pounds**

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

Group 3 Vehicles

With respect to the one (1) vehicle in Group 3 (Vehicle H), Bisbee Importing falsely stated in the certification of conformance it submitted to NHTSA that the vehicle entered the United States on October 8, 2020, falsely stated that the vehicle was eligible for import under Import Eligibility Code VSA-80,¹² falsely stated that the vehicle, as manufactured, complied with FMVSS 138 (tire pressure monitoring systems),¹³ FMVSS 404 (platform lift installations), and FMVSS 500 (low-speed vehicles), and falsely stated that FMVSS 135 (light vehicle brake systems) does not apply to the vehicle.

¹² To be eligible for import under VSA-80, a vehicle must be compliant, as originally manufactured, with FMVSS 138. See *Final Decision That Certain Canadian-Certified Vehicles Are Eligible for Importation*, 83 FED. REG. 415 (Jan. 3, 2018). FMVSS 138 “applies to passenger cars, multipurpose passenger vehicles, trucks, and buses that have a gross vehicle weight rating of 4,536 kilograms (10,000 pounds) or less.” 49 C.F.R. § 571.138, S2. A letter from the original fabricating manufacturer of Vehicle H stating that it does not comply with FMVSS 138 is included in Exhibit H.

¹³ FMVSS 138 “applies to passenger cars, multipurpose passenger vehicles, trucks, and buses that have a gross vehicle weight rating of 4,536 kilograms (10,000 pounds) or less, except those vehicles with dual wheels on an axle.” 49 C.F.R. § 571.138, S2. Except for limited circumstances not applicable here, “all vehicles manufactured on or after September 1, 2007 must comply with all requirements of this standard.” *Id.* § 571.138, S7.3.

Bisbee Importing, as the RI and importer of this vehicle, knew when it entered the United States and when Bisbee Importing took possession of the vehicle at one of its approved facilities in the United States. The certification was therefore knowingly false and misleading with respect to its misrepresentation of the date the vehicle entered the United States.

This certification for this vehicle also was knowingly false and misleading with respect to the representation that the vehicle, as manufactured, complied with FMVSS 138 and the representation that the vehicle was eligible for import under Import Eligibility Code VSA-80, which is limited to vehicles compliant with FMVSS 138. *See* 83 Fed. Reg. 415, 417-18 (Jan. 3, 2018). Based on the vehicle's model year (2018) and VIN, Bisbee Importing knew that the vehicle was manufactured after September 1, 2007. Based on the photographs of the vehicle's compliance labels that Bisbee Importing submitted with the certification, it also knew that the vehicle had a GVWR of less than 10,000 pounds. Bisbee Importing therefore knew that FMVSS 138 required that the vehicle be equipped with a tire pressure monitoring system. To be compliant with FMVSS 138, a vehicle must be "equipped with a dedicated TPMS malfunction telltale" that is "mounted inside the occupant compartment in front of and in clear view of the driver," that is identified by a required symbol, and that illuminates under required conditions. *See* 49 C.F.R. § 571.138, S4.3. In addition, FMVSS 138 requires that the owner's manual for any vehicle equipped with a compliant tire pressure monitoring system include a specific image and a specific statement regarding the tire pressure monitoring system. *Id.* § 571.138, S4.5. Because Bisbee Importing was in possession of the vehicle, it knew that there was no TPMS malfunction telltale in the occupant compartment and that the owner's manual did not include the required symbol or statement.¹⁴ Bisbee Importing knew therefore that the vehicle was not equipped with a compliant tire pressure monitor system and that its representation in the certification that the vehicle, as originally manufactured, was compliant with FMVSS 138 was false. Therefore, Bisbee Importing also knew that its representation in the certification that the vehicle was eligible for import under Import Eligibility Code VSA-80, which is limited to vehicles compliant with FMVSS 138, was false.

Bisbee Importing's representation in its certification that this vehicle, as originally manufactured, complied with FMVSS 404 and FMVSS 500 was also knowingly false and misleading. Based on its possession of the vehicle and the photographs it submitted with the certification, Bisbee Importing knew that this vehicle was not equipped with a platform lift and that it was not a low-speed vehicle.

Finally, Bisbee Importing's representation in its certification that, this vehicle, as originally manufactured, complied with FMVSS 135 (light vehicle brake systems) was also knowingly false. Based on the photographs of the vehicle's compliance labels that Bisbee Importing submitted with the certification, it knew that the vehicle had a GVWR of less than 7,716 pounds and that FMVSS 135 was therefore applicable to the vehicle.

¹⁴ The photographs of the instrument cluster submitted by Bisbee Importing as part of the certification for this vehicle (included in Exhibit H) confirm the lack of a TPMS malfunction telltale.

Vehicle H – 2018 Subaru WRX, VIN JF1VA1L62J8802406

Date CBP released vehicle for entry into United States: **October 11, 2020**
Date of signature on Bisbee Importing's DOT HS-7 import form: **February 10, 2021**
Date of entry represented by Bisbee Importing in its certification: **October 8, 2020**
Date of Bisbee Importing's Certification of Conformance: **October 12, 2020**
Gross Vehicle Weight Rating: **4,409 pounds**

Documents relating to Vehicle H, including those referenced above in the description of this violation and a letter from Subaru regarding this vehicle, are included in Exhibit H.

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 Bisbee Importing for 270 days is appropriate based upon the agency's determination that Bisbee Importing knowingly submitted false and misleading certifications for thirteen (13) separate vehicles. The violations committed by Bisbee Importing 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.¹⁵

Bisbee Importing betrayed the public trust of its RI registration and jeopardized public safety by repeatedly and knowingly submitting false and misleading certifications of conformity that

¹⁵ *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).

misrepresented the actual date of entry for the vehicles, that falsely stated the principal signing the certifications had personally witnessed the modifications being performed, that falsely stated that applicable FMVSS were not applicable to the vehicles, and that falsely stated that the vehicles, as originally manufactured, complied with other FMVSS. Each of these certifications, which reflected that no conformance modifications were ever actually made to the vehicle, was signed by a principal of Bisbee Importing 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 thirteen false and misleading certifications of conformance, is consistent with other RI suspensions recently imposed by the agency. *See, e.g., Notice of Automatic Suspension of Metro Auto Importer* (April 15, 2022) (270 day automatic suspension); *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).

For all these reasons, NHTSA has determined that the RI registration of Bisbee Importing 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 the 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 Sean Ward, Office of the Chief Counsel, at sean.ward@dot.gov. NHTSA currently 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>. At this time, you should not send a duplicate hard copy 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 Bisbee Importing 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 June 19, 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 Sean Ward, at sean.ward@dot.gov, in NHTSA’s Office of the Chief Counsel, unless it includes confidential business information and is submitted to the Office of the Chief Counsel under the process described above. Any response by Bisbee Importing should include a reference to NHTSA File ICD-2021-008.

If Bisbee Importing 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 Sean Ward at 202.913.3155 or sean.ward@dot.gov. If Bisbee Importing 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 through February 14, 2023.

Sincerely,

Anne L. Collins
Associate Administrator for Enforcement

Enclosures: Exhibit list and listed exhibits