



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



January 10, 2023

**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

Lawrence A. Beyer  
Representative of Metro Auto Importer, LLC  
674 Lake Road  
Webster, NY 14580  
lbeyer1@rochester.rr.com

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

**Notice of Revocation of the Registered Importer Registration of Metro Auto  
Importer, LLC**

Dear Mr. Hattey:

We are writing pursuant to 49 C.F.R. § 592.7 to provide Metro Auto Importer, LLC (Metro Auto Importer) with written notice that the National Highway Traffic Safety Administration (NHTSA or the agency) is revoking the registered importer (RI) registration of Metro Auto Importer for failing to comply with the statutes and regulations applicable to the RI program.

On April 15, 2022, NHTSA provided written notice to Metro Auto Importer that its RI registration had been automatically suspended for a period of 270 days.<sup>1</sup> On November 16, 2022, NHTSA provided written notice to Metro Auto Importer that NHTSA had preliminarily determined that revocation was also warranted because Metro Auto Importer repeatedly failed to submit required certifications of conformance to NHTSA within 120 days after a vehicle entered

---

<sup>1</sup> The automatic suspension was for knowingly submitting false and misleading certifications of conformance regarding nonconforming vehicles it imported from Canada. *See* 49 U.S.C. § 30141(c)(4)(B); 49 C.F.R. § 592.7(a)(2), (c)(2). On June 2, 2022, NHTSA denied Metro Auto Importer's May 6, 2022 request for reconsideration and reinstatement (Request for Reconsideration) of the automatic suspension. *See* 49 C.F.R. § 592.7(a)(2).

the United States, including certifications for at least 4,700 vehicles since January 1, 2018, in violation of 49 U.S.C. § 30146(a)(1) and 49 C.F.R. § 592.6(a) and (d). Metro Auto Importer was given thirty days to present data, views, and arguments in response to that notice in writing and/or in person (via teleconference or videoconference) on the issues of whether the alleged violations occurred, whether its registration should be revoked, whether its registration should continue to be suspended rather than revoked, and, if so, the appropriate length of suspension. Metro Auto Importer submitted a written response on December 15, 2022.<sup>2</sup> After considering Metro Auto Importer's written response and the available information, NHTSA has determined that Metro Auto Importer repeatedly failed to submit required certifications of conformance to NHTSA and that revocation of Metro Auto Importer's RI registration is appropriate. Based on these violations, **the RI registration of Metro Auto Importer is revoked, effective as of the date of this notice.** The reasons for this decision are set forth below.

### **Effect of Revocation**

If NHTSA “decides, on the basis of the available information, that the Registered Importer has violated a statute or regulation, the Administrator may ... revoke the registration.” 49 C.F.R. § 592.7(b)(2). NHTSA must “notify the Registered Importer in writing of the decision, including the reasons for it,” and the revocation will be effectively immediately upon written notification unless another date is specified. *Id.* There shall be no opportunity to seek reconsideration of a revocation decision. *Id.* Judicial review of a final agency action is available in a United States District Court. *See* 5 U.S.C. § 704.

Because Metro Auto Importer's registration is revoked, Metro Auto Importer is no longer considered a Registered Importer, “will not have the rights and authorities” of an RI, and must cease importing vehicles for resale. 49 C.F.R. § 592.7(d)(1). Metro Auto Importer “will not be refunded any annual or other fees it has paid for the fiscal year in which its registration is revoked.” *Id.* As required by regulation, NHTSA will “notify the Bureau of Customs and Border Protection of any ... revocation of a registration not later than the first business day after such action is taken.” *Id.*

Even though Metro Auto Importer's registration is revoked, Metro Auto Importer remains obligated after the revocation to notify owners and to remedy noncompliances or safety-related defects for each vehicle for which it has provided NHTSA with a certification of conformance. *Id.* § 592.7(e).

### **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

---

<sup>2</sup> Metro Auto Importer did not request to meet with NHTSA in person via teleconference or videoconference regarding the proposed revocation.

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 Customs and Border Protection (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.<sup>3</sup> 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 an RI or that it has a contract with an 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 an RI and must be performed at one of the RI's facilities approved for this purpose, and an 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 an 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 submit, within 120 days after importing the vehicle, a “conformity package” to the agency that includes a certification of conformance 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 conformity package, including that the certification of conformance must be signed by a principal of the RI and must also include “verbatim” one of two specific certifications regarding the way in which performance of the conformance modifications were verified. *See* 49 C.F.R.

---

<sup>3</sup> The DOT HS-7 form is available at [https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/hs7\\_rv9-tag.pdf](https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/hs7_rv9-tag.pdf).

§ 592.6(d)(1)-(7). The conformity package must also “identify the location where the vehicle is stored and is available for inspection, pending NHTSA action upon the submission.” *Id.*

After submitting the conformity package, the RI must maintain possession of the vehicle until either the agency releases the conformance bond for the vehicle or 30 days have elapsed from the time the agency receives the certification of conformance. *See* 49 U.S.C. § 30146(a)(1); 49 C.F.R. §§ 592.6(e), 592.8(a). This 30-day waiting period provides the agency with time to review the certification of conformance and the other information included in the conformity package and decide whether to inspect the vehicle. The regulations therefore specify that, during the waiting period, the RI may not, among other things, operate the vehicle on public roads (except for limited purposes), store the vehicle on the premises of a motor vehicle dealer, sell or offer the vehicle for sale, title the vehicle in any other person’s name, or release custody of the vehicle for any of these purposes. *See* 49 C.F.R. § 592.6(e)(1)-(5). The waiting period is extended if the agency provides written notice that it intends to inspect the vehicle or challenge the certification. *See* 49 U.S.C. § 30146(d); 49 C.F.R. §§ 592.6(e), 592.8(d). If the RI receives “no written notice from the [agency] by the end of the 30th calendar day” after the agency receives the conformity package, “the [RI] may release the vehicle from custody, sell or offer it for sale, or have it titled, licensed, or registered for use on the public roads.” 49 C.F.R. § 592.8(e).

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

### **A Registered Importer’s Knowledge of Its Regulatory Duties**

To ensure that an RI knows its legal duties and the importance of compliance with those duties, each applicant to be an 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, an 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 certified annually that it knows and understands the duties of an RI.

### **Revocation of A Registered Importer's Registration**

Federal law and the regulations specify the bases and process for revocation of the registration of a Registered Importer. *See* 49 U.S.C. § 30141(c)(4); 49 C.F.R. § 592.7. NHTSA is authorized to revoke an RI's registration if the RI fails to comply with any requirement of 49 U.S.C. §§ 30112, 30115, 30117-30122, 30125(c), 30127, 30141-30147, or 30166, or any regulations issued under these sections, including, but not limited to, 49 C.F.R. Parts 567, 568, 573, 577, 591, 592, 593, and 594. *See* 49 U.S.C. § 30141(c)(4)(A); 49 C.F.R. § 592.7(b)(1).

If the agency “has reason to believe a Registered Importer has violated one or more of [these requirements] and that ... revocation would be an appropriate sanction under the circumstances,” the agency is required to “notify the Registered Importer in writing of the facts giving rise to the allegation of the violation and ... revocation.”

### **NHTSA's Investigation and Enforcement Proceedings**

On September 9, 2021, NHTSA sent Metro Auto Importer notice that it was the subject of a compliance investigation. On April 15, 2022, NHTSA sent Metro Auto Importer a Notice of Automatic Suspension, pursuant to the applicable regulations, which provide that the registration of an RI may be automatically suspended if, among other things, the agency “decides that a Registered Importer has knowingly filed a false or misleading certification.” 49 C.F.R. § 592.7(a)(2). The Notice of Automatic Suspension identified twelve separate false or misleading certifications of conformance, which the agency determined Metro Auto Importer knowingly submitted to the agency. The same day, NHTSA also sent Metro Auto Importer an information request (IR), pursuant to 49 U.S.C. § 30166 and 49 C.F.R. § 592.6(o), to which Metro Auto Importer was required to respond by May 16, 2022.<sup>4</sup> Metro Auto Importer failed to respond to NHTSA. On June 2, 2022, NHTSA denied Metro Auto Importer's May 6, 2022 request for reconsideration and reinstatement of the automatic suspension. *See* 49 C.F.R. § 592.7(a)(2). On November 16, 2022, NHTSA provided written notice to Metro Auto Importer that NHTSA had preliminarily determined that revocation was also warranted. On December 15, 2022, Metro Auto Importer submitted a written response to the Notice of Proposed Revocation, which asserted that “to the best of [Metro Auto Importer's] knowledge, all compliance packages were submitted to NHTSA within the appropriate time” and requested an extension of time to resume operations as an RI and further respond. The substance of Metro Auto Importer's response is addressed below.

NHTSA's Notice of Automatic Suspension, Notice of Denial of the Request for Reconsideration, and Notice of Proposed Revocation included specific facts, conclusions, and determinations regarding specific vehicles, violations, and certifications, together with supporting exhibits, which are all incorporated by reference into this Notice of Revocation and the record supporting it.

---

<sup>4</sup> The April 15, 2022 IR indicated both a due date of May 16 and March 16, 2022. The March reference was unambiguously a typo, as it was prior to the date of the IR.

**Metro Auto Importer’s Failure to Submit Conformity Packages for Thousands of Nonconforming Vehicles it Imported into the United States in Violation of 49 U.S.C. § 30146(a)(1) and 49 C.F.R. § 592.6(a) and (d)**

Upon consideration of Metro Auto Importer’s response to the Notice of Proposed Revocation and the information available to NHTSA, NHTSA concludes that Metro Auto Importer failed to submit the required conformity packages for at least 2,900 vehicles that it imported into the United States under the RI program (Box 3) since January 1, 2018, in violation of 49 U.S.C. § 30146(a)(1) and 49 C.F.R. § 592.6(a) and (d). In its Notice of Proposed Revocation, NHTSA preliminarily determined that Metro Auto Importer failed to submit the required conformity packages for at least 4,700 such vehicles. NHTSA has since determined that it issued a bond release for some of those vehicles, as discussed further below. After further evaluation, NHTSA has determined that a significant number of vehicles (at least 2,900) were imported without Metro Auto Importer submitting the required conformity packages.

An RI may not release an imported, nonconforming vehicle unless it first submits to NHTSA a conformity package including 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.

RIs submit certifications of conformance to NHTSA on a NHTSA statement of conformity form.<sup>5</sup> 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 regulations provide that an RI must, “[w]ith respect to each motor vehicle that it imports into the United States,” “bring such vehicle into conformity with all applicable Federal motor vehicle safety standards,” and “furnish certification” of conformance to NHTSA “within 120 calendar days after such entry.” 49 C.F.R. § 592.6(a).

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.”

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

---

<sup>5</sup> A blank copy of the current form is included as Exhibit A.

“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.”

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.”

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.”

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.”

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.

Per 49 C.F.R. § 592.6(d)(6)-(7), when an 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.”

Per 49 C.F.R. § 592.6(d)(6)-(7), for an 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.

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.

Based on information obtained by the agency through its investigation and upon consideration of Metro Auto Importer's response to the Notice of Proposed Revocation and other information available to NHTSA, NHTSA has concluded that Metro Auto Importer failed to submit the required certifications at all, much less within the 120-day window, with respect to each of the 3,590 vehicles identified in Exhibit B.

To address the issue Metro Auto Importer raised about challenges with its ability to check its own records, NHTSA performed additional review of the VINs identified in its Notice of Proposed Revocation. To generate Exhibit B, NHTSA used data from CBP's Automated Commercial Environment (ACE) database, which includes import records on vehicles. The agency ran a query on such import records for VINs that were imported into the United States by Metro Auto Importer from April 15, 2017 to April 15, 2022 under Box 3. NHTSA retrieved the following information specific to each VIN: make, model, model year, and date of entry. NHTSA then cross-checked that list of VINs against NHTSA's separate list of VINs for which the agency received conformity packages. NHTSA then cross-checked the list of VINs left against its list of VINs that had been bond-released. NHTSA also cross-checked the list of remaining VINs against the list of VINs that were listed in Metro Auto Importer's monthly invoices from NHTSA (Exhibit D, transmitted via email only). VINs (and their accompanying information) retrieved from NHTSA's import-records query that did not appear on that last list are what are listed in Exhibit B.

Through this process, NHTSA identified that Metro Auto Importer imported at least 2,900 vehicles under Box 3 from January 1, 2018 to April 15, 2022 without submitting the required conformity documents. Metro Auto Importer's conduct continued unabated even after NHTSA sent it a notification that it was the subject of a compliance investigation on September 9, 2021, with the company importing another 370 vehicles through April 15, 2022 (when the automatic suspension began) without submitting conformity packages.

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). Accordingly, Metro Auto Importer knew that it was required to submit the conformity documents for each of the vehicles it imported. This is a foundational requirement for RIs. By not submitting conformity packages for thousands of vehicles it imported into the United States, Metro Auto Importer evaded the statutory and regulatory process that allows the import of nonconforming vehicles and apparently illegally released the vehicles into the United States. *See* 49 U.S.C. § 30146(a). The required conformity package includes, among other things, information and evidence regarding the conformity modifications that the RI made to bring the vehicle into conformance with the FMVSS, certification that the vehicles do not contain open safety recalls, and information that the agency may use to determine if further oversight is warranted, such as an inspection. Failure to submit conformity packages to NHTSA for thousands of vehicles was an abdication of Metro Auto Importer's responsibility as an RI. This unlawful conduct persisted for years.

### **Response to Additional Issues Raised by Metro Auto Importer's Written Response**

In its response to the Notice of Proposed Revocation, Metro Auto Importer raised various issues with the paper submission process for conformity packages that was in place before March 13,



2020. However, by its own admission, “[o]ver the past twenty years,” Metro Auto Importer could only “recall[] a few [i]nstances where there were [mail] delivery issues.” Metro Auto Importer Response, at 2. Metro Auto Importer described issues involving only “one or two boxes of submissions” or even just “one or two vehicles.” Metro Auto Importer Response, at 2-3. Yet, in its Notice of Proposed Revocation, NHTSA identified thousands of vehicles without the required conformity packages in the last five years alone, not just one or two over the past twenty years. Even if NHTSA accepted Metro Auto Importer’s allegations regarding the paper submission process as fact, the issues Metro Auto Importer raised do not account for the thousands of vehicles without conformity packages—particularly when Metro Auto Importer failed to identify a single specific vehicle for which it could state, much less provide any evidence, that it did submit the conformity package out of the thousands of VINs NHTSA identified.

As discussed above, upon consideration of Metro Auto Importer’s response to the Notice of Proposed Revocation, NHTSA did identify a significant number of VINs for which it issued a bond release. Therefore, the agency is not considering those vehicles as a basis for this action. However, the conformity packages of thousands of other vehicles remain unaccounted for. Metro Auto Importer has not presented evidence, nor is the agency aware of any, that Metro Auto Importer provided timely conformity packages—or any conformity packages at all—for those vehicles.

Moreover, Metro Auto Importer conceded that most of the issues it raised with the paper submission process were ultimately resolved. For example, when its submissions were reportedly returned to Metro Auto Importer as undeliverable, Metro Auto Importer said it resubmitted them. Metro Auto Importer Response, at 2. When its submissions were allegedly delivered elsewhere within DOT, Metro Auto Importer said it was told they were rerouted to the appropriate recipients. Metro Auto Importer Response, at 2. When there were typographical errors, they were corrected or a conformity package was resubmitted. Metro Auto Importer Response, at 2-3. By Metro Auto Importer’s own admission, its allegations regarding the paper submission process cannot account for the significant number of violations NHTSA identified.

Even setting aside any issues with Metro Auto Importer’s paper submissions, Metro Auto Importer acknowledged that it was required to submit its conformity packages electronically as of early 2020. Metro Auto Importer Response, at 2; *see also* Exhibit C (March 13, 2020 email from NHTSA to all Registered Importers, including Metro Auto Importer, regarding the electronic submission requirement).<sup>6</sup> In its response, Metro Auto Importer does not raise any issues with the electronic submission process. Thus, even if NHTSA only looked at vehicles imported after electronic submissions were required, there are still 2,225 vehicles without conformity packages. NHTSA identified specific VINs that did not have conformity packages sorted by entry date, Metro Auto Importer was provided an opportunity to respond, and Metro

---

<sup>6</sup> In its response to the Notice of Proposed Revocation, Metro Auto Importer states that the electronic submission requirement began April 23, 2020. As indicated by the correspondence NHTSA sent to Metro Auto Importer and the other Registered Importers (Exhibit C), the electronic submission requirement was effective on March 13, 2020. However, over 2,000 vehicles still do not have conformity packages after April 23, 2020.

Auto Importer has failed to even attempt to provide any explanation whatsoever for why the conformity packages after the electronic submission requirement was imposed are missing.

Instead, Metro Auto Importer claims without evidence “that to the best of [its] knowledge, all compliance packages were submitted to NHTSA within the appropriate time.” Metro Auto Importer Response, at 1. In an attempt to justify the lack of any evidence to support this assertion, Metro Auto Importer asserts that it does not have the resources to contest NHTSA’s allegations.<sup>7</sup> NHTSA provided Metro Auto Importer with the thirty days required to respond to the notice of proposed revocation. 49 C.F.R. § 592.7(b)(2). In that time, Metro Auto Importer apparently did not even attempt to verify that it had submitted the required conformity package for any of the VINs NHTSA identified. In its response, Metro Auto Importer did not identify even a single VIN of the thousands NHTSA listed for which it could say, much less provide evidence, that it submitted the conformity package. And unlike the paper submissions, Metro Auto Importer did not even purport to provide an explanation for the missing conformity packages that were required to be submitted electronically—despite demonstrating its ability to properly submit some conformity packages electronically for other vehicles during the same time period.

Metro Auto Importer requested a ninety-day extension to supply the necessary responses to NHTSA while its suspension is lifted. Metro Auto Importer claimed that during those ninety days, it could reopen its facility, hire and train employees, and earn income sufficient to review the records, all while updating its submission process from paper to digital. Metro Auto Importer Response, at 8-9. In light of the significant evidence of violations that led to the automatic suspension and the findings of violations herein, it is not appropriate for Metro Auto Importer to resume operations. The agency has conducted additional review of its records as addressed above. Metro Auto Importer’s request for an extension is denied, and its Registered Importer registration is revoked.

### **Revocation is an Appropriate Sanction**

NHTSA determined that a revocation of the RI registration of Metro Auto Importer is an appropriate sanction, based on the facts, circumstances, and violations addressed in this notice.<sup>8</sup>

Although the regulations applicable to RIs specify the appropriate bases for a revocation, they do not specify or provide guidelines for when it is appropriate to revoke a registration, instead of suspending it. *See* 49 C.F.R. § 592.7. This determination is left to the agency’s judgment and

---

<sup>7</sup> NHTSA notes that even though Metro Auto Importer was suspended as a registered importer and its registration is now revoked, Metro Auto Importer still has regulatory obligations. For example, “[a] Registered Importer whose registration is suspended or revoked remains obligated under § 592.6(i) to notify owners and to remedy noncompliances or safety related defects for each vehicle for which it has furnished a certificate of conformity to the Administrator.” 49 C.F.R. § 592.7(e). Metro Auto Importer was reminded of these continuing obligations in NHTSA’s notice of suspension and again in NHTSA’s notice of proposed suspension. NHTSA’s Notice of Automatic Suspension, at 2; NHTSA’s Notice of Proposed Revocation, at 4-5 & n.3.

<sup>8</sup> In reaching its determination on revocation, NHTSA has considered Metro Auto Importer’s status as a small business and also has considered options other than a revocation.

discretion. *See* 49 C.F.R. § 592.7(a)(6) (conferring the revocation decision to the “sole discretion” of the agency). To determine whether revocation is appropriate, NHTSA considers the unique facts of each enforcement action, including the number of violations and the nature and circumstances of the violations committed by the RI.<sup>9</sup>

NHTSA has determined that revocation is appropriate, given the facts and circumstances surrounding Metro Auto Importer’s violations and the implications for public safety.

NHTSA has determined that a revocation of the RI registration of Metro Auto Importer is appropriate based upon the agency’s determination that Metro Auto Importer failed to submit the required conformity packages for at least 2,900 vehicles since January 1, 2018. The violations committed by Metro Auto Importer were serious and systemic. Given the large number of conformity packages Metro Auto Importer failed to submit, it knew or should have known that it was repeatedly violating the law and its obligations as an RI. NHTSA previously 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.<sup>10</sup>

NHTSA is authorized to revoke an RI’s registration following an RI’s failure to submit required conformity packages to NHTSA because a failure to do so has a direct and substantive impact on public safety and undermines the RI program. By its failure to submit these required conformity packages, Metro Auto Importer apparently illegally released thousands of vehicles into the United States. *See* 49 U.S.C. § 30146(a). The certification of conformance is necessary to ensure that a nonconforming vehicle, which otherwise would not have been permitted entry into the United States, has been properly modified into conformance and then certified as being in conformance with all FMVSS. Conformity packages are necessary for NHTSA to provide oversight of the safety of these imported vehicles and the RIs responsible for conforming them, including ensuring any recall repairs are performed.

Metro Auto Importer knew that it was required to submit the conformity packages, having annually certified its knowledge of the applicable requirements and yet failed to submit packages

---

<sup>9</sup> NHTSA’s determination in this context is similar to its consideration of “the nature, circumstances, extent, and gravity of the violation” for purposes of determining an appropriate civil penalty. *See* 49 U.S.C. § 30165(c); 49 C.F.R. § 578.8(a).

<sup>10</sup> “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 a significant proportion of the vehicles it imported under the RI program over a five-year period. Its failure to do so on such a significant, widespread, and continuous basis over several years represents a flagrant disregard for its statutory and regulatory obligations and prevents NHTSA from being able to oversee Metro Auto Importer's compliance with the requirements of the RI program, designed to help ensure the safety of vehicles imported into the United States. Failure to comply with this core duty of the RI program warrants Metro Auto Importer's removal from participation in the program. The magnitude and seriousness of the violations identified here provide more than sufficient basis to justify Metro Auto Importer's revocation.

**Additional Information**

This action is the revocation of the registration of Metro Auto Importer. An 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. An 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 reserves the right to pursue further enforcement action against Metro Auto Importer as appropriate, including actions based on additional violations not addressed by this notice.

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>.

Sincerely,

Anne L. Collins  
Associate Administrator for Enforcement

Enclosures: Exhibits A, B, C, and D (Exhibit D was transmitted via email only)