

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 565****[Docket No. NHTSA 2008–0022]****Vehicle Identification Number Requirements**

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

ACTION: Denial of petitions for reconsideration.

SUMMARY: This document denies two petitions for reconsideration of an April 30, 2008, final rule that made certain modifications to 49 CFR part 565, Vehicle Identification Number Requirements, to enable the 17 character vehicle identification number (VIN) system that has been in place for nearly 30 years to continue to function for at least another 30 years. One of the petitions for reconsideration involved the effective date, which NHTSA believes was resolved by the publication of a correction notice on May 16, 2008. The second petition asked for changes to the VIN system so that, among other things, a person looking at the VIN of a motorcycle will be able to tell whether the vehicle was manufactured in the 30 year period beginning with the 1980 model year or in the 30 year period beginning with the 2010 model year. The agency is denying the petition because the issues it raises were outside of the scope of the rulemaking.

FOR FURTHER INFORMATION CONTACT: For technical and policy questions: Kenneth O. Hardie, Office of Crash Avoidance Standards, NHTSA, W43–458, 1200 New Jersey Avenue, SE., Washington, DC 20590 (Telephone: 202–366–6987) (Fax: 202–366–7002).

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I. Background

On April 30, 2008, NHTSA published a final rule¹ that modified 49 CFR Part 565, “Vehicle Identification Number Requirements,” so that the current 17 character vehicle identification number (VIN) system, which has been in place for almost 30 years, can continue in use for at least another 30 years. The final rule revised the requirements for where certain information must be

communicated in a VIN and added to the characters that may be used in some of the 17 positions of the VIN for passenger cars, multipurpose passenger vehicles, and trucks with a gross vehicle weight rating (GVWR) of 4536 kilograms (kg) (10,000 pounds (lb) or less. There were no changes in the characters allowed in various VIN positions for vehicles other than passenger cars, multipurpose passenger vehicles, and trucks with a GVWR of 4536 kg (10,000 lb) or less since the restrictions on the use of characters that had applied to vehicles less than 10,000 lb GVWR have not applied to other vehicles.²

The principal amendments adopted in the April 30, 2008, final rule were:

- The current 30 year period during which the VINs of any two vehicles subject to Part 565 may not be identical has been extended to 60 years.
- A vehicle’s “make” must now be communicated in, and decipherable from, the second section of the VIN (positions 4–8), rather than being included in the first three characters of the VIN, which represent the manufacturer identifier.
- For passenger cars, multipurpose passenger vehicles, and trucks with a GVWR of 4536 kg (10,000 lb) or less, positions 4, 5, and 6 may now be—3—either alphabetic or numeric. Positions 4 and 5 were previously limited to alphabetic characters. Position 6 was limited to numeric characters.
- For passenger cars, multipurpose passenger vehicles, and trucks with a GVWR of 4536 kg (10,000 lb) or less, VIN position 7 must now be alphabetic. It has previously been limited to numeric characters. Numeric or alphabetic characters continue to be permitted in position 7 for all other vehicles.
- The “Year Codes for VIN” table in Part 565 has been revised to include model year character designations for years up to, and including 2039 to account for the expanded period of time during which the current VIN system

² The original petition for rulemaking was developed by a committee of SAE International. That committee, known as the SAE Vehicle Identification Number/World Manufacturer Identifier Technical Committee, consisted of representatives from General Motors, International Truck and Engine Corporation, RL Polk & Company, The Hill Group, Freightliner Truck Division, American Association of Motor Vehicle Administrators, American Suzuki Motor Corporation, Harley Davidson Motor Company, Motorcycle Industry Council, Ford Motor Company, Transport Canada, National Insurance Crime Bureau (NICB), and Daimler Chrysler Corporation. In addition, a representative from NHTSA attended all meetings, most of which were conducted by conference call. Also, representatives from Clifford Thomas IMS in the United Kingdom, the Highway Loss Data Institute, and Caterpillar, Inc. also participated in the process.

will remain in existence under the final rule.

- Part 565 now expressly applies to Low Speed Vehicles (LSVs).
- Vehicle attributes that now must be communicated in, and decipherable from, the VINs of LSVs have been added to Part 565.
- The VINs of LSVs must be in the same location as VINs for passenger cars, multipurpose passenger vehicles and trucks with a GVWR of 4536 kg (10,000 lb) or less.
- The vehicles to which Part 565.5, “Motor vehicles imported into the United States,” applies have been expanded from “passenger cars” to “passenger cars, multipurpose passenger vehicles, low speed vehicles and trucks of 4536 kg or less GVWR.”
- Language has been added to Part 565 to indicate that the number “9” in the third VIN position means that the vehicle is produced in sufficiently small quantities that a low-volume manufacturer identifier applies and that positions 12–14 are therefore part of the manufacturer identifier.
- A table and an explanatory note have been added to Part 565 that specifically indicates the digit that should appear in the ninth position of the VIN.
- New definitions have been added for “low-volume manufacturer,” “high-volume manufacturer,” and “manufacturer identifier.”
- The dividing line between high-volume and low-volume manufacturers, which determines whether a three character or six character manufacturer identifier is required, has been set at 1,000 vehicles, with those manufacturers manufacturing 1,000 or more vehicles considered to be high-volume manufacturers.
- The contact details in Part 565 for the SAE International, NHTSA’s contractor that administers the VIN system, have been revised.

II. Petitions for Reconsideration and NHTSA’s Response

NHTSA received two petitions for reconsideration in response to the VIN final rule and a comment that raised the same basic issue that was raised in one of the petitions.

A. Effective Date

Vehicle Services Consulting, Inc. (VSC) submitted a petition for reconsideration that was received on May 15, 2008, the day before NHTSA published a correction notice³ that, among other things, clarified the effective date of the final rule. The

¹ 73 FR 23367, Docket No. 2008–0022; corrected 73 FR 28370, May 16, 2008, Docket No. 2008–0022.

³ See 73 FR 28370.

effective date of the final rule was the effect of VSC's petition.

In its petition, VSC asserted that the effect of the language relating to the effective date of the new regulation, as originally published on April 30, 2008, would "force manufacturers to start their MY 2010 no later than with April 30, 2009 production." VSC indicated that manufacturers need flexibility to decide when to change over from MY 2009 production to MY 2010 production. VSC suggested detailed changes to the regulatory language originally published.

The agency believes that the May 16, 2008 correction notice adequately addressed the issues raised by VSC. The corrections make clear that model year 2010 and 2011 vehicles manufactured on or after October 27, 2008 must comply with the new rule. The agency believes the October 27, 2008 effective date provided sufficient lead time for manufacturers to plan for the manufacture of model year 2010 vehicles. It is the agency's intent that all model year 2010 vehicles comply with the new VIN rule.

The May 16, 2008 corrections also make clear that "all motor vehicles identified as model year 2009 or earlier vehicles by their manufacturer" must comply with the current 49 CFR Part 565, which is included in the final rule as Subpart C.

Because the May 16, 2008 correction notice addresses VSC's concerns, the agency is denying this petition for reconsideration.

B. Time Period Identifiers for Other Types of Vehicles

The April 30, 2008 final rule included a change in the 17 character VIN system for passenger cars, multipurpose passenger vehicles, and trucks with GVWRs of 10,000 lb (4,536 kg) or less, that effectively indicates whether the vehicle is from the first 30 year or second 30 year period of the VIN system's life. In its petition for reconsideration, the Highway Loss Data Institute (HLDI), an affiliate of the Insurance Institute for Highway Safety (IIHS), asked that changes be made to the VIN final rule so that the 30 year period in which motorcycles and pickup trucks greater than 10,000 lb GVWR were manufactured can be identified.

While not submitted as a petition for reconsideration, NHTSA also received a comment from Penton Media expressing a concern similar to HLDI's but relating to all vehicles other than passenger cars, multipurpose passenger vehicles, and trucks with a GVWR of 4536 kg (10,000 lb) or less, including trucks with a

GVWR greater than 4536 kg (10,000 lb), buses, motorcycles, trailers, and low speed-vehicles.

For motorcycles, HLDI suggested two options for allowing one to determine the 30 year period in which a motorcycle was manufactured. The first would require motorcycles to use prescribed alphabetic characters in position 9 of the VIN as check digits, as opposed to the numeric characters now required for all vehicles including motorcycles. The second option would allow motorcycles to use an alphabetic character not now permitted to be used in VINs, specifically I, O, or Q, in VIN positions 4–8 to indicate that the motorcycle is a model year in the range 2010–39.

With regard to pickups, HLDI cited four different makes/series that include versions with GVWRs both above and below 10,000 lb. HLDI asked that manufacturers of "any make/series with GVWRs both above and below the 10,000 pound threshold follow the new rules for all vehicles of that make/series—that is, to use alphabetic characters in VIN position 7 to indicate model years 2010–2039 and ensure the uniqueness of VINs for this group of vehicles." HLDI said its analysis of the VINs of the four makes/series of pickups it cited indicated that alphabetic characters have not been used in position 7 of the VINs of these vehicles.

While HLDI and Penton Media have identified a difference in the way vehicles under 10,000 lb GVWR and motorcycles and vehicles over 10,000 lb GVWR are treated in the final rule, the agency does not believe that it has a sufficient basis to change Part 565 per the petitioner's request. The issues raised were not raised in the rulemaking and are therefore outside the scope of the rulemaking and cannot be addressed in response to a petition for reconsideration. As such, we are denying HLDI's petition for reconsideration.

Our decision-making on the issues raised by HLDI would benefit from public comments on the issues. The agency believes that the changes suggested by HLDI could have a substantial impact on data systems that utilize VINs. Furthermore, it seems likely that some users of data systems may not derive any benefit from the changes they would be forced to make. The changes to the VIN system HLDI proposes would likely benefit HLDI's research activities, but we are uncertain as to what adverse effects making these changes might have on others with data systems that rely on the VIN. Any changes of the sort suggested by HLDI would benefit from notice and comment

rulemaking to assure, among other things, that these changes would not have an adverse impact on manufacturers of the vehicles involved as well as on the many data systems that utilize the VIN, such as those maintained by State motor vehicle departments, insurance companies, and others. NHTSA believes that any proposed change to longstanding operating principles of the VIN system, such as allowing the use of the characters I, O, and Q, must be carefully and thoroughly reviewed to make sure that a solution in one context does not create problems in another. Again, public comments on the change would be beneficial.

With respect to HLDI's concern that certain makes and models of pickup trucks have vehicle versions that are above 10,000 lb GVWR and below 10,000 lb and might therefore use two different approaches to assigning VINs to these vehicles, NHTSA believes that for the vehicles mentioned by HLDI, the problem, at least for now, does not exist. NHTSA contacted the manufacturers of the pickups cited by HLDI. Each indicated that in the case of the pickup makes and models cited by HLDI, the manufacturer applies the VIN character scheme required of vehicles less than 10,000 lb GVWR to all versions of the vehicles.

Therefore, for the aforementioned reasons, we decline to make the changes suggested by HLDI. We note that we are continuing efforts to review the VIN system, so the suggested changes could be pursued if further revisions to the VIN system are proposed at a later time.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued: December 11, 2009.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS-R6-ES-2008-0122]

[92210-1111-0000-B2]

Endangered and Threatened Wildlife and Plants; 12-month Finding on a Petition To Change the Final Listing of the Distinct Population Segment of the Canada Lynx To Include New Mexico

AGENCY: Fish and Wildlife Service, Interior.