

# **PROCESSING PETITIONS TO IMPORT NON-CANADIAN GRAY MARKET VEHICLES**

*National Highway Traffic Safety Administration*

*Report Number: MH-2005-052*

*Date Issued: February 28, 2005*



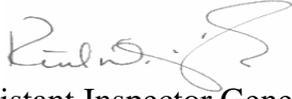
# Memorandum

**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation  
Office of Inspector General

Subject: ACTION: Processing Petitions to Import  
Non-Canadian Gray Market Vehicles  
Report Number: MH-2005-052

Date: February 28, 2005

From: Kurt Hyde   
Deputy Assistant Inspector General  
for Surface and Maritime Programs

Reply to  
Attn. of: JA-40

To: National Highway Traffic Safety Administrator

This report presents the results of our audit of the National Highway Traffic Safety Administration's (NHTSA) processing of petitions to import "gray market" vehicles from countries other than Canada. Gray market vehicles are vehicles (other than those manufactured for sale in Canada) that were not originally manufactured to comply with applicable Federal motor vehicle safety standards and must be modified to conform to those standards following their importation into the United States. The audit was conducted at the request of the NHTSA Administrator following a complaint from a registered importer of motor vehicles about a delay in the processing of petitions by the Office of Vehicle Safety Compliance. Our objectives were to (1) evaluate NHTSA's timeliness in approving petitions for permission to import vehicles and (2) determine the reasons importers may experience processing delays. Our scope and methodology are discussed in Exhibit A.

## BACKGROUND

Motorists import gray market vehicles for a number of reasons: (a) they may have purchased a vehicle while working overseas or serving in the military; (b) they may be a collector or enthusiast who wants a make or model that the manufacturer has chosen not to distribute in the United States; or (c) they may be trying to save money, as a gray market vehicle can oftentimes cost as much as 40 percent less than a similar vehicle sold in the United States. Even after making costly modifications to meet safety standards, a motorist may still save money buying a

gray market vehicle. During calendar years (CY) 2001 through 2003, 509,772 gray market vehicles were imported into the United States. Of those, 4,041 vehicles, or less than 1 percent, were imported from countries other than Canada. Hundreds of vehicles of the same make, model, and model year can be imported under a single approved petition's eligibility number, and importations of some of those 4,041 vehicles were based on petitions approved before CY 2001. These petitions and the resulting eligibility numbers are specific to the vehicle, rather than to the petitioner. Any registered importer can import a vehicle determined eligible for importation, even if the petition was filed by a different registered importer.

The table below provides details of the petition and conformity package process.

<b>Table. Steps for Importing 'Gray Market' Vehicles</b>
<p><b><u>Accepting Petitions</u></b></p> <ol style="list-style-type: none"> <li>1. If a vehicle has not previously been determined eligible for importation, the registered importer files a petition with NHTSA. If the vehicle is of a make, model, and model year that has already been approved for import, the registered importer moves to step No. 5.</li> <li>2. NHTSA conducts an administrative review and accepts the petition for processing or notifies the registered importer that the petition lacks specific information for processing. NHTSA holds an incomplete petition in suspense until the registered importer provides the required information to NHTSA. If the required information is not submitted within the time specified by NHTSA, the agency may dismiss the petition as incomplete and inform the registered importer.</li> </ol> <p><b><u>Publishing Petitions</u></b></p> <ol style="list-style-type: none"> <li>3. After accepting the petition for processing, NHTSA publishes a Federal Register notice soliciting public comment on the petition and the modifications necessary to bring the vehicle into compliance with applicable safety standards. The comment period normally runs for 30 days.</li> </ol> <p><b><u>Issuing Eligibility Numbers</u></b></p> <ol style="list-style-type: none"> <li>4. After resolving comments and deciding that the vehicle can be modified to meet safety standards, NHTSA grants the petition by assigning an eligibility number for the vehicle make, model, and model year and notifies the registered importer. The registered importer then has 120 days to make necessary vehicle modifications. At a later date, NHTSA will publish its decision in the Federal Register.</li> </ol> <p><b><u>Approving Conformity Packages</u></b></p> <ol style="list-style-type: none"> <li>5. Registered importer gives NHTSA evidence that modifications have been completed and certification that the vehicle complies with safety standards (referred to as a "conformity package").</li> <li>6. NHTSA reviews the conformity package to ensure modifications are properly made and either issues a letter to the registered importer releasing the vehicle or instructs the registered importer to provide additional evidence that the vehicle has been properly modified to conform to applicable safety standards. (If after 30 calendar days NHTSA has not notified the registered importer that the conformity package is deficient, the registered importer may release the vehicle to the customer.)</li> </ol>

During CYs 2001 through 2003, 73 import eligibility petitions were approved. Of the 73 petitions, 35 were for luxury vehicles, such as Audi, BMW, Ferrari, Jaguar, Lamborghini, Mercedes Benz, and Porsche. Some of these vehicles, like the Lamborghini Diablo, can sell for hundreds of thousands of dollars. Another 18 of the 73 petitions were for non-luxury vehicles, such as Chevrolets and Fords. Of the remainder, 6 were for Harley-Davidson motorcycles and 14 were for other makes of motorcycles. (For a complete list of makes and models of vehicles included in the 73 petitions, see Exhibit B.)

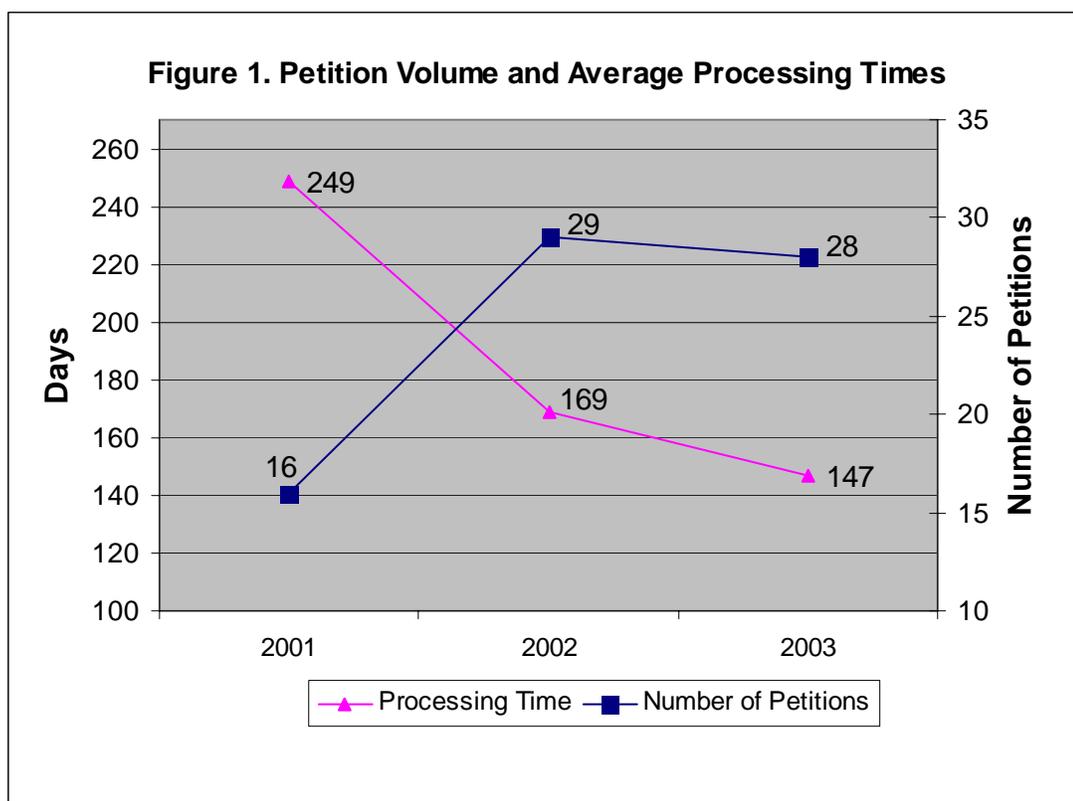
A motorist who buys a gray market vehicle must hire a registered importer to shepherd the vehicle through two distinct phases of preparing the vehicle for U.S. highways. The first is the petition process, which is needed to obtain regulatory approval for modifying the vehicle to meet U.S. safety standards. The second phase is the conformity process, which proves to NHTSA that the needed modifications have been made.

Both NHTSA and registered importers have responsibility for ensuring that petitions are processed in a timely manner. NHTSA reviews the petitions to determine whether the vehicle can be modified to comply with the Federal vehicle safety standards. NHTSA's procedures indicate it should take from 90 to 120 calendar days from the time a petition is filed until an eligibility number is assigned. Within 120 days after assignment of an eligibility number, registered importers must submit to NHTSA a conformity package, which includes a certification and evidence that the modifications have been made. A vehicle of the same make, model, and model year of a previously approved vehicle can be imported under the same eligibility number as the previously approved petition and go directly to the conformity package process.

Our audit focused on the petition process, which was the source of business and consumer complaints. The conformity package process is largely the responsibility of the importers, and NHTSA's approvals of the conformity packages have been expeditious.

## **RESULTS**

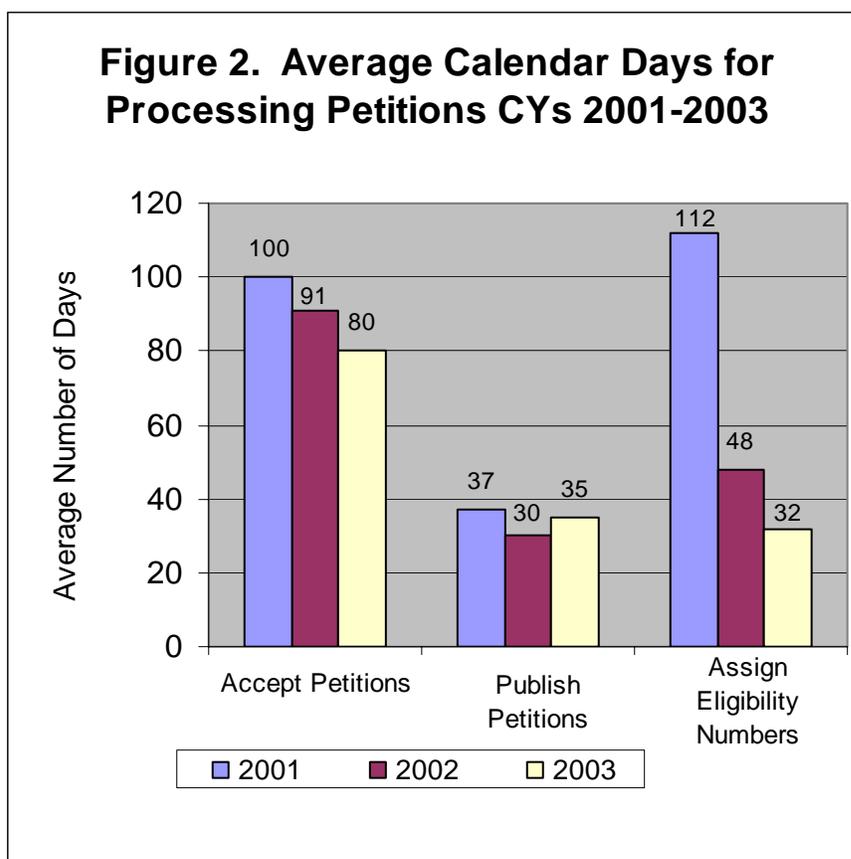
The average processing times for petitions markedly improved since CY 2001, although the number of petitions increased from 16 in CY 2001 to 28 in CY 2003. As shown in Figure 1, the average processing time decreased from 249 days in CY 2001 to 147 days in CY 2003. However, these processing times significantly exceeded NHTSA's 90- to 120-calendar-day standard. NHTSA exceeded the 120-day standard for 43, or 59 percent, of the 73 petitions process during this 3-year period.



Source: OIG analysis of NHTSA information.

Individual processing times ranged from as few as 63 calendar days to as many as 578 calendar days. The range between the shortest petition processing time and the longest petition processing time also decreased each year, from 492 days in CY 2001 to 273 in CY 2003. As shown in Figure 2, processing delays were the most pronounced in CY 2001 and predominantly occurred during the first stage of the process—accepting petitions. For example, one registered importer’s petition for a Mercedes Benz was approved 177 days after the initial petition was filed in January 2001 because NHTSA had lost the petition. (For more details on processing times, see Exhibit C.)

NHTSA continued to improve its timeliness in the first 10 months of CY 2004, processing 24 of the 26 petitions it received within 77 calendar days. The remaining two petitions are in the final stage of approval.



Source: OIG analysis of information from NHTSA.

Petition processing delays in CYs 2001, 2002, and 2003 were attributed to staff shortages in the Import and Certification Division (three of seven office positions were vacant because of a retirement, a reassignment, and an employee on military leave) and to an extra review step by the Office of Chief Counsel before petition information was published in the Federal Register. In CY 2003, NHTSA made changes in management staff, shifted other staff to assist in processing petitions and moved the legal review from the Office of the Chief Counsel to the Chief of the Import and Certification Division. As a result, average processing times fell from 249 calendar days in CY 2001 to 147 calendar days in CY 2003, despite an increase in the number of petitions filed.

We also identified eight petitions (or about 11 percent) processed during CYs 2001 to 2003 that were delayed for reasons that were beyond NHTSA's control. For example, after NHTSA asked one registered importer for additional information about its petition, that importer took 5 months to respond with the information. When an eligibility number was ultimately assigned, 376 days had elapsed from the end of the comment period to the assignment of the eligibility number. Seven other petitions were delayed by a manufacturer's request for an

extension of the 30-day comment period following the publishing of the Federal Register notice. NHTSA extended the comment period for these 73 petitions by 10 to 51 calendar days because vehicle manufacturers requested additional time to respond. Four of the seven requests to extend the comment period were from one automobile manufacturer (Ferrari) that was opposed to the importation of its vehicles, except through authorized dealers in the United States.

Our analysis of the petition processing times showed that the make of the vehicle on the petition, the fact that it was a luxury or non-luxury vehicle, and the number of vehicles eventually imported under each approved petition's eligibility number did not tend to affect how long NHTSA took to process a petition. As noted previously, however, petition processing times for Ferraris were skewed by the manufacturer's actions in opposition to allowing the importation of Ferraris except through authorized dealers.

We also found that the key to further progress in reducing petition processing delays is improving the agency's computer database so that the data are more reliable and staff can better monitor delayed petitions. The status of petitions is recorded in NHTSA's Motor Vehicle Importation Information System. The system tracks the date that NHTSA received the petition, published a notice of the petition in the Federal Register, and assigns an eligibility number to vehicles covered by the petition. We tested the reliability of information recorded in NHTSA's system and found the data to be accurate with the exception of the petition receipt dates. We found that 69 (95 percent) of the 73 petition receipt dates reflected the dates that the petitions were entered into the system instead of the dates that they were received. Using the dates NHTSA received the petitions yielded processing times 15 to 22 days longer than those recorded in the system.

Further, we found that the Motor Vehicle Importation Information System does not identify those petitions that are held in suspense for further information from the registered importer or for an extension of the comment period. As a result, NHTSA could not use the system to identify all processing delays or to consistently inform the registered importer of the petition processing status. In fiscal year 2004 NHTSA began making changes to the vehicle importation information system and is preparing monthly management reports that identify the status of all petitions.

Finally, NHTSA has no established procedures for informing vehicle owners of the progress of a petition or conformity package through the approval processes. At present, all communication is directed to the registered importer, unless the vehicle owner contacts NHTSA with an inquiry. This lack of communication with the ultimate consumer can and has caused customer satisfaction issues for NHTSA. For example, the lack of available information on delays in the petition

approval process led to a complaint from the owner of one vehicle. That vehicle and one other from the same manufacturer had been placed on a single petition by the registered importer. The manufacturer's objections and comments on one vehicle delayed the approval of both. As a result, the vehicle owner complained to NHTSA of the registered importer's delay. A mechanism making the petition status information available on a searchable Web site would better serve the vehicle owner and the registered importer as well.

Other customer-centric agencies within the Federal Government have overcome similar problems by enabling relevant parties to "see" the status of their petitions on a Web site. NHTSA already has some non-confidential information regarding petitions (already available in public documents) posted on DOT's Docket Management System (DMS) Web site (<http://dms.dot.gov/>). However the documents identify only the registered importer, not the owner of the vehicle. In addition, they do not show whether consideration of the petition has been delayed. The status of a petition is not available on the DMS Web site unless NHTSA has granted or denied the petition.

## **RECOMMENDATIONS**

We recommend that the National Highway Traffic Safety Administrator:

1. Ensure that petition receipt dates are properly recorded in the Motor Vehicle Importation Information System.
2. Ensure management reports show the actual processing time for each step of the petition process, and note how these times compare to NHTSA standards.
3. Modify the Motor Vehicle Importation Information System to include fields that flag a petition that is being held in suspense and note the reason for the suspension, to call delayed petitions to the attention of NHTSA staff.
4. Consider developing a customer-centric mechanism in line with the President's E-Government Initiative—such as a searchable Web site application listing the status of petitions—to ensure that the information regarding a petition being held in suspense is available to both the registered importer and the vehicle owner.

## **MANAGEMENT COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE**

We provided NHTSA a draft of this report on February 14, 2005. In its comments, provided on February 18, 2005, NHTSA concurred with the recommendations and identified actions taken or planned for each of the recommendations.

Specifically, regarding recommendation 1, NHTSA has taken actions to ensure that petition receipt dates are properly recorded in the Motor Vehicle Importation Information System. In response to recommendation 2, NHTSA will establish and implement time standards for each step of the petition process no later than June 1, 2005. Further, during our review, NHTSA updated the Motor Vehicle Importation Information System with fields that flag petitions held in suspense and provide a reason for the suspense action. This action satisfies the intent of recommendation 3. In response to recommendation 4, rather than developing a searchable Web site, NHTSA proposed (a) developing an Import Eligibility Petition Status report by March 2005, (b) creating a Web page on its Vehicle Importation Information Web site by the end of May 2005 that displays the status report, and (c) in June 2005, NHTSA will issue a newsletter notifying all registered importers of the Import Eligibility Status Report and its location on the NHTSA Web site. We consider this action responsive.

NHTSA provided additional comments concerning U.S. military personnel's purchase of nonconforming motor vehicles overseas, as well as technical comments on the draft report. We incorporated those comments into this final report, as appropriate. The full text of NHTSA's comments are in the Appendix. NHTSA's comments included attachments that will be available upon request.

### **ACTION REQUIRED**

We appreciate the courtesies and cooperation of National Highway Traffic Safety Administration staff during this audit. The actions taken and planned by NHTSA are reasonable and subject to the follow-up requirements of DOT Order 8000.1C. If you have any questions concerning this report, please call me at (202) 366-2017.

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cc: The Secretary  
Deputy Secretary

## **EXHIBIT A. SCOPE AND METHODOLOGY**

To address the objectives, we reviewed NHTSA's process for reviewing petitions; interviewed NHTSA personnel; evaluated the accuracy of information in the Motor Vehicle Importation Information System; and reviewed petition files, correspondence, and additional documentation to determine the reasons for delays in approving petitions. We reviewed 73 petitions filed during CYs 2001 through 2003 for 4,041 non-Canadian vehicles and computed the average calendar day processing times for each step of NHTSA's process and the range of processing days. Of the 73 petitions, 16 were filed in CY 2001, 29 in CY 2002, and 28 in CY 2003. We also computed processing times for the 26 petitions filed between January 1 and August 31, 2004.

We also assessed the reliability of the Motor Vehicle Importation Information System by tracing all 73 petitions in the database to petition files to (1) ensure that all petitions were in the database, and (2) determine whether the petition dates were accurately entered into the system. Because the petition receipt dates were not accurately recorded in the management information system, we calculated processing times using the dates noted on the petitions. We also relied on information in NHTSA's petition files to determine when eligibility numbers were assigned because before March 2003, NHTSA did not provide written notification to registered importers when their petitions were approved.

We conducted the audit from February through October 2004, in accordance with Government Auditing Standards prescribed by the Comptroller General of the United States. The audit included tests of internal controls, as were considered necessary.

## EXHIBIT B. TYPES OF VEHICLES

<b>Table 1. Types of Vehicles Petitioned for Import CY 2001 through CY 2003</b>		
<b>Vehicle Make</b>	<b>Vehicle Model</b>	<b>Petitions Processed</b>
Audi	TT, A4, S4, RS4, A8, S8, S6	4
BMW	R1100, 3/5 Series, Z8, 850 Series	4
Ferrari	360,550,F355,456,360,575	7
Harley Davidson	FX,FL,XL,VRSCA	6
Jaguar	S-Type	1
Lamborghini	Diablo, Diablo Coupe	2
Mercedes Benz	500,600,SL,CL,CLK,SLK,S,V ,E	14
Porsche	GT2, Boxster	3
Other autos		18
Other motorcycles		14
<b>Total</b>		<b>73</b>

Source: NHTSA

<b>Table 2. Types and Number of Vehicles in Conformity Packages Approved May 2003-August 2004</b>	
<b>Vehicle Make</b>	<b>Number of vehicles</b>
Harley-Davidson	165
Mercedes Benz	98
Ferrari	59
BMW	41
Porsche	20
Other motorcycles	9
Audi	7
Nissan	4
Jaguar	3
Jeep	3
Volkswagen	3
Chevrolet	2
Ford	2
Toyota	2
Aston Martin	1
Honda	1
Lamborghini	1
Land Rover	1
Lexus	1
Rolls Royce	1
Saab	1
<b>Total</b>	<b>425</b>

Source: NHTSA

## EXHIBIT C. PETITION PROCESSING TIMES

<b>Table 1. Timeliness in Processing Petitions CY 2001 through CY 2004</b>				
<b>Calendar Year</b>	<b>Total Petitions Processed</b>	<b>Under 90 days</b>	<b>90 to 120 days</b>	<b>Over 120 days</b>
2001	16	1	3	12
2002	29	2	10	17
2003	28	8	6	14
2004	26*	19	4	1
<b>Total</b>	<b>99</b>	<b>30</b>	<b>23</b>	<b>44</b>

Source: OIG analysis of information from NHTSA.

\*2004 data represent petitions received January through August. Two of these petitions are still being processed.

<b>Table 2. Range of Calendar Days to Process Petitions</b>					
		<b>Minimum to Maximum Number of Days</b>			
<b>Calendar Year</b>	<b>Number of Petitions</b>	<b>Accept Petitions</b>	<b>Publish Petitions</b>	<b>Resolve Comments, Assign Eligibility Numbers</b>	<b>Total for Entire Petition Process</b>
2001	16	50 to 177	30 to 81	1 to 442	86 to 578
2002	29	43 to 249	30 to 33	0 to 420	85 to 529
2003	28	25 to 179	30 to 79	1 to 203	63 to 336
<b>Total</b>	<b>73</b>	<b>25 to 249</b>	<b>30 to 81</b>	<b>0 to 442</b>	<b>63 to 578</b>

Source: OIG analysis of information from NHTSA.

## **EXHIBIT D: MAJOR CONTRIBUTORS TO THIS REPORT**

### **THE FOLLOWING INDIVIDUALS CONTRIBUTED TO THIS REPORT.**

Kurt Hyde	Deputy Assistant Inspector General for Surface and Maritime Programs
Paulette Heggins-Carter	Project Manager
Marvin Tuxhorn	Senior Auditor
Harriet Lambert	Editor
Clayton Boyce	Strategic Communications Consultant

# APPENDIX. MANAGEMENT COMMENTS



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

## Memorandum

Subject: OIG Draft Report entitled "Processing Petitions to Import Non-Canadian Gray Market Vehicles" Date: FEB 18 2005

From: Jeffrey W. Runge, M.D. Administrator  Reply to Attn. of:

To: Kenneth M. Meade Inspector General

Thank you for the opportunity to review the referenced report. We provided written comments on the text of the report by e-mail to the OIG on Friday, February 11, 2005. Attached are our responses to the recommendations included in the draft report.

**Recommendation 1: Ensure that petition receipt dates are properly recorded in the Motor Vehicle Importation Information (MVII) System.**

Response: We agree with the recommendation and have already implemented this in the MVII database.

**Recommendation 2: Ensure management reports show the actual processing time for each step of the petition process, and note how these times compare to NHTSA standards.**

Response: Currently there are no timeliness standards in the regulations governing the processing of import eligibility petitions (49 CFR Part 593), or in any agency directive or other internal guidance document. However, NHTSA will establish internal written guidelines for the processing of these petitions, including time standards for each step in the process. NHTSA will establish these standards and implement them no later than June 1, 2005.

**Recommendation 3: Modify the MVII to include fields that flag a petition that is being held in suspense and note the reason for the suspension, to call delayed petitions to the attention of NHTSA staff.**

Response: The MVII system already contains fields that flag a petition being held in abeyance and explains the reason(s) for the delay. (See Attachment 1 for details.) We believe this fully addresses the issue raised in the recommendation.



**Recommendation 4: Consider developing a customer-centric mechanism in line with the President's E-Government Initiative—such as a searchable website application listing the status of petitions—to ensure that the information that a petition is being held in suspense is available to both the registered importer and the vehicle owner.**

Response: A searchable website application listing the status of an individual petition is not necessary because of the small number of registered importers and vehicle owners who would have an interest in this information. The average number of eligibility petitions received is approximately 40 per year. We believe a more practical solution would be to:

- a. By March 2005, develop an Import Eligibility Petition Status Report identifying the status of all pending import eligibility petitions. The report would be updated on a monthly basis, reflect the last date it was updated, and display contact information for the Office of Vehicle Safety Compliance (OVSC) staff responsible for processing import eligibility petitions. (See Attachment 2 for example.)
- b. By the end of May 2005, create a webpage on NHTSA's Vehicle Importation Information website (<http://www.nhtsa.dot.gov/cars/rules/import/>) that displays the Import Eligibility Status Report. This page would follow the existing Vehicle Eligibility List on the website, and would be changed each month when a new status report is issued.
- c. In June 2005, OVSC will issue a newsletter notifying all registered importers of the existence of the Import Eligibility Petition Status Report and where it can be found on the NHTSA website. The newsletter will be posted on the agency's website.

At our meeting with OIG representatives on February 14, 2005, we discussed problems encountered by U.S. military service members serving overseas who wish to purchase nonconforming motor vehicles in the countries where they are stationed and ship those vehicles to the United States. OVSC receives a significant volume of e-mail inquiries from these service members seeking guidance on the importation of nonconforming motor vehicles. From these inquiries, and other information it has received, the agency is aware that many service members have received inaccurate information with regard to the importation of these vehicles. To ensure that more accurate information on this subject is disseminated to interested service members, we will contact, by March 1, 2005, the Department of Defense command that is responsible for the shipment of personal property, including motor vehicles, and provide it with instructions on how vehicle importation information can be obtained from NHTSA's website.

cc: Kurt W. Hyde  
Debra S. Ritt

Attachments - 2