

CIREN conferences is also available through the NHTSA Web site. NHTSA held the first quarterly meeting on May 5, 2000, with a topic of lower extremity injuries in motor vehicle crashes; the second quarterly meeting on July 21, 2000, with a topic of side impact crashes; the third quarterly meeting on November 30, 2000, with a topic of thoracic injuries in crashes; the fourth quarterly meeting on March 16, 2001, with a topic of offset frontal collisions; the fifth quarterly meeting on June 21, 2001, on CIREN outreach efforts; the sixth quarterly meeting (held in Ann Arbor, Michigan) with a topic of injuries involving sport utility vehicles, the seventh quarterly meeting on December 6, 2001, with a topic of Age Related Injuries (Elderly and Children), the eighth quarterly meeting on April 25, 2002, with a topic of Head and Traumatic Brain Injuries, and the ninth quarterly meeting on August 22, 2002 at Harborview Injury Prevention and Research Center in Seattle, Washington with presentations highlighting the various research specialties of the Centers. Presentations from these meetings are available through the NHTSA website.

NHTSA plans to continue holding quarterly meetings on a regular basis to disseminate CIREN information to interested parties. This is the tenth such meeting. The ten CIREN Centers will be presenting papers on the research specialty for their particular center regarding crash injury mechanisms. The next meeting is tentatively scheduled for April 3, 2003.

Should it be necessary to cancel the meeting due to inclement weather or to any other emergencies, a decision to cancel will be made as soon as possible and posted immediately on NHTSA's Web site <http://www.nhtsa.dot.gov/nhtsa/announce/meetings/>. If you do not have access to the Web site, you may call the contact listed below and leave your telephone or fax number. You will be called only if the meeting is postponed or canceled.

**FOR FURTHER INFORMATION CONTACT:** Catherine McCullough, Office of Advanced Safety Research, 400 Seventh Street, SW, Room 6220, Washington, DC 20590, telephone: (202) 366-4734.

Issued on: November 8, 2002.

**Raymond P. Owings,**

*Associate Administrator for Advanced Research and Analysis, National Highway Traffic Safety Administration.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2002-10175; Notice 2]

#### Decision That Nonconforming 2001 Mercedes Benz Gelaendewagen 5-Door Long Wheel Base Multipurpose Passenger Vehicles Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice of decision by NHTSA that nonconforming 2001 Mercedes Benz Gelaendewagen 5-door long wheel base multipurpose passenger vehicles (MPVs) are eligible for importation.

**SUMMARY:** This notice announces the decision by NHTSA that 2001 Mercedes Benz Gelaendewagen 5-door long wheel base MPVs not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

**DATES:** This decision is effective as of the date of its publication in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Luke Loy, Office of Vehicle Safety Compliance, NHTSA (202-366-5308).

#### SUPPLEMENTARY INFORMATION:

##### Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards ("FMVSS") shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, LLC, of Baltimore, MD, ("J.K.") (Registered Importer 90-006) petitioned NHTSA to decide whether 2001 Mercedes Benz Gelaendewagen MPVs are eligible for importation into the United States. NHTSA published notice of the petition on August 1, 2001 (66 FR 39823) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

One comment was received in response to the notice of the petition, from the Original Automobile Manufacturers' Association of Concord, New Hampshire. This comment was signed by a James Linder, who identified himself as President of the organization. The comment questioned the adequacy of the documentation submitted by J.K. to demonstrate that the 2001 Mercedes Benz Gelaendewagen MPV complies with, or is capable of being altered to comply with, a number of FMVSSs. The comment recommended that the NHTSA engineer responsible for each of the standards cited (Standard Nos. 103, 104, 105, 108, 113, 114, 118, 124, 201, 202, 204, 206, 207, 208, 209, 210, 212, 214, 216, 219, 301, and 302, as well as the Federal Bumper Standard found in 49 CFR Part 581) review the data submitted by J.K. to determine whether it is sufficient to certify the compliance of the 2001 Mercedes Benz Gelaendewagen MPV with the standard. After receiving this comment, NHTSA learned that the names of both the organization that purportedly submitted it, and the individual who signed it, are fictitious. In light of this circumstance, as well as the fact that the comment essentially offers little more than suggestions to guide the agency in its review of the petition, we have concluded that it does not merit further discussion in this document. We do note, however, that in processing import eligibility petitions, the agency does obtain, when necessary, input of the kind the comment

recommended from its professional engineering staff.

After initially reviewing the petition, the agency informed J.K., by letter dated December 7, 2001, that it had submitted insufficient test data to demonstrate that the 2001 Mercedes Benz Gelaendewagen MPV complies with, or is capable of being altered to comply with, Standard Nos. 105 Hydraulic Brake Systems, 208 Occupant Crash Protection, 214 Side Impact Protection, and 301 Fuel System Integrity. The letter asked J.K. how it intended to bring the vehicle into compliance with these standards.

In lieu of responding to this request, J.K. asked the agency, by letter dated January 24, 2002, to disregard and destroy the data submitted in support of its original petition, and to process the petition instead under 49 U.S.C. 30141(a)(1)(A), on the basis that there is a U.S.-certified version of the vehicle. J.K. identified that vehicle as the 2002 Gelaendewagen Type 463 MPV (identified in the letter as the "G500 model") that Mercedes-Benz had begun to import into the United States. The letter asserted that this was an appropriate comparative vehicle because the vehicle that was the subject of the petition was actually produced after some of the vehicles that Mercedes had been importing with a 2002 model year designation.

The agency next received an inquiry concerning the status of the petition from an individual who identified himself as a client of J.K.'s. The individual stated that he had contracted with J.K. for the importation of a 3-door short wheel base convertible version of the 2001 Mercedes Benz Gelaendewagen. The agency subsequently learned from Mercedes Benz North America that the only model year 2002 Gelaendewagen being offered for sale in the United States is the 5-door long wheel base version of the vehicle. Based on this information, the agency asked J.K. to clarify which versions of the vehicle were covered by its petition, and to modify the petition if J.K. intended it to cover both long wheel base and short wheel base versions. J.K. responded, by letter dated April 15, 2002, that it intended the petition to cover all versions of the 2001 Mercedes Benz Gelaendewagen.

The agency then informed J.K., by letter dated May 15, 2002, that due to the 18-inch wheelbase difference and weight difference between the short wheel base and long wheel base versions of the vehicle, as well as the body difference with regard to the convertible model, the compliance of the 5-door long wheel base version with Standard Nos. 201, 204, 208, 210, 214,

216, and 301 does not necessarily demonstrate compliance of the 3-door short wheel base and convertible versions with those standards. The agency accordingly asked J.K. to supply it with additional information substantiating that the 3-door short wheel base and convertible models of the vehicle comply with those standards if J.K. wished the agency to construe the petition as applying to all three models. J.K. responded by letter dated August 12, 2002, requesting the agency to process the petition as applicable to the 5-door long wheel base version of the 2001 Gelaendewagen alone. J.K. stated that it would later submit separate petitions covering the other versions of the vehicle.

Since there was no substantially similar U.S.-certified version of the 2001 Mercedes Benz Gelaendewagen, 49 U.S.C. 30141(a)(1)(B) provides the only basis for the agency to decide that the vehicle is eligible for importation. As previously noted, that section permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test or such other evidence as NHTSA decides to be adequate. In this instance, the fact that there is a U.S.-certified counterpart for the 5-door long wheel base version of the 2002 model Mercedes Benz Gelaendewagen has led the agency to conclude that the non-U.S. certified 5-door long wheel base model built in 2001 has safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS. In light of this circumstance, the agency has decided to grant import eligibility to that model.

#### **Vehicle Eligibility Number for Subject Vehicles**

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VCP-21 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

#### **Final Decision**

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 2001 Mercedes Benz Gelaendewagen 5-door long wheel base multipurpose passenger vehicles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they have safety features that

comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

**Authority:** 49 U.S.C. 30141(a)(1)(B) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: November 13, 2002.

**Marilynn Jacobs,**

*Director, Office of Vehicle Safety Compliance.*

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## **DEPARTMENT OF TRANSPORTATION**

### **Surface Transportation Board**

[STB Finance Docket No. 34275]

#### **The Burlington Northern and Santa Fe Railway Company—Trackage Rights Exemption—Union Pacific Railroad Company; Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company**

Pursuant to a written trackage rights and joint ownership agreement dated April 5, 2002, The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant limited overhead trackage rights to Union Pacific Railroad Company (UP) between BNSF milepost 3.3x near Argo, WA, and BNSF milepost 9.5x near Black River, WA, a distance of 6.2 miles, and UP has agreed to grant limited overhead trackage rights to BNSF between UP milepost 176.4 near Rhodes, WA, and UP milepost 173.1 near Black River, WA, a distance of 3.3 miles.<sup>1</sup>

The parties state that consummation of the transaction was scheduled to occur immediately upon the November 6, 2002 effective date of the exemption (7 days after the exemption was filed) and that operations under the exemption were scheduled to begin on or after November 7, 2002.

The purpose of the trackage rights is to allow the phase-in of commuter rail enhancements to accommodate the Central Puget Sound Regional Transit Authority's commuter operations between Seattle and Tacoma, WA.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in

<sup>1</sup> The notice refers to an exchange of "temporary" overhead trackage rights in connection with a "joint relocation project." The transaction appears to be an exchange of trackage rights for a term of 40 years and has been processed as such. In the future, if circumstances warrant, BNSF and UP may need to seek approval to discontinue the trackage rights.