

- (ii) Cost Control;
- (iii) Timeliness of Performance;
- (iv) Customer Satisfaction (Contracting/Business Relations);
- (v) Customer Satisfaction (End User/Business Relations); and
- (vi) Rater's Overall Assessment.

(8) An evaluation of key contractor personnel for services and R&D contracts;

(9) The evaluator's name, address, telephone number and dated signature;

(10) Whether the contractor provided comments, rebuttals or additional information. If such information was provided, it shall be attached to the Government evaluation;

(11) A resolution of contractor comments; and

(12) The final review authority's name, address, phone number, and dated signature.

(S-71) Evaluations completed in accordance with paragraph (S-70) of this section shall consider the following areas:

(1) Quality of product or service. This includes the following aspects of performance:

- (i) Compliance with contract requirements;
- (ii) Accuracy of reports;
- (iii) Appropriateness of contractor personnel assigned to the contract; and
- (iv) Technical excellence of delivered supplies or services.

(2) Cost Control. This includes the following aspects of performance:

- (i) Current, accurate, and complete billings;
- (ii) The relationship of negotiated cost to actuals;
- (iii) Cost containment initiatives; and
- (iv) The number and cause of change orders issued.

(3) Timeliness of Performance. This includes the following aspects of performance:

- (i) Whether the contractor met interim milestones;
- (ii) Contractor's responsiveness to technical direction;
- (iii) Contractor's responsiveness to contract change orders and administrative requirements;
- (iv) Whether the contract was completed on time, including wrap-up and contract administration; and
- (v) Whether liquidated damages were assessed.

(4) Business Relations/Customer Satisfaction. This includes the following aspects of performance:

- (i) Whether the contractor effectively managed the contract effort;
- (ii) How responsive the contractor was to contract requirements;
- (iii) How promptly the contractor notified the Government of problems;

- (iv) Whether the contractor was reasonable and cooperative;
- (v) How flexible the contractor was;
- (vi) Was the contractor proactive;
- (vii) How effective were contractor-recommended solutions; and

(viii) Did the contractor effectively implement socio-economic programs, including compliance with requirements of the clause at FAR 52.219-8, Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns, and 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan.

(S-72) The following adjectival ratings shall be used when rating each area described in paragraph (S-71):

(1) Unsatisfactory.  
(i) Quality of Product or Service. Nonconformances are compromising the achievement of contract requirements, despite the use of Agency resources.

(ii) Cost Control. Cost issues are compromising performance of contract requirements.

(iii) Timeliness of Performance. Delays are compromising the achievement of contract requirements, despite the use of Agency resources.

(iv) Business Relations Customer Satisfaction. Response to inquiries, technical service, and administrative issues is not effective and responsive.

(2) Poor.  
(i) Quality of Product or Service. Nonconformances require major Agency resources to ensure achievement of contract requirements.

(ii) Cost Control. Cost issues require major Agency resources to ensure achievement of contract requirements.

(iii) Timeliness of Performance. Delays require major Agency resources to ensure achievement of contract requirements.

(iv) Business Relations Customer Satisfaction. Response to inquiries, technical service, and administrative issues is marginally effective and responsive.

(3) Fair.  
(i) Quality of Product or Service. Nonconformances require minor Agency resources to ensure achievement of contract requirements.

(ii) Cost Control. Cost issues require minor Agency resources to ensure achievement of contract requirements.

(iii) Timeliness of Performance. Delays require minor Agency resources to ensure achievement of contract requirements.

(iv) Business Relations Customer Satisfaction. Response to inquiries, technical service, and administrative issues is somewhat effective and responsive.

(4) Good.

(i) Quality of Product or Service. Nonconformances do not impact achievement of contract requirements.

(ii) Cost Control. Cost issues do not impact achievement of contract requirements.

(iii) Timeliness of Performance. Delays do not impact achievement of contract requirements.

(iv) Business Relations Customer Satisfaction. Response to inquiries, technical service, and administrative issues is usually effective and responsive.

(5) Excellent.

(i) Quality of Product or Service. There are no quality problems.

(ii) Cost Control. There are no cost issues.

(iii) Timeliness of Performance. There are no delays.

(iv) Business Relations Customer Satisfaction. Response to inquiries, technical service, and administrative issues is effective and responsive.

(6) Plus. The contractor has demonstrated an exceptional performance level in any of the four categories described in paragraph (S-71). It is expected that this rating will be used in those rare circumstances when contractor performance clearly exceeds the performance levels described as "excellent."

#### 242.1503 Procedures.

(a) The contracting officer will determine who provides input on the contractor performance evaluations. Where the contract has been delegated for administration, the cognizant ACO shall complete performance evaluations unless otherwise advised by the PCO.

(b) (S-70) The agency preparing the performance evaluation shall be responsible for validating the past performance information.

(S-71) If the contractor does not respond within the period specified, the data may be assumed to be accurate and may be used in source selections.

(e) The date of completion of contract performance is the date of contract closeout.

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**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****49 CFR Parts 567 and 568**

[Docket No. 91-62, Notice 2]

RIN 2127-AE27

**Meeting With Manufacturers of Vehicles Built in Two or More Stages**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.  
**ACTION:** Notice of public meeting; request for comments.

**SUMMARY:** This notice announces a public meeting at which NHTSA will seek information from final stage and intermediate manufacturers of vehicles built in two or more stages, manufacturers of incomplete vehicles, and the public on certification of vehicles that are manufactured in stages. NHTSA is requesting suggestions for actions with respect to NHTSA's regulations and Federal Motor Vehicle Safety Standards that govern the certification of such vehicles. This notice also invites written comments on the same subject.

The meeting will be held on December 12, 1995 at 9:00 a.m. The agency is interested in obtaining the views of its customers both orally and in writing. An agenda for the meeting will be made based on the number of persons wishing to make oral presentations and will be available on the day of the meeting. Those wishing to make oral presentations at the meeting should contact Charles Hott, at the address or telephone number listed below, by November 24, 1995.

**DATES:** The meeting will be held on December 12, 1995 at 9:00 a.m.

*Written comments.* Written comments are due by January 12, 1996.

**ADDRESSES:** *Public meeting.* The public meeting will be held at the following location: Holiday Inn, Fair-Oaks Mall, 11787 Lee Jackson Memorial Highway, Fairfax, VA 22033, Tel: (703) 352-2525, Fax: (703) 352-4471.

*Written comments.* All written comments should be mailed to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 7th Street, SW, Washington, DC 20590. Please refer to the docket number when submitting written comments.

**FOR FURTHER INFORMATION CONTACT:** Charles Hott, Office of Vehicle Safety Standards, NPS-15, NHTSA, 400 7th Street, SW, Washington, DC 20590 (telephone 202-366-0247).

**SUPPLEMENTARY INFORMATION:****Regulatory Reform**

Calling for a new approach to the way Government regulate the private sector, President Clinton asked Executive Branch agencies to improve the regulatory process. Specifically, the President requested that agencies: (1) Cut obsolete regulations; (2) reward agency and regulator performance by rewarding results, not red tape; (3) create grassroots partnerships by meeting with those affected by regulations and other interested parties; and (4) use consensual rulemaking, such as regulatory negotiation, more frequently.

This is the first of NHTSA's announced meetings to create grassroots partnerships with regulated industries that do not deal with NHTSA on a daily basis. By meeting with these groups, NHTSA believes that it can build a better understanding of their needs and concerns. Other groups that the agency will have meetings with are school bus manufacturers, heavy truck manufacturers, child seat manufacturers, lamp/reflector manufacturers, and small volume manufacturers.

NHTSA recognizes that manufacturers who build vehicles in more than one stage are faced with somewhat different problems than manufacturers who build vehicles in a single stage, especially when it comes to certifying vehicles to meet the Federal Motor Vehicle Safety Standards (FMVSS). Therefore, the agency has decided to hold a public meeting to listen to the views of these groups and others with respect to improving the vehicle certification process.

The agency is interested in obtaining the views of incomplete, intermediate and final stage manufacturers on how the agency can improve its regulations that govern the manufacture of vehicles in more than one stage. Suggestions should be accompanied by a statement of the rationale for the proposed action and of the expected consequences of that action. Recommendations should address at least the following considerations:

- administrative/compliance burdens
- cost effectiveness
- costs of the existing regulation and the proposed changes to consumers
- costs of testing or certification to regulated parties
- effects on safety
- effects on small business
- enforceability of the standard
- whether the regulation reflects a "common sense" approach to solving the problem

Written statements should be as specific as possible and provide the best available supporting information. Statements also should specify whether any change recommended in the regulatory process would require a legislative change in NHTSA's authority.

**Certification of Vehicles Manufactured in More Than One Stage**

In *National Truck and Equipment Association v. NHTSA*, 919 F.2d 1148 (6th Cir. 1990), the 6th Circuit remanded a portion of a final rule that extended the requirements of FMVSS No. 204 to trucks and multipurpose passenger vehicles with gross vehicle weight ratings of up to 10,000 pounds. A majority of the court concluded that the final rule was not practicable for final stage manufacturers that cannot "pass through" the certification of the incomplete vehicle manufacturer. The court cited passages in the preamble in which NHTSA stated that most final stage manufacturers did not have the capability to perform dynamic testing or in-house engineering analysis, as well as the fact that "pass through" certification is not available unless the incomplete vehicle is a chassis cab.

In response to the court decision, on December 3, 1991, NHTSA published a Notice of Proposed Rulemaking (NPRM), 56 FR 61392, to amend the certification requirements that apply to incomplete vehicles. In the NPRM, the agency proposed to extend the certification labeling requirements that currently apply only to manufacturers of chassis-cabs to all incomplete vehicle manufacturers, and to permit all final stage manufacturers to "pass through" the certification of the incomplete vehicle.

Incomplete vehicles are vehicles that include at least a frame and chassis structure, power train, steering system, suspension system, and braking system, but need further manufacturing to become completed vehicles. Currently, incomplete vehicle manufacturers are required to provide a document with every incomplete vehicle that establishes guidelines for completing the vehicle. For chassis-cabs (incomplete vehicles with completed occupant compartments), incomplete vehicle manufacturers are currently required both to provide a guidance document and to affix a certification label to each chassis cab. If the intermediate and final stage manufacturers complete the chassis-cab in accordance with the guidelines provided in the guidance document, the final stage manufacturer is allowed to "pass through" the certification of the

chassis-cab manufacturer, rather than itself certifying equipment or components manufactured by another manufacturer. Currently, manufacturers of incomplete vehicles that are not chassis cabs because they lack completed occupant compartments (e.g., "stripped chassis" or "bare chassis") are not required to certify the conformity of their vehicles to NHTSA safety standards. However, like the chassis-cab manufacturers, they are required to provide a guidance document with every vehicle that establishes guidelines for completing the vehicle. If the intermediate and/or final stage manufacturer follows the guidelines, the completed vehicle will conform to the applicable FMVSSs. The final stage manufacturer is required to place on the completed vehicle a certification label stating that the vehicle meets all applicable FMVSSs.

The NPRM proposing the amendments to the regulations governing certification of vehicles manufactured in two or more stages engendered considerable controversy and virtually no support. In the comments, there was a clear division in positions among the various segments of the multistage vehicle industry. The three major domestic manufacturers generally opposed the rule, although General Motors did propose some changes to the text and a delay of the effective date. The final stage manufacturers of commercial vehicles, represented by the National Truck Equipment Association (NTEA), favored the portion of the rule which provided for certification of incomplete vehicles other than chassis cabs, but stated that the proposed rule did not resolve the difficulties faced by numerous final stage manufacturers that depart from the guidelines set by the incomplete vehicle manufacturer. The Recreational Vehicle Industry Association (RVIA) responded that the proposed rule did not resolve the most serious problems faced by the final stage manufacturers which must certify compliance with standards that include dynamic testing.

The agency performed a limited study of the multistage vehicle manufacturing industry. The study was completed in August 1994 and has been placed in the docket. (Docket Number 91-62) The study concluded that final stage manufacturers lack timely information and guidance on how to comply when new standards or amendments are promulgated; that they rely primarily on customer needs and preferences in selecting incomplete vehicles, with particular emphasis on cost; and that they depend heavily on timely guidance and information from incomplete

vehicle manufacturers and trade associations.

The study also concluded that most final stage manufacturers, with the exception of some very large van converters, must rely on outside engineering services if they are to conduct dynamic testing of completed vehicles. All rely heavily on their suppliers for certification and warranty. The contractor noted the consensus among final stage manufacturers who are van converters with respect to the difficulties they faced in conducting dynamic testing for compliance with FMVSS No. 208 during the 1992 model year launch, when that portion of the Standard first took effect for light trucks, vans and sport utility vehicles. They cited problems in obtaining critical dimensional data on each vehicle make and model from the incomplete vehicle manufacturers sufficiently in advance to be able to create the necessary equipment to perform testing prior to the effective date of the rule, and stated that this forced production delays and lost sales. They contend that it is unrealistic for final stage manufacturers to be held to the same effective dates as those imposed on single stage manufacturers.

The agency believes that multistage vehicle certification is an area in which negotiated rulemaking may be beneficial. Negotiated rulemaking is a process in which representatives of all interests are assembled to discuss the issue and all potential solutions, reach consensus, and prepare a proposed rule for consideration by the agency. After public comment on any proposal issued by the agency, the group reconvenes to review the comments and make recommendations for a final rule. This inclusive process is intended to make the rule more acceptable to all affected interests and prevent the petitions for reconsideration (and litigation) that often follow the issuance of a final rule. The agency is interested in the commenters' views on the feasibility of negotiated rulemaking on the subject matter of this notice.

#### Procedural Matters

The agency intends to conduct the meeting informally so as to allow for maximum participation by all who attend. Interested persons may ask questions or provide comments during any period after a party has completed its presentation on a time allowed basis as determined by the presiding official. If time permits, persons who have not requested time to speak, but would like to make a statement, will be afforded an opportunity to do so.

Those speaking at the public meeting should limit their presentations to 20 minutes. If the presentation will include slides, motion pictures, or other visual aids, please indicate so that the proper equipment may be made available. Presenters should bring at least one copy of their presentation to the meeting so that NHTSA can readily include the material in the public record.

A schedule of participants making oral presentations will be available at the designated meeting room. NHTSA will place a copy of any written statement in the docket for this notice. A verbatim transcript of the meeting will be prepared and also placed in the NHTSA docket as soon as possible after the meeting.

Participation in the meeting is not a prerequisite for the submission of written comments. NHTSA invites written comments from all interested parties. It is requested but not required that 10 copies be submitted.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, Room 5219, at the street address given above, and copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512.)

All comments received before the close of business on the comment closing date indicated above will be considered. Comments will be available for inspection in the docket.

After the closing date, NHTSA will continue to file relevant information in the docket as it becomes available. It is therefore recommended that interested persons continue to examine the docket for new material.

Issued: November 14, 1995.

Barry Felrice,

*Associate Administrator for Safety Performance Standards.*

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