

The Honorable James C. Owens
Acting Administrator
National Highway Traffic Safety Administration
c/o Docket Management Facility
U.S. Department of Transportation
1200 New Jersey Avenue S.E.
West Building Ground Floor, Room W12-140
Washington, D.C. 20590-001

29 January 2020

Dear Acting Administrator Owens:

**Re: Docket No. NHTSA-2019-0121: Notice of Proposed Rulemaking:
Replica Motor Vehicles; Vehicle Identification Number (VIN) Requirements;
Manufacturer Identification; Certification**

Caterham Cars Ltd, www.caterham.com, submits the attached comments in response to the Replica Law Notice of Proposed Rulemaking published at 85 FR 792 (Jan. 7, 2020).

Caterham is based just outside London in the UK and is the manufacturer of the iconic Caterham Seven sports car. We are one of the most established and best-known specialist vehicle manufacturers in the world.

In the early 1970's, Caterham purchased from Lotus Cars the rights to ~~produce~~ the Lotus 7. The Caterham Seven has been in continuous production since 1974, some thirty years longer than the Lotus 7's production run. Today, in addition to the home market of the UK, the car sells strongly in Europe, where it is homologated to EU Small Series Type Approval standards (including WLTP), particularly France, Germany and Switzerland. Outside of Europe, Japan is a major market (accounting for nearly a quarter of total sales).

Caterham's ambition is to establish a small network of franchised USA dealers, with an expectation of selling approximately 100 cars annually into this market. We are supportive of NHTSA's proposals to fully implement the Replica Vehicle Program as soon as possible and have kept our comments brief and relevant. We hope you find them constructive and useful.

Yours sincerely,



SIMON LAMBERT

Chief Motorsport & Technical Officer
Caterham Cars Ltd

Comments follow on next page...

**CATERHAM CARS LTD COMMENTS ON
NHTSA'S PROPOSED REPLICATED VEHICLE NOTICE OF PROPOSED RULEMAKING**

Today's Caterham vehicles resemble the body of Caterhams first manufactured more than 25 years ago. The iconic shape of our cars – like the famous shape of the Cobra – has remained faithful to the original and has created a demand that has allowed continued production, in our case since 1974.

❖ **Low-Volume Manufacturer Requirement**

NHTSA identifies that a foreign-manufactured replica vehicle may only be imported by the fabricating manufacturer. It should be permitted that a single USA subsidiary or officially appointed USA distributor of the fabricating manufacturer may import the replica vehicle on the fabricating manufacturer's behalf.

❖ **Requirement to Resemble the Replicated Vehicle**

Caterham is concerned about NHTSA's use of the term 'resemble'. Whilst the FAST Act states that a replica must be 'intended to resemble the body' of another previous vehicle, NHTSA's proposal goes beyond this legislative definition and would seem to require the replica to be identical to the original vehicle. It is our belief that this is not consistent with either the intent or plain wording of the Act.

NHTSA's approach could bring about the following inequitable scenario: a slight difference in the dimensions of the rear license plate light on the Caterham (the most rearward point on the Caterham Seven) would change the overall length compared to the original and therefore prevent the replica from eligibility under NHTSA's 'resemble' criteria. Additionally, modern drive-trains will impose packaging requirements on replicas that may necessitate dimensional changes, relative to the original, in order to allow installation of the engine/transmission.

Caterham therefore urges adopting the California Air Resources Board's size-related language included in the Board's replica definition, which language permits a dimensional change of +/-10% in all planes, so long as the replica still "resembles" the original in body design.

NHTSA states that the replica vehicle "... must resemble the body of another motor vehicle that was manufactured for consumer sale not less than 25 years before..." The definition of "consumer sale" requires clarification: NHTSA should clarify that "for consumer sale" means, "for consumer sale somewhere in the world" (i.e. not just or necessarily in the USA). The Replica Law does not place a limitation on where in the world the car being replicated had to have been sold.

❖ **Requirement to Manufacture Under License Agreement for Intellectual Property Rights**

We strongly agree with NHTSA's desire to protect the rights of an original IP holder.

NHTSA also rightly identifies that in some instances it will be the current intellectual property owner who is seeking to produce the replica. This is the case with Caterham.

Lastly, we are of the opinion that NHTSA is not the appropriate entity to make a decision regarding the validity or sufficiency of IP documentation. Such decisions must be left to the courts and other agencies. NHTSA's "IP determination" must be based simply on the replica vehicle manufacturer's certification made under penalty of perjury.

❖ **Registration Requirements**

Caterham believes that NHTSA's proposal requiring a NHTSA confirmation before a "deemed approved" registrations becomes effective is contrary to the express words and intent set forth by Congress. This NHTSA proposal should be withdrawn. Caterham would urge NHTSA to follow the unambiguous words of the statute -- if not denied within the defined time period, a manufacturer's registration is automatically approved.

NHTSA allows an applicant 60 extra days to submit further required information requested by NHTSA. On the one hand this is reasonable, but on the other hand NHTSA should understand that if NHTSA's request for additional information relates to IP, the replica vehicle manufacturer will be at the mercy of the original rights holder and may not be able to source the information within the 60-day time period. NHTSA should allow continued extensions if the replica vehicle manufacturer can demonstrate that they are seeking the required information.