

February 5, 2020

Submitted via www.regulations.gov

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

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

Dear Acting Administrator Owens:

The Specialty Equipment Market Association (SEMA) welcomes the opportunity to provide comments on NHTSA's proposed rule to implement Section 24405 of the Fixing America's Surface Transportation Act (FAST Act) governing the sale of replica motor vehicles. A replica vehicle is one that resembles the body of another motor vehicle produced at least 25 years ago.

SEMA represents the \$45 billion specialty equipment automotive aftermarket industry. The trade association includes more than 7,500 businesses nationwide that manufacture, distribute, market and retail specialty parts and accessories for vehicles. The industry employs over one million Americans and produces appearance, performance, comfort, and high-technology products for passenger and recreational vehicles. A significant segment of the industry markets products for street rods, custom cars, kit cars, and other older vehicles. These companies are eager to begin producing replica vehicles and supplying products for those vehicles.

SEMA's comments will focus on issues raised in the proposed rule, and in the sequence number they appear in the NPRM. SEMA is also providing suggested edits to the regulatory text (Attachment 1). SEMA respectfully urges NHTSA to proceed swiftly in considering public comments and issuing a final rule so that production and sales of replica vehicles can commence as quickly as possible in 2020.

Specialty Equipment Market Association (SEMA)

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SEMA Comments

III. NHTSA'S PROPOSED REPLICA VEHICLE PROGRAM—BASICS

a. Overview

No comments.

b. Number of Exempted Vehicles Permitted

SEMA agrees with NHTSA's understanding of the law, which allows NHTSA to grant exemptions to each registered low-volume manufacturer to produce up to 325 replica vehicles per calendar year. A qualifying low-volume manufacturer is subject to a global production cap of 5,000 vehicles a year (of any type) of which 325 replica vehicles may be sold in the U.S. per year.

c. Low-Volume Manufacturer Requirement

SEMA generally agrees with NHTSA's understanding of the law, which allows NHTSA to grant exemptions to each registered low-volume manufacturer for replica vehicles produced or imported. For clarification, SEMA notes that the exemptions would apply to a U.S. based importer that is a subsidiary of the fabricating foreign car manufacturer (as defined at 49 U.S.C. 30114(b)(7)(A)), with the subsidiary having registered as the replica vehicle manufacturer.

d. Vehicles Built in Two or More Stages

SEMA does not anticipate many companies will be building replica vehicles in two or more stages but agrees that procedures should be established to address the issue. For context, the subject definitions are: 49 CFR § 567.3:

- *Incomplete vehicle* means an assemblage consisting, at a minimum, of chassis (including the frame) structure, power train, steering system, suspension system, and braking system, in the state that those systems are to be part of the completed vehicle, but requires further manufacturing operations to become a completed vehicle;
- *Final-stage manufacturer* means a person who performs such manufacturing operations on an incomplete vehicle that it becomes a completed vehicle.

The replica vehicle program is generally based on the existing kit car industry whereby a manufacturer produces a rolling chassis and the customer installs the powertrain. Under the replica vehicle law, low-volume manufacturers may now install the powertrain and sell up to 325 turnkey vehicles a year.

The engine package to be installed in the vehicles will be regulated by the U.S. Environmental Protection Agency (EPA) and California Air Resources Board (CARB). It is anticipated that the low-volume vehicle manufacturers will work closely with the engine package suppliers since, among other considerations, both the vehicles and engine packages will be subject to certification and warranties.

Most replica vehicle manufacturers will be fabricating a rolling chassis, not an incomplete vehicle (which includes the powertrain). That same replica vehicle manufacturer will

purchase and install the engine package separately. There may be instances in which more than one low-volume manufacturer is sourcing a subassembly from the same supplier, but the subassembly is not an incomplete vehicle.

That said, there may be opportunities for producing replica motor vehicles in two or more stages under 49 CFR Part 568, which covers multistage manufacturing. For instance, an incomplete vehicle manufacturer could create a standard rolling chassis and engine assembly, with a separate custom coach builder adding the body later. As NHTSA described, the VIN will be assigned by the incomplete vehicle manufacturer and this company will need to work with the final stage manufacturer to identify the make, model and model year of the replica motor vehicle—information to be contained in the VIN. The 325 cap on the number of replica motor vehicles that can be produced per year will only apply to the final stage manufacturer. The incomplete vehicle manufacturer may partner with other companies under the same arrangement for assigning a VIN and tracking the number of vehicles being produced to make sure the final stage manufacturer does not exceed the 325 cap. [Note: SEMA has not included suggested regulatory text to allow multi-stage manufacturing under a joint registration submission form but requests that NHTSA include such language.]

IV. RELEVANT DEFINITIONS

a. Low-Volume Manufacturer

SEMA agrees with the use of the term “replica motor vehicle manufacturer” to describe the “low-volume manufacturer” described in the law.

b. Replica Motor Vehicle

1. Requirement to Resemble the Replicated Vehicle

Definition of “Resemble”: In reading NHTSA’s comments in this section, there appears to be some confusion on how to properly apply the word “resemble” within the definition of replica motor vehicle. The approach described in the NPRM is too restrictive and, if implemented, could result in the denial of vehicle design applications that are consistent with the intent of the law. To follow is SEMA’s position and recommendations.

The law defines a replica vehicle as one that—

“is intended to resemble the body of another motor vehicle that was manufactured not less than 25 years before the manufacture of the replica motor vehicle;” [emphasis added]

The word *resemble* was specifically included to confirm that the law applies to vehicles that have similar characteristics but are not necessarily exact reproductions of the original. The intent is to provide artistic license to create vehicles that remind the public of past automotive heritage rather than simply producing a copy. Some replicas may have vehicle design features that are distinguishable from the original, but which still fall within the definition of *resemble*.

The Merriam-Webster definition of *resemble* is “to be like or similar to.” The definition for “similar” is also instructive:

- 1: having characteristics in common: strictly comparable;
- 2: alike in substance or essentials;
- 3: not differing in shape but only in size or position.

There is precedence for the use of the word *resemble*. SEMA has developed a model bill (Attachment 2) that has been adopted in whole or part by 24 states to assist as the states address vehicle titling and registration issues. The model bill provides definitions for street rods, custom vehicles, and kit cars, and includes the word *resemble* for more recently manufactured vehicles that appear to be an older vehicle.

SEMA recognizes that *like*, *similar* and *resemble* are subjective words; however, SEMA is unaware of any problems at the state level on applying the word *resemble* under state titling laws to confirm that the vehicle is an eligible replica.

Further, the definition of *resemble* does not require a replica vehicle manufacturer to include the original vehicle logos, emblems and vehicle model names on the replica vehicle. Most replica vehicles will be branded by the vehicle manufacturer under a different trade name and logo. NHTSA should not commingle vehicle logos, emblems and model names with the concept of “resembling the body” or include them as defining the original vehicle’s unique design and appearance. Indeed, such comingling may create public confusion over intellectual property rights that would not otherwise exist.

Vehicle Size: NHTSA’s proposal that the replica vehicle have the same length, width, and height as the original is also a misapplication of the word *resemble* (See 49 CFR 586.6(b)(3)(iv)). If the vehicle is not required to duplicate the original vehicle, imposing a size restriction is then arbitrary, overly restrictive, and unsupportable. Further, as NHTSA notes, there may be a reason for a size variation such as accommodating safety features. But the replica law’s “resemblance criterion” also allows size variation for aesthetics or comfort purposes.

CARB approved its engine package regulation in October 2018. In the absence of a NHTSA replica vehicle rulemaking, CARB felt it necessary to create a definition for “replica vehicle” (aka Specially-Produced Motor Vehicle). CARB and industry officials worked closely to develop the language, below, and recommend that NHTSA consider adopting the language or taking a similar approach. The definition includes a size limitation.

Final Regulation Order
CALIFORNIA CERTIFICATION PROCEDURES FOR LIGHT-DUTY ENGINE
PACKAGES FOR USE IN NEW LIGHT-DUTY SPECIALLY-PRODUCED
MOTOR VEHICLES FOR 2019 AND SUBSEQUENT MODEL YEARS

§ 2209.1. Definitions.

- (16) “Specially produced motor vehicle” or “SPMV” means a newly produced current model year passenger car or light-duty truck, with a gross vehicle weight rating (GVWR) at or below 8,500 pounds, that meets all of the following requirements:

- (A) Resembles the body of a motor vehicle, on an overall 1:1 scale (+/- 10 percent) of original body lines, excluding roof configuration, ride height, trim attached to the body, fenders, running boards, grille, hood or hood lines, windows, and axle location...

SEMA urges NHTSA to consider the CARB definition as a benchmark and to take a flexible approach when considering registration applications. As noted previously, the word *resemble* provides for the consideration of vehicles that clearly remind the public of motor vehicles from the past but may not be copies of that vehicle.

Vehicle Body: The law defines a replica motor vehicle as, “is intended to resemble the body of another motor vehicle...” The term *body* as used within the auto industry commonly refers to the vehicle’s exterior design and appearance. NHTSA’s contention that it applies to “any part of the vehicle that is not part of the chassis or frame” is incorrect. For example, NHTSA recognizes that such an application of the definition is overly broad when it proposes an exemption from including the vehicle interior in the definition of “body”. The solution is easy. No exemption is necessary if the industry’s commonly understood definition of body is applied—the vehicle’s exterior design and appearance. NHTSA should not stray from the common meaning of the term “body.”

Documentation: SEMA agrees that a registration application and annual report include at least one image of the front, rear and side of the original vehicle to be replicated, along with corresponding images of the proposed replica vehicle.

2. Requirement to Manufacture Under License Agreement for Intellectual Property Rights

Under the law, a replica vehicle manufacturer’s registration application must include a certification that the vehicle will be “*manufactured under a license for the product configuration, trade dress, trademark or patent for the motor vehicle, that is intended to be replicated from the original manufacturer, its successors or assignees, or current owner of such rights.*” SEMA contends that it is inappropriate for NHTSA to require the manufacturer to submit as part of its registration any documentation beyond the certification.

SEMA concurs that it is not NHTSA’s role to determine intellectual property rights but to simply confirm that registrants have certified that they are meeting the law’s requirement to obtain any applicable rights. Indeed, NHTSA lacks the IP expertise to render a decision on any underlying documentation of such intellectual property rights. SEMA firmly supports the protection of intellectual property rights and the requirement for a certification regarding ownership rights by the replica vehicle manufacturer. There are other venues with expertise and jurisdiction for addressing a dispute, such as the U.S. Patent and Trademark Office or a federal district court.

SEMA agrees with NHTSA that under the replica law, the relevant intellectual property rights are limited to the external appearance of the replica vehicle. Furthermore, NHTSA also points out that there will be instances in which the replica vehicle manufacturer may be

the owner of the subject intellectual property rights. For example, a manufacturer may have produced the original vehicle and is now seeking to fabricate a replica.

NHTSA also properly recognizes that a manufacturer may be replicating a vehicle whose original manufacturer no longer exists and for which either no one is claiming intellectual property rights, or such rights are in the public domain.

NHTSA cited “Shelby” and “Cobra” as a case that may trigger licensing obligations. It is a good example. A court found that AC, Ford and Shelby had lost control of the design years ago, whereby the public no longer associates the design exclusively with those companies. However, as NHTSA notes, Shelby and Cobra are registered trademarks subject to a license agreement. Under this scenario, companies may produce that vehicle style under its own branding and have no licensing obligation if the “Shelby” and “Cobra” trademarks are not used.

Going one step further, when considering replica motor vehicle registration applications, NHTSA must not create licensing obligations or public confusion about trademarks where none existed. Requests that the applicant identify the make and model of the original vehicle being replicated should be restricted to the application paperwork since the applicant may be marketing a vehicle that is distinguishably different in design, brand name and logo. For example, NHTSA should not list in public documents the original make and model of the original vehicle. Rather, the agency can list the name of the replica motor vehicle that is being produced.

SEMA recommends that a registration application allow a certification stating that the replica manufacturer is the owner of the subject intellectual property rights or that the IP rights are in the public domain.

V. SAFETY REQUIREMENTS

a. Equipment FMVSS

SEMA concurs with NHTSA’s general discussion that the law applies to equipment-based Federal Motor Vehicle Safety Standards (FMVSS) but not vehicle-based standards. NHTSA notes two standards that apply to both vehicles and equipment—FMVSS No. 108, *Lamps, reflective devices, and associated equipment* and FMVSS No. 208, *Occupant crash protection*. SEMA notes a third standard to also discuss, FMVSS No. 209, *Seat belt assemblies*. SEMA recommends the following approach to these standards as they apply to replica vehicles.

FMVSS No. 108, lighting equipment: By definition, replica vehicles are similar or identical to vehicles made at least 25 years ago. The design (shape and size) of the headlamps and tail lamps for these vehicles may be unique and incompatible with lighting equipment produced to meet the current FMVSS No. 108 requirements. Therefore, it becomes financially impractical or technically impossible to require installation of lighting equipment required for the current model year. There is a solution. NHTSA has already recognized this dilemma by allowing replacement equipment manufacturers the option of meeting the standard in effect at the time of

manufacture of the original equipment being replaced. (49 CFR 108 S6.7.2). SEMA recommends that it give replica vehicle manufacturers the option of complying with 49 CFR 108 S6.7 Replacement equipment for meeting the FMVSS No. 108 requirements.

FMVSS No. 205, Glazing Materials: NHTSA has established a standard for glazing materials for MY 2006 and older vehicles: 49 CFR 571.205(a). The standard recognizes the need to ensure that there are quality replacement glazing materials available through the aftermarket if no longer being produced by the original equipment manufacturer. Replica vehicle manufacturers should be provided the option of installing glazing that complies with 40 CFR 571.205(a), the standard for older vehicles.

FMVSS No. 208, Occupant crash protection: FMVSS No. 208 is an equipment standard only as it applies to the air bag equipment that may be installed in a vehicle. There is no requirement that replica vehicles have air bags or seat belts since these are vehicle-based requirements. That said, it is anticipated that most replica vehicles will have Type 1 seat belts, if not Type 2 seat belts.

FMVSS No. 209, Seat belt assemblies: FMVSS No. 209 specifies performance requirements for Type 1 and 2 seat belts required by FMVSS 208. As noted, seat belts will likely be installed in most if not all replica vehicles. For some vehicle designs, it may be impractical or impossible to install Type 2 seat belts or Type 1 seat belts that incorporate a retractor. In this instance, the seat belt may be a simple Type 1 lap belt without the retractor.

b. Considered Requirements

SEMA concurs with NHTSA's application of the law as only applying to equipment standards. While replica vehicles may also comply with many vehicle-based standards, the U.S. Congress expressly omitted any testing and certification mandates associated with vehicle-based FMVSS. The subject of applicability of vehicle-based FMVSS to replica cars is outside of NHTSA's authority. The law's application is limited to equipment-based standards and the accompanying NHTSA regulations must be confined to such treatment.

c. Safety-Related Defects

SEMA concurs that replica vehicle manufacturers are subject to the requirement that they recall and remedy vehicles that contain a defect that creates a safety risk, are subject to the 49 U.S.C. 30116-30120A defect reporting and notification requirements, and that a registration may be revoked for failure to comply with these specified requirements.

VI. REGISTRATION REQUIREMENTS

NHTSA proposes to establish replica motor vehicle manufacturer registration requirements at 49 CFR §§ 586.6-586.9. SEMA has already addressed within these comments most topics covered in a registration application and does not seek to be unnecessarily repetitive. Further, SEMA is including suggested edits to the regulatory text (redlined) below. Consequently, within this section, SEMA will focus on the time frame for considering registration applications.

49 U.S.C. 30114(b)(5) specifies that NHTSA has 90 days to review and approve or deny a registration, along with another 30-day review period if a registration is deemed incomplete. SEMA supports NHTSA’s proposal to give the manufacturer 60 days to respond to a notification from the agency that the registration was incomplete, bringing the potential total amount of review time to 180 days (the original 90 days, 60 days if the registration is deemed incomplete, and 30 days for NHTSA to review the final submission).

SEMA strongly disagrees with certain NHTSA proposals on how an application may be deemed approved. The law places the burden on NHTSA to review applications in a timely fashion (90 days, 120 days, or 180 days depending upon circumstance). The law is clear—if no decision is rendered within the allotted time, the registration *shall* be deemed approved. The U.S. Congress included this stipulation in recognition that small businesses have created business models that hinge on expediency and removing any unnecessary regulatory burdens. Nevertheless, NHTSA retains its authority to revoke a registration based on failure to comply with any applicable requirements under the law or a finding by NHTSA of a safety-related defect.

SEMA’s recommended approach for processing and deeming registration to be approved is outlined in the suggested regulatory text, below.

VII. OTHER ADMINISTRATIVE REQUIREMENTS

a. Manufacturer Identification Requirements (49 CFR Part 566)

No comments.

b. Manufacturer Identifier

No comments.

c. Vehicle Identification Number (VIN)

No comments.

d. Certification

SEMA supports expanding the certification labelling requirements found in 49 CFR part 567 to include certification requirements for manufacturers of replica motor vehicles in a new section § 567.8. However, SEMA urges NHTSA to modify the proposed requirements in order to: 1) make the label statement more concise, and 2) avoid confusion regarding intellectual property rights.

The law requires the following with respect to the certification labels:

“(A) In General.—The Secretary shall require a low-volume manufacturer to affix a permanent label to a motor vehicle exempted under paragraph (1) that identifies the specified standards and regulations for which such vehicle is exempt from section 30112(a), states that the vehicle is a replica, and designates the model year such vehicle replicates.” [emphasis added]

With respect to creating a concise label, the law requires the certification label to identify specified standards and regulations from which the replica motor vehicle is exempt. SEMA urges NHTSA to provide two alternative approaches. The first would state that the vehicle “is exempt from all Federal motor vehicle safety standards except [insert standard numbers]” and the second approach would require the manufacturer to list all safety standards from which the vehicle is exempt. The latter approach could be more unwieldy.

Regarding intellectual property rights, the law only requires the replica motor vehicle manufacturer to identify the original vehicle’s model year, not the make and model.

The distinction is important in order for the replica motor vehicle manufacturer to avoid any potential questions about intellectual property rights attached to the name of the make or model (as opposed to the body design and appearance). For example, the replica manufacturer may be self-branding with no reference to the original vehicle’s make or model names. Requiring the certification label to include such names could inadvertently create confusion regarding intellectual property rights to such names. NHTSA would be overstepping its authority if it were to require the 49 CFR part 567 label to include the original make and model names.

SEMA urges NHTSA to remove the requirement that the make and model be identified. Conversely, a company may voluntarily insert these identifications if so desired.

e. Importation

SEMA supports NHTSA’s approach for marking box “2A” on NHTSA’s HR-7 declaration form (Importation of Motor Vehicles, etc.). In case Customs officials have any questions, SEMA also supports providing clarity within 591.5 that replica motor vehicles are eligible for importation. Perhaps all that is required is to include reference at 591.5(b) to the new CFR section 586 covering the vehicles. For example:

“(b) The vehicle or equipment item conforms with all applicable safety standards (or the vehicle does not conform solely because readily attachable equipment items which will be attached to it before it is offered for sale to the first purchases for purposes other than resale are not attached), and bumper and theft prevention standards, and bears a certification label or tag to that effect permanently affixed by the original manufacturer to the vehicle, or by the manufacturer to the equipment item or its delivery container, in accordance with, as applicable, parts 541, 555, 567, 568, and 581, **586**, or 571 (for certain equipment items) of this chapter.” [emphasis added]

VIII. LABELS AND OTHER CONSUMER DISCLOSURES

a. Permanent Label

No comments.

b. Written Notice to Dealers and First Purchasers

SEMA questions the need or value in including Table 1’s proposed purpose statements as a written disclosure for dealers and consumers. The replica motor vehicle will have a permanent certification label that identifies the standards and regulations for which the

vehicle is exempt. It will also have a temporary label that alerts both the dealer and the consumer that the replica motor vehicle “is exempt from complying with all current Federal motor vehicle safety standards that apply to motor vehicles, and with theft prevention and bumper standards in effect on the date of manufacture.”

Potential consumers of replica motor vehicles understand that the vehicle embodies a bygone era. They are not buying a new car. While replica motor vehicles will be well-engineered machines with modern equipment under the hood, consumers will recognize that it may be impossible to meet certain vehicle-based standards while recreating the original vehicle’s appearance.

As is the case with kit cars, replica motor vehicles will largely be maintained for occasional transportation, exhibitions, club activities, parades and the like but not daily transportation. It is anticipated that owners will be car-buffs who are already very knowledgeable about the replica motor vehicle they are purchasing—what equipment is included and what limitations the vehicle may have in terms of complying with current model year standards.

It should be noted that new car owners are not provided a list of the FMVSS when purchasing a current model year vehicle. Rather, NHTSA has developed tools such as the 5-star safety rating program for conveying the value of the FMVSS in a consumer-friendly way. SEMA does not find it necessary to require that manufacturers provide replica motor vehicle dealers and owners with Table 1 summaries of the FMVSS. Rather, manufacturers will have marketplace incentives and opportunities to educate consumers about all aspects of the replica motor vehicle. For manufacturers, this may include directing consumers to the NHTSA website for more information about regulations and standards.

c. Temporary Label

No comments.

IX. REPORTING

No comments.

X. REVOCATION OF REGISTRATIONS

No comments.

XI. OVERVIEW OF BENEFITS AND COSTS

No comments.

XII. EFFECTIVE DATE

SEMA welcomes the fact that the rulemaking can take effect immediately upon issuance of the final rule under the Administrative Procedure Act’s provision granting an exception to 30-day waiting period after publication.

E.O. 13132 [Federalism]

SEMA disagrees with a conclusion NHTSA reaches with respect to preemption of state law. 49 U.S.C. § 30114(b)(9) states that the exemption for low-volume manufacturers shall not be construed to preempt, affect, or supersede any State titling or registration law or regulation for a replica motor vehicle, or exempt a person from complying with such law or regulation. NHTSA interprets this section to mean that States may have their own replica motor vehicle safety standards for replica vehicles to be titled or registered in that State. This is not a correct reading of the law. In order for the Congressional intent to be implemented and for the replica law to be workable and usable by replica manufacturers, the replica law must compel states to be bound by the exemptions provided to replica motor vehicle manufacturer. States can indeed have titling or registration laws or regulations for a replica motor vehicle—as long as those laws or regulations do not impose safety standard compliance which are exempted under the replica law.

E.O. 13132 [Federalism] and E.O. 12988 [Civil Justice Reform]

Pursuant to Executive Order 13132 and 12988, NHTSA has considered whether this proposed rule could or should preempt State common law causes of action (product liability). The agency determined that the proposed rule would prescribe only a minimum safety standard. NHTSA is mistaken—the replica law does not create a “safety standard”—it creates an exemption. Just like the other exemptions written into the Safety Act, the replica car exemption was intended by the U.S. Congress to provide certain relief from compliance. In order for the intent of Congress to be implemented, a plaintiff cannot use “noncompliance with an exempted standard” as part of its state tort claim. Otherwise, the Congressional intent behind the replica law would be lost. Simply put, the replica law exemption provides the degree of preemption similar to the Supreme Court’s ruling in the Honda airbag case, *Geier v. American Honda Motor Co.*, 529 U.S. 861 (2000).

I. Executive Summary

[Note: this entry is out-of-sequence. SEMA is pleased that NHTSA has issued the NPRM and did not want this entry to otherwise distract from the public comments on the rulemaking.]

SEMA is taking this opportunity to revisit the Executive Summary located at the very beginning of the NHTSA proposed rule. SEMA does not disagree with the content of the material. However, the Executive Summary does not sufficiently reference the significant delay in issuing a rulemaking and the devastating economic impact such delay has had on many small businesses. SEMA believes this information must be included in the record. To follow is a brief summary.

From industry’s perspective, NHTSA has always had authority to develop a low volume vehicle manufacturing program for companies that produce 1, 50, 100 or even 5,000 or 10,000 vehicles.¹ When it was established in the 1960s, NHTSA created a regulatory scheme for

¹ Note: 49 CFR Part 555, which allows NHTSA to provide a 3-year exemption from safety and bumper standards is not a substitute for a low-volume manufacturer program since it is only intended to provide temporary relief from one or two standards (ex: air bags). Congress recognized this fact when it enacted the replica car law.

companies that produce hundreds of thousands or millions of vehicles but not a secondary scheme for low-volume production companies.

NHTSA acknowledged a need to consider the issue when, on March 13, 1996, the agency held a one-day industry workshop with the intent of developing “a legislative package tailored to reduce the burden of its requirements on small manufacturers.”² This never occurred. It has been nearly 24 years since the 1996 workshop and NHTSA has yet to pursue legislation or enact a low-volume manufacturer regulation under its own authority, including the subject replica vehicle regulation.

Given NHTSA’s failure to act, industry asked the U.S. Congress to create a low-volume program. Legislation was introduced and debated from 2011-2015, with enactment of Section 24405 occurring on Dec. 4, 2015. It has now taken NHTSA a longer time period to issue a regulation than for Congress to debate and enact the legislation.

The replica car law is simply an extension of how NHTSA has regulated kit cars for decades. At its core, the law merely allows the kit car manufacturer to sell up to 325 completed vehicles a year in the U.S.—vehicles that are still treated as equipment.

SEMA recognizes that NHTSA has many other issues to address and that rulemaking delays may occur. Beginning in early 2016, SEMA staff made every effort to work with NHTSA officials so that the law could be implemented as soon as possible. SEMA suggested several ways in which NHTSA could allow production to begin immediately while the agency pursued a regulation. Suggestions included issuing a guidance document, allowing companies to register via a letter of interpretation request based on the manufacturer’s self-certification, and issuing a direct final rule. These approaches were rejected.

On October 17, 2019, SEMA filed a lawsuit in federal appellate court seeking judicial interaction to compel action and allow production to commence. The lawsuit may have triggered issuance of the proposed rule.

We maintain that the failure to issue a rulemaking in a timely fashion has caused injury and financial hardship to many SEMA member companies that began making investments with the assumption that they could begin production in early 2017, after the law’s deadline for issuing a rule had passed. As a result of NHTSA’s inaction, companies have been unable to hire workers, businesses have lost money, several manufacturers have abandoned their production plans, and consumers have been denied their rights to purchase replica cars. The companies may have also missed a favorable economic climate for launching their new products.

All that said, SEMA welcomes issuance of the proposed rule and looks forward to swift consideration of the public comments and issuance of a final rule so that production and sales of replica vehicles can commence as quickly as possible in 2020.

² [61 FR 4249](#). The NHTSA workshop’s definition of “small-volume manufacturer” was 10,000 or less vehicles/year, far beyond the replica car law’s limit of 325 vehicles/year.

SEMA appreciates this opportunity to share its comments on the proposed rule. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. Ingber', with a long, sweeping horizontal line extending to the right.

Daniel Ingber
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Attachment 1

REGULATIONS

To follow are SEMA's suggested edits to the regulatory text (redlined).

PART 565--VEHICLE IDENTIFICATION NUMBER (VIN) REQUIREMENTS

1. The authority citation for part 565 is revised to read as follows:

Authority: 49 U.S.C. 322, 30111, 30114, 30115, 30117, 30141, 30146, 30166, and 30168; delegation of authority at 49 CFR 1.95.

2. Revise § 565.12 to read as follows:

§ 565.12 Definitions.

(a) Federal Motor Vehicle Safety Standards Definitions. Unless otherwise indicated, all terms used in this part that are defined in 49 CFR 571.3 are used as defined in 49 CFR 571.3.

(b) Other definitions. As used in this part--

Body type means the general configuration or shape of a vehicle distinguished by such characteristics as the number of doors or windows, cargo-carrying features and the roofline (e.g., sedan, fastback, hatchback).

Check digit means a single number or the letter X used to verify the accuracy of the transcription of the vehicle identification number.

Engine type means a power source with defined characteristics such as fuel utilized, number of cylinders, displacement, and net brake horsepower. The specific manufacturer and make shall be represented if the engine powers a passenger car or a multipurpose passenger vehicle, or truck with a gross vehicle weight rating of 4,536 kg (10,000 lb) or less.

High-volume manufacturer, for purposes of this part, means a manufacturer of 1,000 or more vehicles of a given type each year.

Incomplete vehicle means an assemblage consisting, as a minimum, of frame and chassis structure, power train, steering system, suspension system and braking system, to the extent that those systems are to be part of the completed vehicle, that requires further manufacturing operations, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, to become a completed vehicle.

Line means a name that a manufacturer applies to a family of vehicles within a make which have a degree of commonality in construction, such as body, chassis or cab type.

Low-volume manufacturer, for purposes of this part, means a manufacturer of fewer than 1,000 vehicles of a given type each year.

Make means a name that a manufacturer applies to a group of vehicles or engines.

Manufacturer means a person--

(1) Manufacturing or assembling motor vehicles or motor vehicle equipment; or

(2) Importing motor vehicles or motor vehicle equipment for resale.

Manufacturer identifier means the first three digits of a VIN of a vehicle manufactured by a high-volume manufacturer, and the first three digits of a VIN and the twelfth through fourteenth digits of a VIN of a vehicle manufactured by a low-volume manufacturer.

Model means a name that a manufacturer applies to a family of vehicles of the same type, make, line, series and body type.

Model year means the year used to designate a discrete vehicle model, irrespective of the calendar year in which the vehicle was actually produced, provided that the production period does not exceed 24 months.

Original model year of a replicated vehicle means the stated model year of a vehicle that has been replicated pursuant to 49 CFR part 586.

Plant of manufacture means the plant where the manufacturer affixes the VIN. Replica motor vehicle means a motor vehicle meeting the definition of replica motor vehicle in 49 CFR part 586.

Replica model year means the calendar year in which a replica motor vehicle was manufactured.

Series means a name that a manufacturer applies to a subdivision of a “line” denoting price, size or weight identification and that is used by the manufacturer for marketing purposes.

Trailer kit means a trailer that is fabricated and delivered in complete but unassembled form and that is designed to be assembled without special machinery or tools.

Type means a class of vehicle distinguished by common traits, including design and purpose. Passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, incomplete vehicles, low speed vehicles, and motorcycles are separate types.

VIN means a series of Arabic numbers and Roman letters that is assigned to a motor vehicle for identification purposes.

3. In § 565.15(b), amend Table I--Type of Vehicle and Information Decipherable by adding an entry for “Replica motor vehicle” after the entry for “Low speed vehicle” to read as follows:

§ 565.15 [Amended]

(b) * * *

Table I--Type of Vehicle and Information Decipherable

* * * * *

Replica motor vehicle: The make, model, and model year of the original replicated vehicle; and the information listed in this table for the vehicle' type classification (e.g., if the replica meets the definition for passenger car in 49 CFR 571.3, the following information is required: body type; engine type; and all restraint devices and their locations).

* * * * *

* * * * *

PART 566--MANUFACTURER IDENTIFICATION

4. The authority citation for part 566 is revised to read as follows:

Authority: National Traffic and Motor Vehicle Safety Act (49 U.S.C. 30166) and § 24405(a) of the Fixing America's Surface Transportation Act (49 U.S.C. 30114(b)); delegation of authority at 49 CFR 1.95.

5. Amend § 566.5 by revising the introductory text and adding paragraph (c)(4) to read as follows:

§ 566.5 Requirements.

Each manufacturer of motor vehicles, and each manufacturer of covered equipment, shall furnish the information specified in paragraphs (a) through (c) of this section to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590 or at <https://vpic.nhtsa.dot.gov/>.

* * * * *

(c) * * *

(4) In the case of replica motor vehicles, the manufacturer shall include, in the description of each type of motor vehicle it manufactures, a designation that the vehicle is a replica motor vehicle.

PART 567--CERTIFICATION

6. The authority citation for part 567 is revised to read as follows:

Authority: 49 U.S.C. 322, 30111, 30114, 30115, 30117, 30166, 32504, 33101-33104, 33108 and 33109; delegation of authority at 49 CFR 1.95.

7. Revise § 567.1 to read as follows:

§ 567.1 Purpose.

The purpose of this part is to specify the content and location of, and other requirements for, the certification label to be affixed to motor vehicles as required by the National Traffic and Motor Vehicle Safety Act, as amended (the Vehicle Safety Act) (49 U.S.C. 30114 and 30115) and the Motor Vehicle Information and Cost Savings Act, as amended (the Cost Savings Act), (49 U.S.C. 30254 and 33109), to address certification-related duties and liabilities, and to provide the consumer with information to assist him or her in determining which of the Federal Motor Vehicle Safety Standards (part 571 of this chapter), Bumper Standards (part 581 of this chapter), and Federal Theft Prevention Standards (part 541 of this chapter), are applicable to the vehicle.

8. Amend § 567.3 by adding in alphabetical order a definition for “Replica motor vehicle” to read as follows:

§ 567.3 Definitions.

* * * * *

Replica motor vehicle means a motor vehicle meeting the definition of replica motor vehicle in 49 CFR part 586.

9. Revise § 567.4(a) to read as follows:

§ 567.4 Requirements for manufacturers of motor vehicles.

(a) Each manufacturer of motor vehicles (except replica motor vehicles or vehicles manufactured in two or more stages) shall affix to each vehicle a label, of the type and in the manner described in this section, containing the statements specified in paragraph (g) of this section.

* * * * *

10. Add § 567.8 to read as follows:

§ 567.8 Requirements for manufacturers of replica motor vehicles.

(a) Each manufacturer of replica motor vehicles shall affix to each vehicle a label, of the type and in the manner described in this section, containing the statements specified in paragraph (e) of this section.

(b) The label shall be riveted or permanently affixed in such a manner that it cannot be removed without destroying or defacing it.

(c) The label shall be affixed to either the hinge pillar, door-latch post, or the door edge that meets the door-latch post, next to the driver's seating position, or if none of these locations is practicable, to the left side of the instrument panel. If that location is also not practicable, the label shall be affixed to the inward-facing surface of the door next to the driver's seating position. If none of the preceding locations is practicable, notification of that fact, together with drawings or photographs showing a suggested alternate location in the same general area, shall be submitted for approval to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590. The location of the label shall be such that it is easily readable without moving any part of the vehicle except an outer door.

(d) The lettering on the label shall be of a color that contrasts with the background of the label.

(e) The label shall contain the following information and statements, in the English language, lettered in block capitals and numerals not less than three thirty-seconds of an inch high, in the order shown:

(1) Name of manufacturer: The full corporate or individual name of the actual assembler of the vehicle shall be spelled out, except that such abbreviations as "Co." or "Inc." and their foreign equivalents, and the first and middle initials of individuals, may be used. The name of the manufacturer shall be preceded by the words "Manufactured By" or "Mfd By."

(2) Month and year of manufacture: This shall be the time during which work was completed at the place of main assembly of the vehicle. It may be spelled out, as "June 2000," or expressed in numerals, as "6/00."

(3) "Gross Vehicle Weight Rating" or "GVWR" followed by the appropriate value in pounds, which shall not be less than the sum of the unloaded vehicle weight, rated cargo load, and 150 pounds times the number of the vehicle's designated seating positions.

(4) "Gross Axle Weight Rating" or "GAWR," followed by the appropriate value in pounds, for each axle, identified in order from front to rear (e.g., front, first intermediate, second intermediate, rear). The ratings for any consecutive axles having identical gross axle weight ratings when equipped with tires having the same tire size designation may, at the option of the manufacturer, be stated as a single value, with the label indicating to which axles the ratings apply.

Examples of combined ratings: GAWR:

(a) All axles--2,400 kg (5,290 lb.) with LT245/75R16(E) tires.

(b) Front--5,215 kg (11,500 lb.) with 295/75R22.5(G) tires.

First intermediate to rear--9,070 kg (20,000 lb.) with 295/75R22.5(G) tires.

(5) The following statement: “This vehicle is a replica motor vehicle that replicates a ~~insert make and model of the replicated~~ motor vehicle] originally manufactured in model year [insert year].”

(6) The following statement: This replica motor vehicle is exempt from all Federal motor vehicle safety standards except [insert standard numbers], theft prevention, and bumper standards in effect on [insert the date of manufacture of the replica motor vehicle] for [insert replica's type of motor vehicle (e.g., passenger cars)]. Alternatively, state the following: “This replica motor vehicle is exempt from the following Federal motor vehicle safety, theft prevention, and bumper standards in effect on [insert the date of manufacture of the replica motor vehicle] for [insert replica's type of motor vehicle (e.g., passenger cars)].” List all standards that the vehicle has been granted an exemption from under part 586. The expression “U.S.” or “U.S.A.” may be inserted before the word “Federal.”

(7) Vehicle identification number.

11. Add part 586 to read as follows:

PART 586--REPLICA MOTOR VEHICLES

Sec.

586.1 Scope.

586.2 Purpose.

586.3 Applicability.

586.4 Definitions.

586.5 General requirements.

586.6 Registration.

586.7 Timing for processing registrations.

586.8 Deemed approved registrations.

586.9 Updating existing registrations.

586.10 Written notice.

586.11 Temporary label.

586.12 Annual report.

586.1~~3~~⁴ Revocation of registrations.

Authority: 49 U.S.C. 30112 and 30114; delegation of authority at 49 CFR 1.95.

§ 586.1 Scope

This part specifies requirements and procedures under 49 U.S.C. 30114(b) for the registration of low-volume manufacturers as replica motor vehicle manufacturers and establishes the duties of the manufacturers. Once approved, replica motor vehicle manufacturers are granted a conditional exemption from 49 U.S.C. 30112(a), 32304, 32502, and 32902 and from section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) to produce up to 325 replica motor vehicles annually. That is replica motor vehicles granted an exemption under this part are exempt from all applicable Federal motor vehicle safety standards in part 571 of this chapter (except for standards applicable to motor vehicle equipment), passenger motor vehicle country of origin

labeling requirements, bumper standards, average fuel economy standards, and vehicle labeling and safety rating disclosure requirements.

§ 586.2 Purpose.

The purpose of this part is to implement a program under 49 U.S.C. 30114(b) to annually exempt not more than 325 replica motor vehicles per year that are manufactured or imported by low-volume manufacturers from certain existing requirements for motor vehicles. This part specifies eligibility requirements for low-volume manufacturers that wish to register with NHTSA as a replica motor vehicle manufacturer, procedures for the registration of such manufacturers, content and format requirements for registration submissions, and requirements for updating registrations. This part also provides for the revocation of registrations and sets forth the duties required of replica vehicle manufacturers. Manufacturers are not eligible for replica vehicle exemption under 49 U.S.C. 30114(b) unless they register with NHTSA pursuant to this part 586.

§ 586.3 Applicability.

This part applies to low-volume manufacturers that wish to register with NHTSA as a replica motor vehicle manufacturer, and to manufacturers registered as replica motor vehicle manufacturers.

§ 586.4 Definitions.

All terms in this part that are defined in 49 U.S.C. 30102 and in 49 CFR 571.3 are used as defined therein.

Low-volume manufacturer is defined in 49 U.S.C. 30114(b)(7).

Original model year of a replicated vehicle means the stated model year of a vehicle that has been replicated pursuant to 49 CFR part 586.

Replica motor vehicle manufacturer means a low-volume manufacturer that is registered as a replica motor vehicle manufacturer pursuant to the requirements in this part.

Replica model year means the calendar year in which a replica motor vehicle was manufactured.

Replica motor vehicle means a motor vehicle that--

(1) Is produced by a manufacturer meeting the definition of replica motor vehicle manufacturer under an exemption as provided in 49 CFR part 586 ~~that has not manufactured 325 replica motor vehicles in the current calendar year~~; and

(2) Is intended to resemble the body of another motor vehicle that was manufactured for consumer sale not less than 25 years before the manufacture of the replica motor vehicle; and

(3) Is either:

(i) Manufactured under a license for all ~~of~~ the intellectual property rights of the motor vehicle that is intended to be replicated, if such exist, including, ~~but not limited to~~, product configuration, trade dress, trademark, and patent, from the original manufacturer, or its successors or assignees; or,

(ii) Manufactured by a current owner of such intellectual property, including, ~~but not limited to~~, product configuration, trade dress, trademark, and patent rights.

§ 586.5 General requirements.

(a) Each manufacturer wishing to register as a replica motor vehicle manufacturer must have a calendar year, worldwide production, including production by a parent or subsidiary of the manufacturer, if applicable, of not more than 5,000 motor vehicles, and must not be a registered importer under 49 CFR part 592. Only one registration is permitted for manufacturers sharing common ownership. If a manufacturer wishes to manufacture replica vehicles and it shares common ownership with a registered replica motor vehicle manufacturer, it may only do so after the registered replica manufacturer submits a revised registration submission indicating that the exemption for 325 replica vehicles will be divided between the manufacturers. Replica manufacturers sharing common ownership will be limited to a total of 325 replica vehicles and combined worldwide production of up to 5,000 motor vehicles. An update to a registration to add a manufacturer under common ownership shall allocate the exemption for 325 replica vehicles between the manufacturers. An update to the registration to adjust the allocation must be made pursuant to § 586.9.

(b) Each manufacturer wishing to manufacture replica motor vehicles under this part program must be registered, according to the requirements in 49 CFR 586.6, as a replica motor vehicle manufacturer for the calendar year in which the replica motor vehicle is manufactured.

(c) Each replica motor vehicle manufacturer shall meet all statutory and regulatory requirements applicable to motor vehicle manufacturers, except:

(1) 49 U.S.C. 30112(a) regarding the Federal motor vehicle safety standards applicable to vehicles in effect on the date of manufacture of the replica motor vehicle; and

(2) 49 U.S.C. 32304, 32502, 32902 and 15 U.S.C. 1232.

(d) Each replica motor vehicle manufacturer shall:

(1) Meet all the requirements set forth in this part; and,

(2) Not manufacture more than 325 exempted replica motor vehicles in a calendar year.

(e) Each exempted replica motor vehicle, as manufactured, shall ~~closely~~ resemble the original replicated vehicle as described in § 586.6(b)(3).

(f) An exemption granted by NHTSA under this part may not be transferred to any other person, and shall expire at the end of the calendar year for which it was granted with respect to any production volume authorized by the exemption that was not applied by the replica motor vehicle manufacturer to vehicles produced~~built~~ during that calendar year.

§ 586.6 Registration.

(a) A manufacturer may register under this part as a manufacturer of replica motor vehicles if:

(1) The manufacturer is not registered as an importer under 49 CFR part 592;

(2) The manufacturer's annual worldwide production, including by a parent or subsidiary of the manufacturer, if applicable, is not more than 5,000 motor vehicles;

(3) The manufacturer has submitted manufacturer identification information pursuant to part 566 of this chapter.

(b) To register as a replica motor vehicle manufacturer, a ~~Mm~~manufacturer must submit, using the NHTSA Product Information Catalog and Vehicle Listing (vPIC) platform (<https://vpic.nhtsa.dot.gov/>) its name, address, and email address, and the following:

(1) Information sufficient to establish:

(i) That ~~its~~the manufacturer's annual world-wide production, including by a parent or subsidiary of the manufacturer, if applicable, is not more than 5,000 motor vehicles, and a statement certifying to that effect, including the total number of motor vehicles produced by or on behalf of the registrant in the 12-month prior to filing the registration; and,

(ii) That ~~it the manufacturer~~ is not registered as an importer under 49 CFR part 592;

(2) A statement identifying the original vehicle(s) ~~it the manufacturer~~ intends to replicate by make, model, and model year;

(3) Information sufficient to establish that the replica vehicle(s) ~~it the manufacturer~~ intends to replicate is intended to resemble the body of the original vehicle, including:

(i) The images of the front, rear, and side views of the exterior of the original vehicle;

(ii) If ~~it the manufacturer~~ has previously replicated the original vehicle(s), images of the front, rear, and side views of the exterior of ~~its a representative replica motor vehicle(s)~~;

(iii) If the manufacturer has not previously replicated the original vehicle(s), design plans for the replica vehicle(s);

(iv) Information ~~establishing to show~~ that the replica vehicle will resemble the body of the original vehicle on an overall 1:1 scale (+/- 10 percent) of original body lines, excluding roof configuration, ride height, trim attached to the body, fenders, running boards, grille, hood or hood lines, windows, and axle location; be the same height, width, and length as the original vehicle; and

(v) If the replica vehicle has any deviations ~~were made from the shape of the original vehicle's exterior features or the overall shape of the body of the original vehicle to accommodate safety features~~, highlight ~~those information identifying those~~ deviations ~~for NHTSA's consideration~~.

(4) A certification that ~~it the manufacturer~~ has determined the intellectual property rights ~~required, if such exist, pertaining to the body of the replicated vehicle which rights are required to produce the replica vehicle,~~ and has obtained any all-licenses and permissions necessary to legally produce the replica vehicle body. The manufacturer may provide additional documentation to support the certification such a ~~and documentation to support that it has obtained the required~~-licenses from the original manufacturer, its successors or assignees, or the current owner of any product configuration, trade dress, trademark, or patent ~~necessary to produce the replicated vehicle. The intellectual property rights for the original vehicle may include, but are not limited to, the following:~~

—(i) ~~Trade dress of the vehicle;~~

—(ii) ~~Trademarks for the body style of the vehicle;~~

—(iii) ~~Patents for the vehicle's exterior shape or features; and/or~~

—(iv) ~~Trademarks for make and/or model names used in connection with the manufacturer and sale of the original vehicle.~~

(5) A statement certifying that ~~it the manufacturer~~ will not manufacture more than the number of replica motor vehicles covered by the requested exemption, a number which shall not exceed not more than 325 replica motor vehicles in a calendar year; and,

(6) All information required by part 566 of this chapter to identify itself to NHTSA as a motor vehicle manufacturer.

(7) A statement certifying that ~~it the manufacturer~~ understands that information provided under this part is information upon which the Federal Government will rely, and that submission of false, fictitious or fraudulent information may result in civil or criminal penalties under 18 U.S.C. 1001.

(c) A replica vehicle manufacturer is not considered registered under this part 586 until either it receives written confirmation from NHTSA that:

(1) The registration is approved; or,

(2) The registration is deemed approved according to § 586.8 based on by NHTSA's failure to approve or deny the registration within the time frame specified in § 586.7 and pursuant to § 586.87.

(d) A replica vehicle manufacturer shall submit an updated registration submission prior to beginning manufacture of any replica motor vehicle-~~model~~(s) not covered by ~~its~~their existing registration and will not begin manufacturing those additional replica motor vehicle-~~model~~(s) until the updated registration is either approved or deemed approved as specified under § 586.7 and § 586.89.

(e) A registrant need not reapply annually if the registrant seeks to manufacture the same replica vehicles (make and, model-~~and model year~~) for which it has received approval from NHTSA under this part. The registrant must provide notification, by way of its annual report pursuant to § 586.12, of its intent to continue manufacturing covered replica motor vehicles.

§ 586.7 Timing for processing registrations.

Upon receipt of a registration submitted on vPIC, NHTSA will notify the registrant within 90 days, ~~in writing which includes~~ by letter and email, whether the registration is approved or denied. If notification is not sent to the registrant within 90 days from NHTSA's receipt of the submission, the registration will be deemed approved ~~according pursuant to~~ § 586.6(c) unless either:

(a) NHTSA determines that the submission is incomplete. If NHTSA notifies the registrant, ~~in writing by letter and which includes by~~ email, within said 90 days that the submission is incomplete, the manufacturer shall then have 60 days to submit the missing information. If the manufacturer fails to submit such additional information within said time period, the registration will be denied unless the 60-day time period is extended by NHTSA.

(1) Upon receipt of the additional information, NHTSA shall have 30 days plus any~~the~~ remaining time of the initial 90 days to review and grant or deny the registration. For example, if NHTSA notifies the manufacturer that registration is incomplete on the 30th day, NHTSA shall have the remaining 60 days plus 30 days to review the registration upon receipt of additional information.

(2) A registration shall be denied if NHTSA requests additional information from the registrant necessary to complete the registration and the manufacturer does not submit information sufficient to complete the registration within 60 days, unless such time period is extended by NHTSA.

or

(b) Within the 90-day period the ~~The~~ submission is determined by NHTSA to be repetitious and the registrant is informed in writing and email of this decision. A repetitious registration submission is one that relies only on the same facts and circumstances as a previously denied registration.

§ 586.8 Deemed approved registrations.

(a) If a manufacturer believes that its registration is deemed approved by NHTSA's failure to approve or deny the registration within the time period set forth in~~pursuant to~~ § 586.7, the manufacturer shall send NHTSA via email and vPIC ~~must obtain written confirmation from NHTSA~~ a written notice that its registration is deemed approved together with an attached copy of the registration receipt that was generated by vPIC when the registration was submitted.

(b) Within 10 days following NHTSA's receipt of the manufacturer's deemed-approved notice. If NHTSA confirms that the registration is deemed approved, NHTSA shall include such ~~each deemed approved~~ registrant's name on NHTSA's published list of replica motor vehicle

manufacturers and shall notify the registrant in writing by letter and email, unless NHTSA proceeds under paragraph (c).

(c) registrants. If, within the 10-day period, -NHTSA cannot find any record of that manufacturer's e-registration submission on vPIC, as claimed in registrant's notice, NHTSA shall will inform the manufacturer in writing by letter and email, within the 10-day period, that the registration has not been deemed approved and that the manufacturer may file its registration following the procedures in this part.

~~—(b) If NHTSA determines that a registration, deemed approved by a failure to approve or deny the registration within the allotted time, is incomplete or does not provide a basis for qualifying as a registrant, NHTSA may request additional information from the registrant, in writing which includes by email. A manufacturer shall have 60 days to respond to a request for additional information. If the manufacturer fails to respond within the 60 days or submits information that does not support qualification as a low volume manufacturer of replica vehicles, NHTSA may revoke the registration.~~

§ 586.9 Updating existing registrations.

A registered replica motor vehicle manufacturer shall submit updated registration information prior to commencing manufacture of a new model of replica motor vehicle or reallocating the number of replica vehicles to be made by two or more replica motor vehicle manufacturers under common ownership. The replica motor vehicle manufacturer shall submit updated registration information pursuant to § 586.6. The replica motor vehicle manufacturer may not begin producing the new model of replica motor vehicle or reallocate replica motor vehicles until its updated registration is either approved or deemed approved by NHTSA.

§ 586.10 Written notice.

Each replica motor vehicle manufacturer must provide ~~its the dealers~~ and first retail purchasers of replica motor vehicles a written statement the following information, either in the owner's manual or a separate document, which includes the same information contained in § 586.11. The statement may be supplemented with additional information and may also instruct the reader that information about all current standards and regulations governing motor vehicles is located at www.nhtsa.gov.

~~—(a) A list of all current standards and regulations the vehicle would be required to comply with but with which it does not comply due to this exemption;~~

~~—(b) The purpose statements of each such standard or regulation, as provided in Table 1 of this part.~~

§ 586.11 Temporary label.

Each replica motor~~The~~ vehicle shall have a label attached to a location on the dashboard or the steering wheel hub that is clearly visible from all front seating positions. The label need not be permanently affixed to the vehicle. The label shall meet the following requirements:

(a) The label shall include a heading area in yellow with an alert symbol consisting of a solid black equilateral triangle with a yellow exclamation point and the word “WARNING” in black block capitals in a type size that is larger than that used in the remainder of the label and the alert symbol in black.

(b) The label shall include a message area in white with black text in at least 20-point font stating: “This vehicle is a replica motor vehicle and is exempt from complying with all current

Federal motor vehicle safety standards that apply to motor vehicles, and with theft prevention and bumper standards in effect on the date of manufacture. [The expression “U.S.” or “U.S.A.” may be inserted before the word “Federal”.] See the certification label or consumer disclosure for more specific information.”

(c) The message area shall be no less than 30 cm\2\ (4.7 in\2\).

§ 586.12 Annual report.

Each replica motor vehicle manufacturer ~~of a replica motor vehicle~~ shall furnish the following information to <https://vpic.nhtsa.dot.gov/> no later than March 1 following the end of a calendar year in which the replica motor vehicle manufacturer produced at least 1 (one) replica motor vehicle:

(a) Full individual, partnership or corporate name of the replica motor vehicle manufacturer.

(b) Residence address of the replica motor vehicle manufacturer, phone number and email address.

(c) The calendar year for which the annual report is submitted (replica model year) and the total number of replica motor vehicles manufactured during that year.

(d) The complete Vehicle Identification Number (VIN) of each replica motor vehicle manufactured during the covered replica model year.

(e) List of the models different versions of replica motor vehicles produced by the replica motor vehicle manufacturer during the replica model year, indicating the -make, model, and original model year of the vehicles being replicated ~~vehicle~~.

(f) List of the FMVSS and regulations from which each model version of replica motor vehicle produced during the replica motor year by the replica motor vehicle manufacturer ~~(by make, model, and original model year of replicated vehicle)~~ is exempt.

(g) Images of the front, rear, and side views of the original vehicle(s) replicated by the replica motor vehicle manufacturer during the replica model year, and images of the same views of a representative replica motor vehicle manufactured to resemble each original vehicle.

~~—(h) Information sufficient to establish that the replica motor vehicles, as manufactured, resemble the body of the original vehicle.~~

(i) ~~A statement State~~ whether the replica motor vehicles produced by the replica motor vehicle manufacturer during the replica model year contain any of the following vehicle safety features:

~~(1) F~~front or side air bags;

~~—(2) L~~lap or lap and shoulder belts;

~~—(3) A~~advanced safety systems/passive safety systems (listed with locations);

~~—(4) E~~electronic stability control;

~~—(5) R~~ear visibility camera system; or

~~—(6) E~~ejection mitigation.

(j) Notification to NHTSA if the replica motor vehicle manufacturer intends to produce ~~registrant will be manufacturing~~ the same replica motor vehicle(s) in the ~~next~~ calendar year following the replica motor vehicle model year for which the annual report is being submitted, and if so, how many replica motor vehicles it intends to produce~~will be manufacturing~~. If the replica motor vehicle manufacturer intends to continue manufacturing replica motor vehicle(s), the replica motor vehicle manufacturer must also submit information sufficient to establish that ~~its their~~ annual world-wide production, including by a parent or subsidiary of the manufacturer, if applicable, will is not be more than 5,000 motor vehicles, and a statement certifying to that effect, including the total number of motor vehicles produced by or on behalf of the replica motor vehicle registrant in the 12 -months prior to filing the annual report~~registration~~.

§ 586.13 Revocation of registrations.

NHTSA may require ~~replica motor vehicle manufacturers registrants~~ to provide information at any time demonstrating compliance with the requirements of this part. NHTSA may revoke an existing registration or deny a registration based on a failure to comply with requirements of this part or a finding of a safety-related defect or unlawful conduct under 49 U.S.C. Chapter 301 et seq. that poses a significant safety risk. Prior to the revocation of the registration, NHTSA will provide the registrant a reasonable opportunity to correct deficiencies, if such are correctable, based on the sole discretion of NHTSA.

~~Tables to Part 586~~

~~[Remove purpose statements]~~

Attachment 2

SEMA Model Street Rod/Custom Vehicle Bill

Vehicle Laws - Street Rods and Custom Vehicles

- (a) A "street rod" means a motor vehicle that:
 - (1) Is a 1948 or older vehicle; or the vehicle was manufactured after 1948 to resemble a vehicle manufactured before 1949; and
 - (2) Has been altered from the manufacturer's original design; or has a body constructed from non-original materials.
 - (b) The model year and the year of manufacture that are listed on the certificate of title of a street rod vehicle shall be the model year and year of manufacture that the body of such vehicle resembles.
 - (c) For each street rod, there shall be a one-time registration fee of \$ _____.
 - (d)
 - (1) In applying for registration of a street rod under this section, the owner of the street rod shall submit with the application a certification that the vehicle for which the application is made:
 - (I) Will be maintained for occasional transportation, exhibitions, club activities, parades, tours, and similar uses; and
 - (II) Will not be used for general daily transportation.
 - (2) In addition to the certification required under paragraph (1) of this subsection, when applying for registration of a street rod, the new owner of the street rod shall provide proof acceptable to the Administration that the street rod passed a safety inspection that has been approved by the Administration in consultation with the street rod community in this State.
 - (e) On registration of a vehicle under this section, the Administration shall issue a special street rod vehicle registration plate of the size and design that the Administration determines in consultation with the street rod community in this state.
 - (f) Unless the presence of the equipment was specifically required by a statute of this State as a condition of sale in the year listed as the year of manufacture on the certificate of title, the presence of any specific equipment is not required for the operation of a vehicle registered under this section.
 - (g) A vehicle registered under this section is exempt from any statute that requires periodic vehicle inspections and from any statute that requires the use and inspection of emission controls.
-

- (a) A custom vehicle means any motor vehicle that:
 - (1) Is at least 25 years old and of a model year after 1948; or was manufactured to resemble a vehicle 25 or more years old and of a model year after 1948; and

- (2) Has been altered from the manufacturers original design; or has a body constructed from non-original materials.
 - (b) The model year and the year of manufacture that are listed on the certificate of title of a custom vehicle shall be the model year and year of manufacture that the body of such vehicle resembles.
 - (c) For each custom vehicle, there shall be a one-time registration fee of \$_____.
 - (d)
 - (1) In applying for registration of a custom vehicle under this section, the owner of the custom vehicle shall submit with the application a certification that the vehicle for which the application is made:
 - (I) Will be maintained for occasional transportation, exhibitions, club activities, parades, tours, and similar uses; and
 - (II) Will not be used for general daily transportation.
 - (2) In addition to the certification required under paragraph (1) of this subsection, when applying for registration of a custom vehicle, the new owner of the custom vehicle shall provide proof acceptable to the administration that the custom vehicle passed a safety inspection that has been approved by the Administration in consultation with the custom vehicle community in this state.
 - (e) On registration of a vehicle under this section, the administration shall issue a special custom vehicle registration plate of the size and design that the administration determines in consultation with the custom vehicle community in this state.
 - (f) Unless the presence of the equipment was specifically required by a statute of this State as a condition of sale in the year listed as the year of manufacture on the certificate of title, the presence of any specific equipment is not required for the operation of a vehicle registered under this section.
 - (g) A vehicle registered under this section is exempt from any statute that requires periodic vehicle inspections and from any statute that requires the use and inspection of emission controls.
-
- (a) Signal lamps and devices – street rod vehicles and custom vehicles
 - (1) “Blue dot tail light” means a red lamp installed in the rear of a motor vehicle containing a blue or purple insert that is not more than one inch in diameter.
 - (2) A street rod or custom vehicle may use blue dot tail lights for stop lamps, rear turning indicator lamps, rear hazard lamps, and rear reflectors.