

January 31, 2020

Submitted via www.regulations.gov

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 - Comments in Response to Proposed Rulemaking Replica Motor Vehicles; Vehicle Identification Number (VIN) Requirements; Manufacturer Identification; Certification

Dear Acting Administrator Owens:

DeLorean Motor Company (DMC) is appreciative of the opportunity to provide information about the damages related to the delays in the implementation of the 2015 legislation that was designed to recognize the contribution of a low-volume automobile manufacturers segment to the economy. We have also included our comments that directly relate to concerns about NHTSA's interpretation of the FAST Act legislation and the Rulemaking document.

When the U.S. Congress introduced the Fixing America's Surface Transportation Act or the FAST Act, in particular Section 24405, directing the DOT to exempt from FMVSS applying to motor vehicles for up to 325 replica motor vehicles per year manufactured by a registered low-volume manufacturer, DMC applauded the opportunity to bring the DeLorean automobile to the 21st century. Similarly, prospective buyers were excited that they would soon be able to own and drive a DeLorean with a modern, EPA-approved drivetrain and the modern amenities found in new cars sold today.

DMC invested more than \$1 million dollars since 2016 in preparation to assemble a target production rate of 50 DeLorean cars per year. Much of this was in the area of product development based around a planned drivetrain that, at the time, had several years left in its supported product life. Due to the delays, this development work must be discarded and started new as we have been told future support for the emissions compliance of this engine will be stopped at the 2022 model year's specifications.

In the ensuing four years since the FAST Act was signed into law, DMC, along with numerous other companies planning to participate in this program, have followed the process of regulatory action and rulemaking. With constant reassurances from NHTSA that a rulemaking was coming "soon", DMC took NHTSA at its word and continued to plan for this legislatively mandated program's enactment.

In 2019, DMC viewed the issuance of the rules from the Environmental Protection Agency (EPA) and California Air Resources Board (CARB) with appreciation, as it gave us a clearer path that was in accordance with the intent of the law as prescribed in the FAST Act.

Now, after having had more than four years to craft this rule, NHTSA proposes conflicting definitions that stand to cause injurious costs and delays in addition to already being years late, based on the requirements outlined in the FAST Act.

The following are DMC's comments on the proposed rule:

IV. b. 1. Replica Motor Vehicle

The aforementioned FAST Act, section 30114(b) (7) (B) defines a "replica motor vehicle" as:

a motor vehicle produced by a low-volume manufacturer and that— "(i) 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;

The term used is "resemble" the body of another motor vehicle. Furthermore, "resemble" is defined by Oxford's dictionary as to *look or seem like*. Therefore, "resemble" doesn't mean an exact duplicate. NHTSA takes this too far with their proposed definition that a replica motor vehicle must have the same length, width and height as the original vehicle being replicated. It's clear that an object can resemble something else without having the exact same dimensions.

DMC recommends that NHTSA follow the more accurate definition as presented by CARB in Title 13, Section 22091(a)(16)(A):

(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...

In order to be able to produce these replicas on a more technologically advanced platform with the mandated modern drivetrain and emission controls may make it impossible to produce without the aforementioned flexibility in the overall dimensions.

Similarly, NHTSA's interpretation of the word "body" as "any part of the vehicle that is not the chassis or frame" is contrary to the use of the term within the auto industry, which is the exterior design and appearance of the vehicle. Therefore, when NHTSA proposes an exemption from including the interior of the replica vehicle in the definition of "body", if the industry's understood definition of the term "body" is used - the exterior design and appearance of the vehicle, an exemption is no longer applicable or necessary.

V.a. Equipment FMVSS

While there is no question that the FAST Act does not exempt Replica Car Manufacturers from applicable *equipment* standards it's an overreach for NHTSA under the FAST Act to attempt to mandate *vehicle-based safety* standard requirements that would apply to replica vehicles.

VI. Registration Requirements

The FAST Act specifically states:

Any registration not approved or denied within 90 days after initial submission, or 120 days if the registration submitted is incomplete, shall be deemed approved.

The need for this should be obvious. Allowing for an indeterminate amount of time for NHTSA to review and confirm a registration puts the possibility of further delays and expenses to low-volume manufacturers though no fault of their own. NHTSA's proposed rule states:

We propose that a low-volume manufacturer is not considered registered with NHTSA unless the manufacturer receives confirmation from NHTSA that its registration is approved. A manufacturer whose registration is not approved or denied within the allotted time, who believes its registration is thus deemed approved, must obtain confirmation of the approval from NHTSA. When NHTSA confirms the approval, NHTSA would add the manufacturer to the up-to-date list of registrants.

To implement the rule as proposed would allow for what appears to be an limitless amount of time for review of a low-volume manufacturer's registration. This is clearly contrary to the law and should not be in the final rulemaking document.

DMC appreciates the opportunity to comment on the proposed rulemaking for the replica vehicle program and looks forward to further discussion on these and other areas that affect the release of the final rule.

Sincerely,



DeLorean Motor Company
Stephen Wynne
Chief Executive Officer