

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. 20590-0001

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

Dear Administrator Owens,

ElectraMeccanica Vehicles (ElectraMeccanica, www.electrameccanica.com) credits part of its automotive heritage to Intermeccanica Vehicles (www.intermeccanica.com) who, as Automobili Intermeccanica, manufactured the Intermeccanica Speedster in from 1976 to 1981 in Santa Anna California. ElectraMeccanica is looking forward to the opportunity to bring back this iconic vehicle within the replica motor vehicle category. As such, we welcome the opportunity to offer comment on the NHTSA's Proposed Replica Vehicle Program as published in the U.S. Federal Register on January 7, 2020:

1. Low-Volume Manufacturer Requirement

NHTSA has interpreted the low-volume manufacturer requirement “to mean that the vehicles must be produced by a “low-volume manufacturer,” and that replica vehicles may only be imported by their fabricating low-volume manufacturer. This means that replica vehicles fabricated by a foreign low-volume manufacturer may only be imported by that specific registered low-volume manufacturer (and each low-volume manufacturer would be limited to importing 325 replica vehicles per year, regardless of the calendar year of manufacture).”

ElectraMeccanica contends that there should be allowance for the replica vehicles to be imported by the US subsidiary of a foreign low-volume manufacturer. This corporate relationship could be easily defined as part of the registration submission.

2. Requirement to Resemble

a. Dimensional resemblance

In light of significant efforts already made by industry and other regulatory agencies, e.g. CARB, we recommend that NHTSA consider adopting the definitions for ‘resemble’ as documented in the CARB Specially Produced Motor Vehicles regulations (refer to CCR Title 13, Division 3, Chapter 4, Article 1.4 §2209.1(16)(A)). Part of the essential opportunity of the proposed rules is to lessen the discrepancies, and associated cost to business, between state and federal requirements and state-to-state requirements with respect to these vehicles. Since CARB has already promulgated their regulations, and since the industry worked closely with CARB and the EPA to establish such regulations, and since these regulations already provide a definition for ‘resemble’ upon which much of the industry may have based their efforts in preparing vehicles for sale into the marketplace, it would be reasonable for NHTSA to adopt the same definition.

b. ‘Body’

As in the definition of ‘resemble’, ElectraMeccanica recommends that NHTSA also consider carefully the definition of the term ‘body’. In the NPRM, NHTSA has interpreted ‘body’ to mean “any part of the vehicle that is not part of the chassis or frame” and to include “[t]he exterior sheet metal and trim, the



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passenger compartment, trunk, bumpers, fenders, grill, hood, interior trim, lights and glazing”. Again, we would like to point to CARB’s promulgated rules (refer to CCR Title 13, Division 3, Chapter 4, Article 1.4 §2209.1(16)(A)) that specifically do not include aspects of the attached trim or the vehicle interior. We urge NHTSA to carefully consider the implications for the industry in adopting too encompassing a definition of ‘body’. Such a definition may inadvertently result in limiting small changes to a vehicle that would otherwise have resulted in improvements to vehicle safety.

3. REQUIREMENT TO MANUFACTURE UNDER LICENSE AGREEMENT FOR INTELLECTUAL PROPERTY RIGHTS

ElectraMeccanica agrees with the need to produce vehicles under the appropriate licensing. Proper consideration of intellectual property, trademark, and trade dress is important for the industry as a whole. However, we advise NHTSA against placing specific requirements on documentation submission requirements for replica vehicle manufacturers with respect to the particulars of such agreements and/or licenses and, in the spirit of self-certification, limit the associated reporting requirements to a declaration that the applicable intellectual property rights have been obtained prior to application for registration with NHTSA as a replica vehicle manufacturer.

4. Certification Label

Although ElectraMeccanica recognizes the restrictions imposed regarding the listing of exempted standards on a vehicle label, we contend that the listing of all FMVSS from which the vehicle is exempt on the certification label may be difficult to feasibly accomplish while still meeting 49 CFR 567 requirements for legibility and type size. As an alternative we suggest that NHTSA consider either:

- a. A simplified statement on the vehicle certification label pointing to the manufacturer’s website and/or vehicle owner’s manual; or,
- b. Allowance for the use of a second label that can be affixed to the vehicle at another permanent and visible location, e.g. under the hood, with or without the matching declaration in the vehicle owner’s manual or on the manufacturer’s website.

ElectraMeccanica looks forward to the final publication of the proposed rules and to future collaboration with NHTSA through our participation in the replica vehicle program.

Sincerely,

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