

appropriate. FMCSA will be operating under DOT LEP guidance. Thus, this IFR complies with the principles enunciated in the Executive Order.

#### *National Environmental Policy Act*

This IFR is categorically excluded from environmental studies under paragraph 6.a. of the FMCSA Environmental Order 5610.1C dated March 1, 2004 (69 FR 9680). This IFR merely clarifies and modifies FMCSA's Title VI program, the applicability of both the FHWA's and the Department's Title VI provisions, and establishes a new part in 49 CFR chapter III, Subchapter A, for civil rights matters.

#### *Regulation Identification Number*

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in spring and fall of each year. The RIN located in the heading of this document is used to cross-reference this action with the Unified Agenda.

#### **List of Subjects in 49 CFR Part 303**

Civil Rights, Implementation and review procedures, Title VI compliance program, Title VI program and related statutes, Transportation.

■ Based on the foregoing, FMCSA adds a new Part 303 for Civil Rights under 49 CFR chapter III, Subchapter A, to read as follows:

### **PART 303—CIVIL RIGHTS**

Sec.

303.1 Purpose.

303.3 Application of this part.

**Authority:** Public Law 105–159, 113 Stat. 1748, Title I, sections 107(a) and 106 (Dec. 9, 1999) (49 U.S.C. 113); 42 U.S.C. 2000d, *et seq.*; and 49 CFR 1.73.

#### **§ 303.1 Purpose.**

The purpose of this part is to provide guidelines and procedures for implementing the Federal Motor Carrier Safety Administration's (FMCSA) Title VI program under Title VI of the Civil Rights Act of 1964 and related civil rights laws and regulations. For FMCSA-only programs or activities, Federal financial assistance recipients or grantees will continue to apply and use the Departmental Title VI provisions at 49 CFR part 21. For joint and multi-agency programs/projects, FMCSA Federal assistance recipients or grantees must use the Title VI requirements at 49 CFR part 21, unless agreement is reached by the Federal funding agencies for the recipients to use the Title VI procedures of another agency.

#### **§ 303.3 Application of this part.**

The provisions of this part are applicable to all elements of the FMCSA and to any program or activity for which Federal financial assistance is authorized under a law administered by the FMCSA. This part provides Title VI guidelines for State Departments of Transportation and local State agencies, including their sub-recipients, to implement Title VI. It also applies to money paid, property transferred, or other Federal financial assistance extended under any program of the FMCSA after the date of this part.

Issued on: February 7, 2005.

**Annette M. Sandberg,**  
*Administrator.*

[FR Doc. 05–2768 Filed 2–11–05; 8:45 am]

**BILLING CODE 4910–EX–P**

### **DEPARTMENT OF TRANSPORTATION**

#### **National Highway Traffic Safety Administration**

#### **49 CFR Parts 555, 567, 568, and 571**

[Docket No. NHTSA–99–5673]

**RIN 2127–AE27**

#### **Vehicles Built in Two or More Stages**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The final rule amends four different parts of title 49 to address the certification issues related to vehicles built in two or more stages and, to a lesser degree, to altered vehicles. The amendments allow the use of pass-through certification so that it can be used not only for multi-stage vehicles based on chassis-cabs, but also for those based on other types of incomplete vehicles. The amendments also create a new process under which intermediate and final-stage manufacturers and alterers can obtain temporary exemptions from dynamic performance requirements, and provide an automatic one year of additional lead time for new safety requirements for intermediate and final-stage manufacturers and alterers, unless the agency determines with respect to a particular requirement that a longer or shorter time period is appropriate. This final rule also refines the agency's interpretation of "vehicle type" to more appropriately reflect the congressional and judicial considerations. Because vehicles built in two or more stages are more properly considered a "vehicle type," the agency will be able more properly to consider the benefits and burdens of various

compliance options when developing Federal motor vehicle standards.

**DATES:** Effective Date: The amendments made in this final rule are effective September 1, 2006.

**ADDRESSES:** If you wish to petition for reconsideration of this rule, you should refer in your petition to the docket number of this document and submit your petition to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** For nonlegal issues: Harry Thompson, Office of Vehicle Safety Compliance, NHTSA (telephone 202–366–5289).

For legal issues: Steve Wood, Office of the Chief Counsel, NHTSA (telephone (202) 366–2992).

You can reach both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The National Traffic and Motor Vehicle Safety Act, as amended and recodified, mandates the issuance of Federal motor vehicle safety standards and requires the manufacturers of motor vehicles to certify that their vehicles comply with all applicable standards. While some vehicles are manufactured in a single stage by a single manufacturer, others are manufactured in multiple stages by a series of manufacturers.

Certification problems related to vehicles built in two or more stages have troubled both the automotive industry and the National Highway Traffic Safety Administration (NHTSA) almost since the agency's creation. An early set of NHTSA regulations on this subject was overturned by the Seventh Circuit Court of Appeals thirty years ago. *Rex Chainbelt v. Volpe*, 486 F.2d 757 (7th Cir. 1973); appeal after remand, *Rex Chainbelt v. Brinegar*, 511 F.2d 1215 (7th Cir. 1975). The court's decision focused on chassis-cabs and stated that for such vehicles a "dual certification" was required: a partial certification by the incomplete vehicle manufacturer and a complementary partial certification by the final-stage manufacturer, resulting in a fully certified vehicle. In response, the agency amended 49 CFR 567.5, Requirements for manufacturers of vehicles manufactured in two or more stages, and part 568, Vehicles manufactured in two or more stages, to define "chassis-cabs" and establish special certification requirements for chassis-cab manufacturers, which are

usually large vehicle manufacturers such as General Motors Corporation (GM) and Ford Motor Company (Ford).

Pursuant to these regulations, manufacturers of chassis-cabs are required to place on the incomplete vehicle a certification label stating under what conditions the chassis-cab has been certified. This allows what is commonly referred to as "pass-through certification." As long as a subsequent manufacturer meets the conditions of the chassis-cab certification, that manufacturer may rely on this certification and pass it through when certifying the completed vehicle.

However, the amended regulations did not impose corresponding certification responsibilities on manufacturers of incomplete vehicles other than chassis-cabs (e.g., incomplete vans, cut-away chassis, stripped chassis and chassis-cowls).

49 CFR part 568 requires the manufacturers of all incomplete vehicles to provide with each incomplete vehicle an incomplete vehicle document (IVD). This document details, with varying degrees of specificity, the types of future manufacturing contemplated by the incomplete vehicle manufacturer and must provide, for each applicable safety standard, one of three statements that a subsequent manufacturer can rely on when certifying compliance of the vehicle, as finally manufactured, to some or all of all applicable Federal Motor Vehicle Safety Standards (FMVSS).

First, the IVD may state, with respect to a particular safety standard, that the vehicle, when completed, will conform to the standard if no alterations are made in identified components of the incomplete vehicle. This representation is most often made with respect to chassis-cabs, since a significant portion of the occupant compartment is already complete.

Second, the IVD may provide a statement for a particular standard or set of standards of specific conditions of final manufacture under which the completed vehicle will conform to the standard. This statement is applicable in those instances in which the incomplete vehicle manufacturer has provided all or a portion of the equipment needed to comply with the standard, but subsequent manufacturing might be expected to change the vehicle such that it may not comply with the standard once finally manufactured. For example, the incomplete vehicle could be equipped with a brake system that would, in many instances, enable the vehicle to comply with the applicable brake standard once the vehicle was

complete, but that would not enable it to comply if the vehicle's weight or center of gravity were significantly altered.

Third, the IVD may identify those standards for which no representation of conformity is made because conformity with the standard is not substantially affected by the design of the incomplete vehicle. Thus, a manufacturer of a stripped chassis may be unable to make any representations about conformity to any crashworthiness standards if the incomplete vehicle does not contain an occupant compartment. NHTSA said in the SNPRM that when issuing the original set of regulations regarding certification of vehicles built in two or more stages, the agency indicated that it believed final-stage manufacturers would be able to rely on the representations made in the IVDs when certifying the completed vehicle's compliance with all applicable FMVSSs.

The distinction between chassis-cabs and other forms of incomplete vehicles created by the 1977 amendment of 49 CFR part 567, Certification, was based on NHTSA's belief that incomplete vehicles other than chassis-cabs may be insufficiently manufactured to justify any type of certification statement, given its legal implications, by the incomplete vehicle manufacturer. With respect to these other vehicles, NHTSA maintained its position that the incomplete vehicle manufacturer should be able to provide sufficient information in the IVD to inform the final-stage manufacturer about the extent to which it could rely on manufacturing operations of the incomplete vehicle manufacturer when determining whether additional engineering resources were needed to certify compliance with all applicable standards in good faith. See 42 FR 37814 (July 25, 1977).

The distinction between certification responsibilities of manufacturers of chassis-cabs and the responsibilities of manufacturers of other types of incomplete vehicles led to a successful challenge to a NHTSA regulation in the early 1990s. In 1987, NHTSA amended FMVSS No. 204, Steering column displacement, to expand the applicability of the standard from vehicles with a gross vehicle weight rating (GVWR) of 4,000 lb to vehicles with a GVWR of up to 6,500 lb. 52 FR 44893 (November 23, 1987); denial of petitions for reconsideration: 54 FR 24344 (June 7, 1989). This amendment had the effect of making the standard applicable to some types of vehicles typically manufactured in two or more stages. The National Truck and

Equipment Association (NTEA) challenged those amendments as they applied to final-stage manufacturers. The Sixth Circuit concluded that the challenged rule was not practicable for final-stage manufacturers that cannot "pass-through" the certification of the incomplete vehicle manufacturer. *National Truck and Equipment Ass'n v. NHTSA*, 919 F.2d 1148 (6th Cir. 1990). The court cited NHTSA's acknowledgement in the preamble to the final rule that most final-stage manufacturers are not capable of performing dynamic crash testing or in-house engineering analysis, as well as the fact that "pass-through" certification was not available under the existing regulations unless the incomplete vehicle were a chassis-cab. While the court's decision was technically limited to FMVSS No. 204, NHTSA recognized that the court's decision would likely be deemed equally applicable to other safety standards for which the cost of certification was high.<sup>1</sup>

## II. Notice of Proposed Rulemaking

In response to the NTEA decision, on December 3, 1991, NHTSA published a *notice of proposed rulemaking (NPRM)* (56 FR 61392) to extend the certification 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 under certain circumstances. That NPRM engendered considerable controversy and virtually no support. In the comments, there was a clear division in positions among the various segments of the multi-stage vehicle industry.

On November 17, 1995, NHTSA published a Notice announcing that it would hold a public meeting to 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 and suggestions for action with respect to NHTSA's regulations and FMVSSs that govern the manufacture of vehicles in stages (60 FR 57694). In the notice, the agency stated its belief that multi-stage vehicle certification is an area in which negotiated rulemaking may be

<sup>1</sup> Of particular concern to final-stage vehicle manufacturers is the cost of certifying to the dynamic crash test requirements of some of the safety standards. Under these standards, NHTSA conducts compliance testing by crashing a vehicle. While NHTSA has always maintained that a manufacturer need not actually crash the vehicle in order to certify compliance, it generally has not specified alternative certification methods in the standards.

beneficial, and invited comments on the advisability of conducting negotiated rulemaking in this area.

The public meeting was held on December 12, 1995. Companies, trade associations, and individuals made presentations at the meeting and/or submitted written comments for the record. Many of the comments endorsed using regulatory negotiation for this rulemaking; none opposed the process. Based on this response, NHTSA determined that establishing an *ad hoc* advisory committee on this subject is in the public interest.

### III. Negotiated Rulemaking Process

In May 1999, NHTSA published a notice of intent to convene a negotiated rulemaking committee, and sought the names of interested participants (64 FR 27499; May 20, 1999). The chartered Committee originally consisted of two facilitators and 23 individuals, many, but not all of whom remained active in the negotiations throughout the negotiated rulemaking process. The Committee was comprised of representatives from:

(1) *Incomplete vehicle manufacturers* (General Motors (GM), Ford, Motor Coach Industries (MCI), DaimlerChrysler, International Truck and Engine Corp. (International), Freightliner, and Workhorse Custom Chassis (Workhorse));

(2) *Component manufacturers* (Atwood Mobile Products (Atwood) and Bornemann Products (Bornemann));

(3) *Final-stage manufacturers and alterers* (National Truck Equipment Association (NTEA), National Mobility Equipment Dealers Association (NMEDA), Mark III Industries (Mark III), Environmental Industries Associations (EIA), Recreation Vehicle Industry Association (RVIA), Blue Bird Body Co. (Blue Bird), National Automobile Dealers Association (NADA), and an individual representing the Ambulance Manufacturers Division and Manufacturers Council of Small School Buses, Mid-Size Bus Manufacturers Association (AMD));

(4) *End users of the vehicle* (American Automobile Association (AAA), Paralyzed Veterans of America (PVA), National Association of Fleet Administrators (NAFA), and the Center for Auto Safety (CFAS));

(5) *Vehicle testing facilities* (TRC Corp.), and

(6) NHTSA.<sup>2</sup>

Several other parties representing these groups were also contacted,

particularly those who could represent the end user of the vehicle. The Insurance Institute for Highway Safety (IIHS) and Consumers Union declined to participate. Public Citizen initially expressed an interest in participating, but decided against doing so when it discovered that CFAS would be involved. The Teamsters Union, which represents many of the drivers of the commercial motor vehicles manufactured in two or more stages, also declined the agency's invitation to participate. While listed as a Committee member, AAA did not attend any meetings. The PVA attended only the December 1999 public meeting, and Mark III stopped participating when the company went out of business.<sup>3</sup>

In December 1999, NHTSA held a public meeting during which it broadly discussed the substantive issues that would be the subject of, and the ground rules that would apply to, the negotiated rulemaking process. Subsequent public meetings were held in February and March 2000, and the meeting of the chartered Committee commenced in May 2000. In the earlier meetings, the Committee members covered the ground rules associated with a negotiated rulemaking, discussed the history leading up to the formation of the Committee and stated their position vis-à-vis the desired outcome. The subsequent meetings addressed several issues, including the likelihood of vehicles built in two or more stages being involved in motor vehicle crashes, the potential for legal liability when subsequent manufacturers complete manufacturing operations outside of the IVD or pass-through certification, and the perceived and actual needs of end consumers to have certain features on their vehicles.

Another meeting was held in October 2000, during which all issues save two were largely resolved.<sup>4</sup> First, International and Freightliner, who were not at the October 2000 meeting,<sup>5</sup>

<sup>3</sup> NHTSA has the authority to decide whether the participation of these three parties was critical to balance or representation of all affected interests on the Committee. The interests represented by AAA and PVA were also represented by the CFAS and NAFA. Likewise, the interests of final-stage manufacturers were represented by several parties other than Mark III, including associations (NMEDA, RVIA, and NTEA) and an individual company (Blue Bird Body Company). Finally, while Mark III was actively involved in the negotiations prior to ceasing business operations, AAA and PVA played no active role in the process with PVA attending only the first, introductory meeting, and AAA attending none of the meetings. Accordingly, NHTSA has determined that the participation of these three parties was not critical to the negotiated rulemaking process.

<sup>4</sup> The minutes of these meetings are in the docket.

<sup>5</sup> While the October 2000 meeting had been scheduled for some time prior to it taking place,

expressed concerns in writing about incomplete vehicle manufacturers' taking legal responsibility for incomplete vehicles through representations made in the IVD. Since these companies offered no solution addressing their concerns, instead positing that there was no need to change the existing regulatory scheme, the issue was tabled until the next meeting. The other remaining issue, concerning the possible exclusion of final-stage manufacturers from the need to comply with certain safety standards in cases in which the manufacturer's production of the vehicle in question is limited, had been the most contentious issue at each of the previous meetings. This issue largely impacted four members of the committee, NHTSA, NTEA, AMD, and RVIA. Given the limited impact on the Committee as a whole, as well as the potential for the issue to prevent any consensus on changes to parts 567 and 568, the Committee agreed to hold no more meetings unless the four interested parties were able to come to an agreement on how to address potential exemptions.

After meetings between the NTEA, AMD and NHTSA, at which the NTEA represented RVIA's interests, a final Committee meeting was held in February 2002. The Committee representative for GM facilitated this final meeting. Not all members of the Committee were able to attend the final meeting, although a broad-based representation was available.

At the beginning of the meeting, two outstanding issues remained: (1) The scope of certification representations made by incomplete vehicle manufacturers, and (2) a mechanism for assuring a timely recall in the event that the various manufacturers could not agree which one was responsible for a given noncompliance or safety defect.<sup>6</sup> At the conclusion of the meeting, there remained objections from several of the incomplete vehicle manufacturers over the possible acceptance of legal responsibility for unanticipated manufacturing operations by subsequent manufacturers.

NHTSA agreed to draft the Committee report for circulation among those

final confirmation of the meeting by the mediator occurred only a few days prior. Accordingly, some Committee members, including International and Freightliner, were unable to attend.

<sup>6</sup> The mechanism to ensure a timely recall was discussed and generally agreed upon by the Committee on the second day of the meeting. Some Committee members left the meeting early because of travel arrangements. These individuals, as well as those Committee members who did not attend the meeting, did not have an opportunity to discuss this provision.

<sup>2</sup> While not a member of the Committee, Transport Canada attended several of the Committee meetings and provided valuable input. This informal participation by Transport Canada has helped both Canada and the United States develop regulations that will be closely harmonized should the proposed language be adopted by NHTSA. Indeed, the Canadian regulation is already in effect, although the proposed rule developed by the committee contains additional detail.

Committee members still involved in the process. All Committee members had an opportunity to review and comment on the Committee report. Atwood, Bornemann, Blue Bird, and Workhorse concurred with the report without further comment. NADA, GM, NTEA, AMD and RVIA offered extensive revisions, but generally concurred with the report's content, while TRC, NAFA, CFAS, EIA, and MCI did not comment on the draft report. NMEDA's comments were limited to concerns about the exclusion of vehicle modifiers from the proposed generic leadtime, the potential for allocation of recall responsibility to vehicle equipment manufacturers, and the applicability of new temporary exemption procedures to dynamic crash test conditions. Ford, Freightliner, International, and DaimlerChrysler objected to the provision that NHTSA could allocate initial recall responsibility when the various involved manufacturers could not agree which was the responsible party. International disagreed with the provisions that would allocate legal responsibility among each manufacturer in the manufacturing process, stating it could not be responsible for further manufacturing operations outside of its control. It suggested a revision to the draft regulation that would prevent subsequent stage manufacturers from relying on any incomplete vehicle manufacturer's representation if the subsequent stage manufacturer modified or added originally supplied components or systems in such a manner as to affect certification or the validity of stated weight ratings.

Given the lack of consensus among the Committee members, NHTSA decided to move forward with the publication of a Supplemental Notice of Proposed Rulemaking (SNPRM) on which all Committee members were free to offer unrestricted comments. In the SNPRM, NHTSA recognized that various Committee members compromised their initial positions as part of the negotiation process. Given the lack of consensus on all aspects of the draft regulation developed by the Committee, NHTSA believed it would have been unfair to restrict comment on any portions of the proposal. Nevertheless, NHTSA believed that the draft regulation represented a significant improvement over the existing regulations governing the certification of vehicles built in two or more stages. Additionally, the agency recognized that the negotiated rulemaking process afforded all participants a unique opportunity to fully evaluate proposed

changes to the existing regulations, as well as possible alternative approaches. NHTSA believes the negotiated rulemaking process has been valuable in drafting amendments that balance the practical needs of all parties represented by the Committee. Accordingly, NHTSA decided to propose amending the applicable regulations as drafted by the Committee.

#### IV. Supplemental Notice of Proposed Rulemaking

On June 28, 2004, NHTSA published a SNPRM (69 FR 36038) proposing to amend five different parts of title 49 to establish a comprehensive regulatory scheme for addressing certification issues related to vehicles built in two or more stages and, to a lesser degree, to altered vehicles. In the SNPRM, NHTSA provided background on certification issues, discussed the negotiated rulemaking process and summarized the primary issues involved in the rulemaking, noting a lack of consensus among members of the negotiated rulemaking Committee. NHTSA proposed amendments to the applicable regulations as drafted by the Committee but invited comments from Committee members and the public regarding the proposed changes.

##### A. Proposed Revisions to 49 CFR Part 555

In the SNPRM, NHTSA proposed establishing a new subpart in 49 CFR part 555, Temporary Exemption From Motor Vehicle Safety and Bumper Standards, that would be limited to final-stage manufacturers and alterers. The proposed new subpart would apply to final-stage manufacturers and alterers who need a temporary exemption from a portion of a safety standard (or set of safety standards) for which the agency verifies compliance solely through dynamic crash testing. The new subpart would streamline the temporary exemption process by allowing an association or other party representing the interests of multiple manufacturers to bundle exemption petitions for a specific vehicle design, thus permitting a single explanation of the potential safety impact and good faith attempts to comply with the standards.

Under the proposed subpart, each manufacturer seeking an exemption would be required to demonstrate financial hardship and certify that it has been unable to manufacture a compliant vehicle. Exemptions based on financial hardship under the proposed rule could not be granted to companies manufacturing more than 10,000 vehicles per year, and any exemption could not apply to more than 2,500

vehicles per year.<sup>7</sup> Additionally, under the proposed subpart, NHTSA would commit to informing an applicant within 30 days whether the application is complete and would attempt to grant or deny the petition within 120 days of its acknowledgement that the application is complete.

As discussed in the SNPRM, although NHTSA considered a negotiated rulemaking subcommittee suggestion to exclude certain intermediate and final-stage manufacturers completely from standards based on dynamic crash tests, NHTSA stated that it believed that limitations set forth in 49 U.S.C. 30113 and the court's ruling in *Nader v. Volpe*, 320 F.Supp. 266 (D.D.C. 1970), aff'd, 475 F.2d 216 (D.C. Cir. 1973), preclude the agency from doing so. Accordingly, NHTSA instead proposed changes to 49 CFR Part 555 to permit temporary exemptions in an effort to ease the financial burdens on final-stage manufacturers for standards based on the performance of a vehicle in a dynamic crash test.

##### B. Proposed Revisions to 49 CFR Part 567

NHTSA proposed expanding 49 CFR part 567, Certification, for all vehicles. The proposal would revise significantly the section dealing with certification of vehicles built in two or more stages, 49 CFR 567.5. It was intended to extend pass-through certification beyond chassis-cabs now in § 567.5(a) to all incomplete vehicles. The proposal also stated that incomplete vehicle manufacturers assume legal responsibility for all duties and liabilities imposed by the Act with respect to components and systems they install on the incomplete vehicle and, to the extent that the vehicle is completed in accordance with the IVD, for all components and systems added by the final-stage manufacturer, except for defects in those components and systems or defects in workmanship by the final-stage manufacturer.

Under the proposed regulation, manufacturers of incomplete vehicles would be required to place an information label on the vehicle (or ship a label with the IVD if it cannot be placed on the vehicle) that identifies the incomplete vehicle manufacturer, month and year of manufacture, and GVWR/GAWR limitations of the incomplete vehicle and provides the vehicle identification number (VIN) of the vehicle. Likewise, an intermediate stage manufacturer would be required to place an information label on the incomplete vehicle that identifies the

<sup>7</sup> 49 U.S.C. 30113(d).

intermediate stage manufacturer, month and year the intermediate manufacturer last performed work on the vehicle, and GVWR/GAWR limitations, if different from those provided by the incomplete vehicle manufacturer. The final-stage manufacturer would be required to place a certification label on the vehicle that specifies that the vehicle conforms to all applicable standards, and may also specify that it has or has not, for FMVSSs listed, stayed within the confines of the incomplete vehicle manufacturer's instructions or simply makes a statement of conformity. In addition, notwithstanding the certification, this section of the proposed regulation would assign legal responsibility for each stage of vehicle manufacture with respect to systems and components supplied on the vehicle, work performed on the vehicle, and the accuracy of the information contained in the IVD and addenda to the IVD. The SNPRM inadvertently deleted from part 567 the definition of chassis-cab, found in existing § 567.3, and requirements for persons who do not alter certified vehicles or do so with readily attachable components, found in existing § 567.6.

#### *C. Proposed Revisions to 49 CFR Part 568*

In the SNPRM, NHTSA proposed revising 49 CFR part 568, Vehicles Manufactured in Two or More Stages, to note expressly that an incomplete vehicle manufacturer may incorporate by reference body builder or other design and engineering guidance into the IVD. The agency noted its expectation that design and engineering guides, if included, would generally provide instructions on certain aspects of further manufacturing, which would assist multi-stage manufacturers to pass through the compliance statements from incomplete vehicle manufacturers. NHTSA indicated that the incorporation of design and engineering guides should not unreasonably limit the circumstances in which it will be possible to pass through these compliance statements. Further, the agency stated that these guides would provide more detailed design constraints than an IVD, reducing the likelihood that a subsequent stage manufacturer could successfully claim that it was unaware that a particular modification would invalidate the previous manufacturer's compliance statement.

#### *D. Proposed Revisions to 49 CFR Part 571*

NHTSA also requested comments on its proposed revisions to 49 CFR 571.8,

Effective Date, providing intermediate and final-stage manufacturers and alters an automatic additional year for compliance with certain amendments to the FMVSSs. Under the proposal, the additional leadtime would apply unless NHTSA decides that such leadtime is inappropriate as part of a rulemaking amending or establishing a safety standard. The proposed change also would allow NHTSA to provide even more additional leadtime upon a determination that one-year is insufficient. The agency additionally could determine that the safety problem is so significant that providing additional leadtime would result in an unacceptable risk of injury or death. Further, Congress could direct NHTSA to require compliance with a new standard by a specified date. In those instances in which Congress limits the agency's discretion to provide additional leadtime, all manufacturers and alterers would be required to meet the compliance date set forth in the standard.

NHTSA noted in the SNPRM that incomplete vehicle manufacturers often do not provide final-stage manufacturers with information necessary to certify their vehicles until shortly before, and in some cases even after, the effective date of the standard in question. The same problem arises when an incomplete vehicle is substantively changed as the result of a model year changeover. The agency stated that giving alterers an additional year allows alterers to take certified vehicles out of compliance, an action typically viewed with disfavor by NHTSA. However, the problems faced by final-stage manufacturers also are applicable to alterers. If a vehicle manufacturer waits until the last possible moment to certify vehicles, alterers will not have the ability to conduct any engineering analysis to determine if the alterations affect compliance.

Under the proposed changes, for phased-in requirements, the additional year would be applied at the end of the phase-in. NHTSA stated that this leadtime is appropriate because incomplete vehicle manufacturers often complete their certification testing just before start of production for a new model year. In the case of new requirements that are phased-in, the incomplete manufacturer may wait until the end of the phase-in to conduct certification testing or analysis for incomplete vehicles. This is because, for many manufacturers, the incomplete vehicle fleet is only a small proportion of its overall production.

With respect to vehicle modifiers, NHTSA recognized in the SNPRM the

National Mobility Equipment Dealers Association's concern that vehicle modifiers, *i.e.*, businesses that modify vehicles after first sale other than for resale, face the same problems as vehicle alterers. However, NHTSA noted that because vehicle modifiers bear no certification responsibility, a change to provide modifiers with an additional year to make modifications would not be made in the context of amending part 571. Further, NHTSA said that it believed that the businesses engaging in operations that may invalidate compliance certification should be held responsible for their actions. The agency acknowledged its awareness of instances in which vehicle alterers have attempted to avoid certification responsibility by waiting until a customer has taken possession of a vehicle to make changes that would take the vehicle out of compliance with one or more safety standards. The SNPRM noted that while a vehicle modifier that knowingly makes an item of mandatory safety equipment inoperative may be subject to fines, it could not be compelled to conduct a recall campaign to remedy any safety-related defects or noncompliances resulting from its work.

#### *E. Proposed Revisions to 49 CFR Part 573*

NHTSA also proposed revisions to 49 CFR part 573. Under existing regulations, the manufacturer of a motor vehicle is responsible for any safety-related defect or noncompliance determined to exist in the vehicle or in any item of original equipment. 49 CFR 573.5; 49 CFR 579 (prior to 2002); *see* 49 U.S.C. 30102(b)(1)(F) and (G). In the case of multi-stage vehicles, ultimate responsibility has rested with the final-stage manufacturer because, in part, incomplete vehicles are classified as original equipment items. 58 FR 40402, 40403 (July 28, 1993). Nonetheless, NHTSA's regulations provide that in the case of a defect in vehicles manufactured in two or more stages, compliance with specified recall requirements by either the manufacturer of the incomplete vehicle or any subsequent manufacturer shall be considered compliance by all manufacturers. 49 CFR 573.3(c).

In the course of this rulemaking, final-stage manufacturers have sought to shift ultimate responsibility under the rule for some recalls to incomplete vehicle manufacturers. In cases where the final-stage manufacturer and the incomplete vehicle manufacturer agree on recall responsibility, the matter is essentially straightforward. In cases where the final-stage manufacturer and the

incomplete vehicle manufacturer do not agree on recall responsibility, this raises the question of how this responsibility is to be assigned. As noted in the SNPRM, an associated issue was the mechanism for assuring a timely recall in the event the various manufacturers could not agree who was responsible. 69 FR 36041. From a safety perspective, timeliness and finality were very important in light of the obvious problem of the existence of a safety-related defect or noncompliance not addressed by a recall because manufacturers were squabbling over responsibility.

In the SNPRM, NHTSA presented its proposed changes to section 573.5, addressing those instances in which either the manufacturers or NHTSA determine that the vehicle or its original equipment has a safety-related defect or noncompliance but the parties dispute their accountability for the recall. In such an instance, under the proposed rule, NHTSA would assign recall responsibility to the party it believes is in the best position to conduct and notification and remedy campaign. Proposed § 573.5(c), 69 FR 36056. Although the agency expected that there should be very few instances in which a dispute arises regarding which manufacturer should conduct a recall campaign, NHTSA indicated it is critical that any campaign not be delayed while the various manufacturers attempt to assess liability. NHTSA's determination would be limited to recall responsibilities and would not serve to impose fault or ultimate responsibility for the economic burden on the party ordered to conduct the recall.

As discussed above, currently, the final-stage manufacturer has the ultimate responsibility. Thus, there is not any need for the agency to assign responsibility. This approach avoids delays in removing unsafe vehicles from the road. Within this structure, the manufacturers work out issues of responsibility.

In the SNPRM, NHTSA further proposed that its determination would not be reviewable. § 573.5(c). NHTSA acknowledged its concerns whether the nonreviewability provision could withstand judicial scrutiny. NHTSA noted that courts favor review of final agency actions. In the SNPRM, NHTSA indicated its belief that the nonreviewability provision would only withstand judicial review if a court determined that NHTSA's decision as to who must conduct the recall is not a final agency action under the Administrative Procedure Act (APA). Accordingly, given its concerns about

the likelihood that the nonreviewability provision could withstand judicial scrutiny, NHTSA invited commenters to provide arguments and analyses regarding which manufacturer should be deemed responsible for a recall campaign in the event that NHTSA and the various-stage vehicle manufacturers could not determine in a timely manner which party should bear responsibility for the recall.

In addition, NHTSA reprinted in the preamble to the SNPRM the alternative language offered in the negotiated rulemaking by DaimlerChrysler, which would repeat the specific allocation of legal responsibility among incomplete vehicle, intermediate, and final-stage manufacturers found in proposed section 567.5. However, NHTSA noted that DaimlerChrysler's language would not provide a dispute resolution mechanism and would not ensure that a recall campaign is conducted in a timely manner in the event of a dispute.

#### **V. Summary of Public Comments to the SNPRM**

NHTSA received nine comments in response to the SNPRM. Five incomplete vehicle manufacturers (GM, DaimlerChrysler, Ford, International, Freightliner), one association representing incomplete truck manufacturers (Truck Manufacturers Association (TMA)), and three associations representing the final-stage manufacturer or alterer industry (RVIA, NTEA, NADA) submitted comments. Although International, Ford and RVIA submitted comments after the deadline for comments passed, NHTSA considered the late comments in writing this Final Rule.

The commenters responding to the proposal in part 555 for financial hardship temporary exemptions for alterers and final-stage manufacturers generally favored the adoption of the exemptions. However, the associations representing the final-stage manufacturer or alterer industry portrayed temporary exemptions as only a partial solution to the problems such manufacturers face with respect to certification through dynamic crash testing and requested that NHTSA provide safe harbors for low-production vehicles.

In general, commenters supported changes to part 567 to eliminate the current distinction between chassis-cabs and other incomplete vehicles and conveyed overall support for the proposal allocating legal responsibility for each stage of vehicle manufacture. Some commenters representing incomplete vehicle manufacturers suggested modifications to the language

proposed in section 567.5(b) to clarify the intent or to ensure that incomplete vehicle manufacturers are not assigned legal responsibility for things over which they have no control.

With respect to the proposed revisions to part 568 to permit incomplete vehicle manufacturers to incorporate by reference body builder or other design and engineering guidance into the IVD, those who commented either generally supported or did not oppose the proposal. Two of the final-stage manufacturer representatives expressed concerns that the incorporation of additional documents could create further burdens for final-stage manufacturers.

In general, commenters favored the automatic one-year extension proposed for part 571. However, some of the commenters representing final-stage manufacturers suggested that the rule include an additional year of leadtime for final-stage manufacturers under certain circumstances associated with the introduction of new model year vehicles.

Finally, among the most contentious proposals for which NHTSA received comments were the proposed revisions to part 573 to allow NHTSA to determine which manufacturer is in the best position to conduct a recall when the parties dispute their accountability for a safety-related defect or noncompliance and whether such a determination could be nonreviewable. The incomplete vehicle manufacturers expressed disapproval of the proposed revisions to part 573, while the commenters representing final-stage manufacturers articulated support for the proposal.

#### **VI. Agency Response to Comments**

The comments received regarding the changes proposed in the SNPRM to the five different parts of title 49 are summarized in more detail below. The agency's responses to these comments also are discussed below.

##### *A. 49 CFR Part 555*

##### **1. Summary of Comments on Proposed Revisions to 49 CFR Part 555**

The five commenters who submitted comments on the proposed changes to part 555 (GM, Ford, NADA, RVIA, NTEA) expressed general support for the financial hardship temporary exemption for alterers, intermediate, and final-stage manufacturers.

GM commented that the proposed revisions would provide a better means for temporary exemptions than the mechanism found in the current regulatory text. Ford pointed to an

inconsistency between the statement in the preamble of the proposed rule that the exemption would only apply to safety requirements with which NHTSA verifies compliance through dynamic crash testing, while the proposed text of section 555.12 permits "a temporary exemption from the provisions of *any portion* of a Federal Motor Vehicle Safety Standard." (Emphasis added.) Ford stated that NHTSA should limit the temporary exemptions to requirements that are based on dynamic crash testing. Additionally, Ford indicated its disapproval of NHTSA's proposal that manufacturers would not have to commit to achieving full compliance by the expiration of the exemption, commenting that the rule should excuse compliance in instances of "legitimate hardship" but should not completely excuse compliance. Ford added that where compliance is impractical because of the design of a special purpose vehicle, the text of the promulgated rule should handle the exclusion specifically.

Although NADA expressed support for the temporary exemptions as proposed, it noted "the proposed exemption process is by no means a panacea and may prove unwieldy in certain circumstances."

RVIA generally supported the amendments to part 555, but requested clarification regarding the limitations in § 555.11 that the temporary exemption apply only to entities that produce or alter no more than 10,000 vehicles per year and cannot apply to more than 2,500 vehicles sold in the United States in any twelve-month period. In particular, RVIA suggested clarifying language to specify that, when determining eligibility for a temporary exemption, only vehicles built in two or more stages should be counted in the aggregate limit of 10,000 vehicles per year. RVIA wanted to ensure that an RV manufacturer's non-applicable single stage towable vehicles would not be counted in the aggregate limit of 10,000 vehicles per year when determining eligibility for a temporary exclusion. Despite generally supporting the proposed amendments to part 555, RVIA additionally commented that the amendments provide an "imperfect system of temporary exemptions." Accordingly, RVIA encouraged NHTSA to consider regulatory and legislative alternatives to expand its exemption and exemption renewal authority, including the authority to grant safe harbor exemptions for low-production vehicles.

NTEA provided comments regarding the proposal for a financial hardship temporary exemption for alterers and

final-stage manufacturers. As evidenced in its comments responding to the SNPRM, NTEA prefers either consortium testing as an alternate means of demonstrating compliance with dynamic standards or a "safe harbor" for intermediate and final-stage manufacturers under certain circumstances. NTEA noted that the negotiated rulemaking committee did not embrace NTEA's suggestion for consortium testing. A negotiated rulemaking subcommittee suggested a safe harbor, but NHTSA rejected the suggestion in the SNPRM, on the basis that it would be an impermissible exemption under 49 U.S.C. 30113 and the ruling in *Nader*. NTEA argued in its comments, however, that neither section 30113 nor the *Nader* decision prevents NHTSA from requiring dynamic crash testing only for vehicles for which demonstrating compliance is practicable. NTEA recommended that if NHTSA believes it does not have statutory authority to implement the subcommittee's suggestion, NHTSA should seek the necessary statutory authority in order to adequately address final-stage manufacturers' compliance problems.

Nonetheless, NTEA expressed support for the proposed temporary exemption provision, but commented that the temporary exemption would be only a partial solution to the problem of verification through dynamic crash testing because relief would be limited. NTEA asserted that under the temporary exemption provisions of part 555, petitions would be required for each model produced, each final-stage manufacturer would need to submit individual filings for each petition, and new petitions would be required when customers ask final-stage manufacturers to produce slight variations of the vehicle combinations. Accordingly, NTEA commented that NHTSA would not be able to respond promptly to this vast number of petitions. NTEA additionally commented that inconsistent with the court's ruling in *NTEA*, "[a]n uncertain, awkward and time consuming petition process, with an uncertain outcome on the merits, is not an adequate substitute to a legitimate compliance alternative." NTEA recommended that NHTSA seek statutory authority to expand temporary exemptions to a wider class of manufacturers.

## 2. Agency Response to Comments on Proposed Revisions to 49 CFR Part 555

### a. Authority To Exclude Multi-Stage Vehicles From FMVSSs

In response to the public comments arguing that we possess authority to exclude multi-stage vehicles as a group from a standard, we decided to re-examine our position on that issue. The discussion in the SNPRM of our authority appears to have conflated our authority to exclude types of vehicles permanently from the application of a standard with our authority to exempt individual manufacturers temporarily from a standard.

Multi-stage vehicles are aimed at a variety of niche markets, most of which are too small to be serviced economically by single stage manufacturers. Some multi-stage vehicles are built from chassis-cabs completed with an intact occupant compartment. Others are built from less complete vehicles and designed to service particular needs—often necessitating the addition by the final-stage manufacturer of its own occupant compartment. The agency must balance accommodating this segment of the motor vehicle market with the requirements of the Vehicle Safety Act.

The courts have set forth a number of principles the agency must take into account when considering these issues. First, the mandate in the Vehicle Safety Act that the agency consider whether a proposed standard is appropriate for the particular type of motor vehicle for which it is prescribed is intended to ensure that consumers are provided an array of purchasing choices and to preclude some standards that will effectively eliminate certain types of vehicles from the market. See *Chrysler Corp. v. Dept. of Transportation*, 472 F.2d 659, 679 (6th Cir. 1972) (agency may not establish a standard that effectively eliminates convertibles and sports cars from the market). Second, the agency may not provide exemptions for single manufacturers beyond those specified by statute. See *Nader v. Volpe*, 320 F. Supp. 266 (D.D.C. 1970), motion to vacate affirmance denied, 475 F.2d 916 (DC Cir. 1973). Finally, the agency must provide adequate compliance provisions for final-stage manufacturers. Failing to provide these manufacturers with a means of establishing compliance would render a standard impracticable as to them. See *National Truck Equipment Ass'n v. National Highway Traffic Safety Administration*, 919 F.2d 1148 (6th Cir. 1990) ("NTEA").

One of the traditional ways in which the agency has handled the difficulties of these multi-stage vehicles has been



simply to exclude all vehicles, single-stage as well as multi-stage, within the upper GVWR range of light vehicles, typically 8,500 lb. GVWR–10,000 lb. GVWR. Many of the multi-stage vehicles manufactured for commercial use cluster in that GVWR range.<sup>8</sup>

The agency traditionally took this approach because the agency historically was of the view that it could not subject vehicles built in multiple stages to any different requirements than those built in a single stage. That was because the agency had construed section 30111(b)(3) of the Safety Act, which instructs the agency to “consider whether a proposed standard is reasonable, practicable, and appropriate for the particular type of motor vehicle \* \* \* for which it is prescribed,” as precluding such an approach.

In reaching that conclusion, the agency had focused on a comment in the Senate Report:

In determining whether any proposed standard is “appropriate” for the particular type of motor-vehicle \* \* \* for which it is prescribed, the committee intends that the Secretary will consider the desirability of affording consumers continued wide range of choices in the selection of motor vehicles. Thus it is not intended that standards will be set which will eliminate or necessarily be the same for small cars or such widely accepted models as convertibles and sports cars, so long as all motor vehicles meet basic minimum standards. Such differences, of course, would be based on the type of vehicle rather than its place of origin or any special circumstances of its manufacturer.

Focusing on the last sentence of that passage, the agency construed multi-stage vehicles with regard to the “special circumstances of [their] manufacturer,” See 60 FR 38749, 38758, July 28, 1995, rather than considering whether multi-stage vehicles constitute a “type of vehicle.” See NTEA (at 1151) (Noting the agency’s regulation defining “incomplete vehicle” as “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 \* \* \* to become a

completed vehicle.” 49 CFR 568.3 (1989)).

We have considered our historical view of the legislative history in light of relevant case law and our experience with the compliance difficulties imposed on final-stage manufacturers. We note that the language we had previously considered to be a limitation does not appear in the statutory text. Nothing in the statutory text implies that Congress intended that incomplete vehicles not be deemed a vehicle type subject to special consideration during the regulatory process. We believe the sentence found in the Senate Report was intended to avoid regulatory distinctions based on manufacturer-specific criteria (such as place of production or manner of importation). This is consistent with the Court’s conclusion in *Nader v. Volpe, supra*, that the agency cannot give exemptions to particular manufacturers beyond that provided by the statute.

We are also concerned that we had overlooked the existence of relevant physical attributes of multi-stage vehicles. Many of the multi-stage vehicles in question have distinct physical features related to their end use. More important, all of them incorporate incomplete vehicles other than chassis-cabs. Especially in the context of the difficulties of serving niche markets, the physical limitations of the incomplete vehicles other than chassis-cabs can adversely affect the ability of multi-stage manufacturer to design safety performance into their completed vehicles.

Further, as previously applied, our interpretation limits our ability to secure increases in safety. Excluding all vehicles within a given GVWR range from a safety requirement because of the possible compliance difficulties of some of those vehicles means not obtaining the safety benefits of that requirement for any of those vehicles. Likewise, applying a lesser requirement to all of those vehicles instead of a higher requirement for some of the vehicles and a lower requirement for the balance of the vehicles also entails a loss of safety benefits.

It would be perverse to conclude that the Vehicle Safety Act permits us to exclude all vehicles within a certain GVWR range primarily because of the compliance difficulties of multi-stage vehicles within that range, but not to limit the exclusion to only the multi-stage vehicles within that range. This would enable consumers to obtain the safety benefits of regulating the other vehicles within that weight range.

Accordingly, we have refined our views to conclude that it is appropriate

to consider incomplete vehicles, other than those incorporating chassis-cabs, as a vehicle type subject to consideration in the establishment of regulation. We anticipate that final-stage manufacturers using chassis-cabs to produce multi-stage vehicles would be in position to take advantage of “pass-through certification” of chassis-cabs, and therefore are not including such vehicles in the category of those for which this optional compliance method is available.

#### b. Suggestion That Exemptions Be Premised on Commitment to Achieving Full Compliance

NHTSA agrees with Ford that vehicle configurations for which compliance with a standard is impracticable or unnecessary should be excluded from that standard. However, given the myriad configurations of vehicles, it may not always be possible to identify and list all of those vehicles to be excluded from the standard. Moreover, some FMVSSs with dynamic crash test requirements have been amended and multi-stage and altered vehicle will be required to comply at a future date. It may not be economically practicable for a final-stage manufacturer to test very low volume or one-of-a-kind vehicle configurations. In those instances in which there is no pass-through certification in the IVD, final-stage manufacturers need a process that enables them to produce and sell such vehicles without having to commit to meeting the FMVSS at the end of the three-year exemption period.

#### c. Scope of New Exemption Provisions

Ford is correct that we inadvertently omitted language limiting the new exemption provision to FMVSS requirements that are based on dynamic crash testing. We have added appropriate limiting language to part 555.

#### d. Production Volume Limit on Eligibility for Exemption

The Vehicle Safety Act limits eligibility for financial hardship to companies manufacturing more than 10,000 motor vehicles per year.<sup>9</sup> As we interpret this to include all vehicles of any type, we cannot exclude single stage towable vehicles from the calculation. Section 571.3 of title 49 CFR defines “trailer” as a type of motor vehicle.

#### e. Anticipated Volume of Applications for New Exemptions

We believe that as a result of our conclusion that multi-stage vehicles

<sup>8</sup> As the Court noted in NTEA (at 1158): “The Administration could meet the needs of final-stage manufacturers in many ways. It could exempt from the steering column displacement standard all commercial vehicles or all vehicles finished by final-stage manufacturers. It could exempt those vehicles for which a final-stage manufacturer cannot pass through the certification from the incomplete vehicle manufacturers. It could change the pass-through regulations. It could reexamine the issue and prove that final-stage manufacturers can conduct engineering studies, and then provide in the regulation that such studies exceed the capacities of final-stage manufacturers.”

<sup>9</sup> 49 U.S.C. 30113(d).



constitute a vehicle type and can be excluded, if appropriate, from particular FMVSSs, the volume of petitions will be less than anticipated at the time of the SNPRM. Moreover, the number of such petitions can be reduced if manufacturers and associations submit them for ranges of vehicle configurations, as permitted in § 555.12(e).

#### f. Handling of New Exemption Applications

We do not agree with NTEA's characterization of how petitions would be handled under the new petition process. Further, by potentially reducing the volume of petitions, the new interpretation of authority to exclude multi-stage vehicles from FMVSSs makes those characterizations even less appropriate.

#### B. 49 CFR Part 567

##### 1. Summary of Comments on Proposed Revisions to 49 CFR Part 567

Commenters generally favored some of the proposed changes to part 567. In particular, commenters supported the elimination of the distinction between chassis-cabs and other incomplete vehicles. Some commenters favored the proposal to assign legal responsibility for each stage of vehicle manufacture with respect to systems and components supplied on the vehicle, work performed, and the accuracy of the information contained in the IVD and addendums to the IVD. However, several commenters recommended revisions to the language proposed in the SNPRM for part 567.

DaimlerChrysler, which, as discussed above, had proposed revisions to part 573, stated that the proposed § 567.5 refers only to defects and not to noncompliances, and accordingly recommended that the agency revise proposed §§ 567.5(c) and (d) to clarify that intermediate and final-stage manufacturers are responsible for noncompliances in components or systems added by them, or noncompliance resulting from work done by them.

NADA urged NHTSA to provide additional language in the preamble of the final rule to clarify the changes to § 567.6 and related definitions. NADA specifically indicated that the proposed definition of "readily attachable component" could create confusion in light of the agency's history of interpreting what constitutes vehicle alteration.

With respect to requirements proposed in § 567.5(b) for incomplete vehicle manufacturers, TMA offered the

following alternative language to § 567.5(b)(1)(ii) and (iii) to make the intent of the section more clear:

(ii) Components and systems that are incorporated into the completed vehicle by an intermediate or final-stage manufacturer in accordance with the instructions contained in the IVD, except for defects in those components or systems or defects in workmanship by the intermediate or final-stage manufacturer; and

(iii) The accuracy of the information contained in the IVD.

International and Freightliner also commented on § 567.5(b), requesting that NHTSA delete proposed § 567.5(b)(1)(ii). International and Freightliner expressed concerns about incomplete manufacturers' certification responsibilities under that proposed section. As they noted, the proposal suggests that the incomplete manufacturer has legal responsibility for something that it has no control over. The comments explained that incomplete manufacturers cannot enumerate or prohibit every conceivable contingency that a subsequent manufacture may think up. Freightliner also posed the question whether such language makes the incomplete manufacturer responsible for the design or engineering of a system or component, not engineered according to sound engineering principles, because it is not specifically prohibited in the IVD. International and Freightliner favored a policy under which each manufacturer at each stage of manufacture is responsible for components and systems it supplies for a vehicle as well as the accuracy of information it supplies in the IVD, its addendum, or the certification. With respect to incomplete vehicle manufacturers, the language in § 567.5(b)(1)(i) and (iii), according to International and Freightliner, already accomplishes this objective of ensuring proper allocation of responsibility. International and Freightliner further argued that in addition to deleting paragraph (b)(1)(ii), NHTSA should conform paragraphs (c) and (d) pertaining to intermediate and final-stage manufacturers accordingly.

NHTSA received three comments supporting the proposed labeling requirements. GM favored the labeling requirements and noted that the revisions to part 567 will harmonize labeling requirements for multi-stage vehicles with those found in Canada. RVIA expressed support for the labeling and label content requirements. NADA commented that the labeling revisions are appropriate.

GM, DaimlerChrysler, and Freightliner responded to NHTSA's request for comments regarding whether

the agency should amend 567.4(g)(1) either to specify that the name of the business entity accepting legal responsibility for a defect or noncompliance or that the names of both the vehicle assembler and the business entity accepting such legal responsibility be listed as the vehicle manufacturer on the certification label. GM commented that such a revision to § 567.4(g)(1) is unnecessary because proposed § 567.5(d)(2)(i), (f), and (g), as published, sufficiently address the issue of the manufacturer's name appearing on the certification label. DaimlerChrysler and Freightliner, however, urged NHTSA to modify § 567.4(g)(1) to allow or require the entity accepting responsibility for the vehicle to be listed as the manufacturer on the certification label. DaimlerChrysler and Freightliner commented that the current rule requiring the "actual assembler" to be listed on the certification label is confusing, especially when assembly is done under contract by an entity who may have no presence in the U.S. and has no public name recognition. In addition, the vehicle manufacturer, not the actual assembler, typically markets the vehicle, makes TREAD reports, and conducts safety recalls for the vehicle. Thus, according to DaimlerChrysler and Freightliner, the certification label should identify the entity that accepts legal responsibility in the U.S.

Commenters also suggested typographical changes to the part 567 language proposed in the SNPRM. First, GM and TMA noted that the definition of "Addendum" in § 567.3 refers to § 568.5(a), but subsection (a) does not exist. GM and TMA recommended that NHTSA change the reference to § 568.5. Second, GM and TMA commented that proposed § 567.4(g)(4)(ii) refers to multipurpose passenger vehicles as "MPVS" and suggested that the correct abbreviation is "MPVs" as found in § 567.4(g)(4)(iii). Third, GM and TMA stated § 567.4(m)(1) and (m)(2) of the proposed regulation are identical to §§ 567.4(l)(1) and (l)(2) and recommended that NHTSA delete §§ 567.4(m)(1) and (m)(2). Finally, RVIA indicated that although the text in §§ 567.1 and 567.2 refers to a certification "label or tag," the word "tag" does not appear elsewhere in part 567. RVIA consequently recommended that NHTSA delete all references to "tags."

## 2. Agency Response to Comments on Proposed Revisions to 49 CFR Part 567

### a. Addressing in Part 567 Responsibility for Noncompliances and Safety Related Defects

In the SNPRM, NHTSA proposed adding provisions to part 567 that would allocate responsibility for all duties, which includes noncompliances and safety-related defects, among incomplete vehicle manufacturers, intermediate manufacturers, and final-stage manufacturers.<sup>10</sup> However, it left unchanged a provision in part 573 that also address responsibility for noncompliances and safety-related defects, assigning that responsibility to the final-stage manufacturer (49 CFR 573.5(a)) and proposed with respect to multi-stage vehicles that if the manufacturers did not agree over who was responsible, the agency would determine who would conduct a notification and remedy campaign (proposed § 573.5(c)).

Currently, the final-stage manufacturer has the ultimate responsibility for notifying the agency of a noncompliance or a defect related to motor vehicle safety and of conducting a notification and remedy (recall) campaign. However, as a practical matter, the incomplete vehicle manufacturers nearly always readily conduct the recall when responsible. This basic approach under part 573 avoids delays in removing unsafe vehicles from the road. The agency is concerned that amending part 567 to allocate this responsibility among manufacturers at the various stages of production would overlap part 573, which would result in confusion and potential inconsistencies. Further, the commenters generally and some commenters specifically strongly opposed the related proposal to amend part 573 to provide for the agency to resolve disputes between manufacturers. As discussed below, the agency has decided not to amend part 573. Accordingly, the agency believes that part 568 should not be amended to address notification or remedy (recall) responsibilities for safety-related defects or noncompliances. As a result, part 568 is limited to certification responsibilities.

### b. Proposed Definition of "Readily Attachable Component"

Proposed § 567.3 would define the term "altered vehicle," in part, as a previously certified vehicle "that has

been modified other than by the use of readily attachable components." The section also proposed to define the term "readily attachable component" as "non-original equipment components and/or assemblies that can be installed without special tools or expertise and are substantially similar in design, method of attachment and safety performance to similar motor vehicle equipment offered and/or validated by the motor vehicle manufacturer for the specific model or vehicle platform on which it is being installed in conformance with the equipment manufacturer's instructions." Since issuing the proposed rule, the agency has reconsidered the need to separately define "readily attachable component." We note that insofar as the proposed definition characterizes "readily attachable component" as "non-original equipment," it would potentially conflict with 49 CFR 573.4, which defines "original equipment," in part, as "motor vehicle equipment (other than a tire) that was installed in or on a motor vehicle at the time of its delivery to the first purchaser." In light of that definition, all equipment that is on a vehicle prior to its first retail sale, including that added by an alterer, is "original equipment." The proposed definition also appears to be unduly restrictive in that it would limit "readily attachable" components to ones that "are substantially similar in design, method of attachment and safety performance to similar motor vehicle equipment offered and/or validated by the motor vehicle manufacturer." Because it could introduce uncertainty as to what constitutes an "altered vehicle," and does not clarify that issue in a meaningful way, the agency has concluded that it would be best to eliminate the proposed definition of "readily attachable component" from this final rule. The agency has addressed the issue through interpretations and believes that this approach is satisfactory.

### c. Responsibility of Incomplete Vehicle Manufacturers for Work Performed at a Later Stage of Production

We have considered International's and Freightliner's concerns about the incomplete vehicle manufacturer's responsibility for matters it has no control over. The proposal reflected a view that various manufacturers should be responsible for the components and systems that they provide. It is not clear how it impacted pass-through certification, but it could reduce the incomplete vehicle manufacturer's responsibilities under the IVD. In our view, there is no simple and easy

resolution of the issue of allocation of certification responsibilities for multi-stage vehicles. A vehicle that meets FMVSS is far more than an assemblage of components and systems that are bolted or welded together. The completed vehicle must be an integrated whole that performs properly under a variety of conditions. For example, at a basic level, if an incomplete vehicle manufacturer provided a windshield defrosting and defogging system and a windshield wiping system and washing system, ordinarily one would expect that the vehicle would meet FMVSS No. 103 *Windshield Defrosting and Defogging Systems* and FMVSS No. 104 *Windshield Wiping System and Washing Systems*. However, if the final-stage manufacturer added, modified, or deleted anything that resulted in a noncompliance with one or both of these standards, there should be two consequences. First, the incomplete vehicle manufacturer would no longer be responsible and, second, the final-stage manufacturer would be responsible. Similarly, ordinarily the final-stage manufacturer of a school bus, which adds exterior features, would be expected to assure that the mirrors reveal the presence of children, as required by FMVSS No. 111 *Rearview Mirrors*.

Second, at a more complex level, a number of FMVSS involve dynamic tests of the complete vehicle. Absent completion of the vehicle within the envelope of the incomplete vehicle document, testing by the final-stage manufacturer is warranted. For example, FMVSSs for brake systems include vehicle performance requirements. The incomplete vehicle manufacturer ordinarily could not be expected to supply a brake system on a chassis that would comply with the applicable performance standards for any and all applications by a final-stage manufacturer. Similarly, the final-stage manufacturer cannot maintain that the brakes satisfied the standards simply because the brake systems and components were supplied by the incomplete vehicle manufacturer. Appropriate engineering and testing to meet performance requirements are warranted. The incomplete vehicle manufacturer can provide an IVD and, if the final-stage manufacturer adheres to the IVD, it can certify the vehicle without testing. Alternately, the final-stage manufacturer can certify the vehicle based on it own.

Third, at a more complex level, a number of Federal motor vehicle safety standards involve dynamic crash tests. In these tests, the completed vehicle must meet standards. It is far from

<sup>10</sup> NHTSA proposed to amend part 573 by adding a provision under which the agency would allocate responsibility in the event of a dispute.

sufficient, for example, that a vehicle has a functioning air bag or that part of the vehicle meets a test short of a crash test. *See, e.g.*, 65 FR 30698. Thus, the fact that the incomplete vehicle manufacturer supplied components or systems without more does not relieve the final-stage manufacturer of its certification responsibilities for performance that depends only in part on those components or systems in a crash.

The final rule adopts much of the SNPRM as it pertained to certification and reflects the concerns identified above. The final-stage manufacturer certifies that the vehicle meets applicable FMVSSs but can rely on the prior manufacturers' IVD. The incomplete vehicle manufacturer and intermediate manufacturers have certification responsibilities for the vehicle as further manufactured or completed by a final-stage manufacturer to the extent that the vehicle is completed in accordance with the IVD. The incomplete vehicle manufacturer and intermediate manufacturers also have certification responsibilities for equipment subject to equipment standards that they supply and for other items and associated standards in the contract between them and the next stage manufacturer(s). The fact that some components were provided by an incomplete vehicle manufacturer, absent more, does not shift responsibility for certification to them with respect to completed vehicle performance standards such as those requiring dynamic crash tests.

Some comments by incomplete vehicle manufacturers concern uncertain future events and negligent workmanship. The following indicates the difficulties inherent in providing detailed rules. Assume an incomplete vehicle manufacturer produces a school bus shell and an IVD stating that final stage manufacturer A must order certain passenger seats from company C, which it does. The seats arrive from company C complete with attaching hardware that includes special hardened fasteners. Unfortunately, the fasteners are lost. Company A obtains bolts from a local hardware store and installs the passenger seats in the school bus shell. The vehicle is tested by NHTSA and the passenger seats fails to meet FMVSS No. 222, *School Bus Passenger Seating and Crash Protection*. The question would be whether the final stage manufacturer completed the vehicle in accordance with the IVD. If, however, the passenger seats are installed with the correct attachment hardware but the incomplete vehicle manufacturer did not follow its design, omitting the reinforcing plates

under the floor areas where the seats are to be mounted, the incomplete vehicle manufacturer would be responsible for the invalid certification with FMVSS No. 222.

As a second hypothetical, assume that the incomplete vehicle manufacturer's IVD provides for compliance with FMVSS No. 111 *Rearview Mirrors*. It provides mounting holes for mirrors on the incomplete vehicle and specifies certain mirrors. If the incomplete vehicle manufacturer did not follow its design, mislocating the mounting holes for attaching the mirrors, the final stage manufacturer installed the correct mirrors, and the vehicle fails to meet FMVSS No. 111, the incomplete vehicle manufacturer would be responsible for the certification violation.

#### d. Labeling Requirements

Given that there were not any objections, NHTSA is adopting the labeling requirements as proposed.

#### e. Reference to 568.5(a)

NHTSA agrees that the reference was incorrect and has corrected it, as suggested by the commenters.

#### f. Abbreviation of MPVs

NHTSA has corrected the abbreviation as suggested.

#### g. Duplicative Provisions Regarding Minimum Size of Letters and Numbers

NHTSA agrees that §§ 567.4(l) and 567.4(m) are duplicative. NHTSA intended to propose that the minimum size of the lettering and numbering be increased to 4 mm to improve readability. Accordingly, the agency is deleting § 567.4(l) and redesignating §§ 567.4(m) and 567.4(l).

#### h. Reference to Tags

NHTSA agrees that the reference to tags is unnecessary and should be deleted.

#### C. 49 CFR Part 568

##### 1. Summary of Comments on Proposed Revisions to 49 CFR Part 568

Five commenters (GM, NADA, RVIA, NTEA, TMA) submitted comments on the proposed changes to part 568. GM and NADA generally supported the proposed revisions to part 568 to note expressly that incomplete vehicle manufacturers may incorporate by reference body builder or other design and engineering guidance into the IVD. GM and TMA suggested a technical correction to proposed §§ 568.7(a) and (b), which refer to § 568.6(b), a section that does not exist in the proposed regulation. GM and TMA recommended that the proper reference is to § 568.6.

NHTSA agrees that the reference was incorrect and has corrected it, as suggested by the commenters.

NTEA indicated that it does not oppose the proposed changes to part 568. However, NTEA voiced its concern that permitting incomplete vehicle manufacturers to incorporate additional documents into the IVD could become burdensome for final-stage manufacturers and could produce the same problems that currently limit pass-through certification. NTEA stated that IVDs are often so restrictive that a final-stage manufacturer cannot accomplish pass-through certification. NTEA commented further that allowing incomplete vehicle manufacturers to incorporate by reference lengthy and complicated documents into IVDs might make it easier for incomplete vehicle manufacturers to restrict compliance envelopes. Accordingly, NTEA recommended that NHTSA require incomplete vehicle manufacturers to make available to final-stage manufacturers at no cost all documents incorporated by reference into IVDs. NTEA also urged NHTSA to require that incomplete vehicle manufacturers act in good faith to provide conformity statements that are likely to be passed through to other manufacturers (*i.e.*, that are not automatically invalidated by upfitting the vehicle in any way).

RVIA concurred with and endorsed NTEA's comments, although RVIA also submitted its own comments. RVIA's comments on the proposed changes to part 568 focused on motor home and conversion vehicle manufacturers' lack of personnel and monetary resources to comply with regulations involving dynamic crash testing or other costly tests. Due to this reported lack of resources, RVIA commented that final-stage manufacturers must rely heavily on incomplete vehicle manufacturers' IVDs in order to certify that a vehicle complies with the standards. RVIA contended that § 568.4(b) should be expanded and strengthened to require incomplete vehicle manufacturers to provide "reasonable compliance guidelines" in the body builder book or other documentation as part of the IVD. Reasonable compliance guidelines, according to RVIA, are necessary for final-stage manufacturers because incomplete vehicle manufacturers currently provide narrow compliance envelopes, making it difficult for final-stage manufacturers to achieve pass-through certification. NHTSA does not believe that a provision requiring incomplete vehicle manufacturers to provide "reasonable compliance guidelines" is necessary since it could not be effectively enforced due to the

subjectivity of the quoted language. As an alternative to amending the proposed regulation to make the inclusion of body builder or other design and engineering compliance guidance mandatory in the IVD, RVIA requested that NHTSA monitor the issue and revisit whether to add such a requirement one year after the effective date of the final rule.

## 2. Agency Response to Comments on Proposed Revisions to 49 CFR Part 568

### a. Reference to Part 568

We have corrected the reference as suggested.

### b. Making Documents Incorporated in the IVDs Freely Available

NHTSA is not adopting the suggestion that if incomplete vehicle manufacturers incorporate materials such as body builder or other design and engineering guidance, they must provide free copies of those materials. This is a marketplace issue that incomplete vehicle manufacturers and final-stage manufacturers can resolve. Incomplete vehicle manufacturers already have business reasons (e.g., promoting the sales of their incomplete vehicles) to provide copies, and final-stage manufacturers already have business reasons (to produce a safe, reliable vehicle) to obtain them, even if those materials are not incorporated by reference. Incorporation of these materials will provide additional, more precise guidance, thus increasing clarity of that guidance.

### c. Requiring Compliance Guidelines Be "Reasonable" or Prepared "in Good Faith"

NHTSA is not adopting these suggestions. As discussed above, incomplete vehicle manufacturers have business reasons to provide workable IVDs. There is no market for incomplete vehicles that cannot be manufactured into completed vehicles that will meet the applicable FMVSSs. Further, due to its subjectivity, the suggested language is not susceptible to effective enforcement.

## D. 49 CFR Part 571

### 1. Summary of Comments on Proposed Revisions to 49 CFR Part 571

NHTSA received comments from Ford, GM, TMA, NADA, NTEA, and RVIA on the proposed revisions to part 571. All of these commenters generally supported the proposal granting intermediate and final-stage manufacturers and alterers an automatic one-year extension to meet the new requirements of the standard. Ford commented, however, that after a

completed vehicle is certified to a safety standard, NHTSA should not allow alterers to render the certification inoperative unless the alterer is changing the vehicle to a type to which the rule does not apply. NTEA suggested that the standard also provide final-stage manufacturers and alterers an additional year of leadtime when an incomplete vehicle manufacturer introduces a new model. RVIA similarly commented that the one-year extension also should apply when an incomplete vehicle manufacturer's model year changeovers require final-stage manufacturers to do additional testing or when an incomplete vehicle manufacturer certifies its vehicles late in the process, providing subsequent manufacturers with little time to determine if the changes affect compliance. RVIA noted that although the SNPRM recognized the certification difficulties faced by a final-stage manufacturer in light of substantive changes to a chassis as a result of a model year changeover, the proposed amendment to part 571 does provide an explicit one-year extension for a final-stage manufacturer to achieve compliance when a model year changeover occurs, requiring additional testing. Accordingly, RVIA urged NHTSA to amend § 571 to specify that the one-year extension applies when an incomplete vehicle manufacturer's model year changes require new testing or when an incomplete vehicle manufacturer does not provide equipment for new or additional compliance verification at least one year in advance of the effective date of compliance. For § 571.8 and other regulations, NADA suggested NHTSA use the term "vehicle alterer" rather than "alterer."

## 2. Agency Response to Comments on Proposed Revisions to 49 CFR Part 571

### a. Proposed Automatic One-Year Extension of Effective Date

Except as noted in the next paragraph, NHTSA has decided to adopt the amendments to part 571 as proposed. No commenter opposed their adoption. Further, those commenters who addressed the amendments supported them. The agency notes that its recognition that vehicles built in two or more stages may be a vehicle type under the agency's regulations does not exclude them from motor vehicle safety standards. For example, if the vehicle is a truck, it is subject to standards applicable to trucks and is not excluded because it was built in two or more stages. Nonetheless, as with convertibles, the agency may, as

appropriate, provide for particular options in its standards for multistage vehicles.

### b. Eligibility of Alterers for Extension

NHTSA has decided to include alterers in the provision for additional leadtime. The agency notes that the problems faced by final-stage manufacturers in certifying that a vehicle manufactured in two or more stages complies with all applicable FMVSSs also are faced by alterers with respect to their own certification responsibilities. If a vehicle manufacturer waits until the last possible moment to certify its vehicles, alterers will not have the ability to conduct any engineering analysis to determine if their alterations will affect compliance. Therefore, the agency has decided to provide alterers with the same lead-time it is providing to final-stage manufacturers.

### c. Additional Leadtime Following Introduction of New Model

NHTSA has decided not to adopt this suggestion. This issue involves business decisions that should be made by incomplete vehicle manufacturers. They need to make the design changes and other documents available to final-stage manufacturers in sufficient time so that those manufacturers can make current model year changes to the design of the vehicles they complete and ensure that those vehicles meet the FMVSSs.

### d. Use of the Term "Alterer"

NHTSA sees no need to replace the term "alterer" with the term "vehicle alterer" in part 571 or the other parts addressed in this final rule. Accordingly, no change has been made.

## E. 49 CFR Part 573

### 1. Summary of Comments on Proposed Revisions to 49 CFR Part 573

#### a. NHTSA Determination of Which Manufacturer Is in the "Best Position" To Conduct a Recall

As discussed above, to assure a prompt resolution of the issue of recall responsibility in a multi-stage context, NHTSA proposed that the agency would allocate recall responsibility when the various manufacturers could not agree on which was the responsible party. 69 FR 36047, 36056. The majority of commenters opposed these revisions to part 573.

In its comments on the SNPRM, GM stated that historically manufacturers have been able to resolve issues of the determination of recall responsibility and asserted that this trend likely will continue in the future, thus not

requiring a NHTSA determination of which party should conduct a recall. GM further objected on the grounds that the agency would be injecting itself into evaluating the relative financial health of various manufacturers. Similarly, DaimlerChrysler expressed the concern that NHTSA should not make decisions on who should pay for a recall on the basis of the more substantial resources of an incomplete vehicle manufacturer.

International commented extensively on this proposal. International shared NHTSA's concern that a disagreement between manufacturers regarding responsibility for a safety-related defect or noncompliance could hinder manufacturers' rapid response in issuing a recall. However, International suggested that manufacturers rarely disagree regarding who should conduct a recall because they want to keep goodwill with their customers and because NHTSA's existing powers to investigate and assess penalties deter manufacturers from disagreeing to the point of necessitating NHTSA involvement. International further expressed its belief that this section would give NHTSA the power to order a manufacturer to conduct a recall even though neither NHTSA nor the manufacturer has determined that a defect or noncompliance exists in the equipment it manufactured. Moreover, International questioned whether NHTSA has the necessary statutory authority to require a recall in such circumstances.

Ford suggested that allowing NHTSA to determine responsibility might cause intermediate and final-stage manufacturers to try to avoid recall responsibility, shifting the recall burden to incomplete vehicle manufacturers.

DaimlerChrysler and Freightliner, a DaimlerChrysler Company, argued that part 573 should not be revised to permit NHTSA to decide which manufacturer is in the best position to conduct a recall. They commented that NHTSA has proposed no standards to evaluate which party is in the best position to conduct a recall and has not identified sufficiently when NHTSA would intervene, other than when parties disagree about responsibility. DaimlerChrysler, which had its own proposal on allocation of responsibility that appeared in the SNPRM (p. 36047), commented that, upon a determination by NHTSA that another manufacturer is in the best position to conduct the recall, the proposed amendment to § 573.5 seemingly would permit NHTSA to override the allocations of recall responsibility for certification proposed in § 567.5 to impose responsibility on a manufacturer other than the

manufacturer responsible under § 567.5. Moreover, DaimlerChrysler and Freightliner stated that although NHTSA expects few instances would arise in which a dispute occurs between manufacturers regarding recall responsibility, enacting this type of "referee" provision would cause more disputes and delays and would thrust NHTSA into the middle of commercial disputes from which it has traditionally removed itself for good reason. DaimlerChrysler and Freightliner added that NHTSA's involvement in a determination of responsibility would complicate the recalling manufacturer's ability to recover expenses from the responsible party, as is currently done, as courts or arbitrators likely would give considerable weight to NHTSA determinations regarding which entities are best suited to conduct recalls. DaimlerChrysler and Freightliner also questioned whether this "referee provision" is consistent with the Vehicle Safety Act.

TMA commented that absent the proposed provision, NHTSA nonetheless would possess the necessary authority to issue a determination of responsibility.

NTEA and RVIA submitted comments supporting the proposed changes to allow NHTSA to determine which manufacturer is in the best position to conduct a recall. Both NTEA and RVIA noted the financial hardships for final-stage manufacturers when they conduct recalls, regardless of whether they are responsible for the defect or noncompliance. NTEA added that each manufacturer responsible for a particular defect or noncompliance should conduct its own recall.

#### b. Nonreviewability of NHTSA Determination

Under a system in which NHTSA may assign the incomplete vehicle manufacturer ultimate responsibility for a recall, to assure the speedy implementation of a recall, NHTSA proposed that its resolution of any dispute would have to be both final and non-reviewable. *See* 69 FR 36056. The commenters who opposed NHTSA determining which manufacturer is in the best position to conduct a recall also expressed disapproval of the nonreviewability of such a decision. DaimlerChrysler and Freightliner commented that NHTSA does not have the authority to deem its decisions nonreviewable, as a provision allowing nonreviewable agency decisions would be inconsistent with the Administrative Procedure Act. DaimlerChrysler and Freightliner agreed with NHTSA's statement in the SNPRM that a court

would likely review an agency decision unless it is deemed something other than a final agency action. Additionally, DaimlerChrysler and Freightliner expressed confusion regarding how a manufacturer's right to judicial review of a NHTSA determination of a defect or noncompliance under 49 U.S.C. 30118 would be reconciled with a nonreviewable order that a manufacturer conduct a recall. DaimlerChrysler and Freightliner also expressed a lack of understanding of the difference between an order under 49 U.S.C. 30118(b) that requires a manufacturer to provide notice and a remedy (*i.e.*, a recall) and may be contested in court, and an order under proposed § 573.5 that would require a manufacturer to conduct a recall but could not be contested.

Ford also commented that NHTSA decisions allocating recall responsibility must be judicially reviewable. GM and TMA indicated that even if manufacturers could not resolve a dispute regarding recall responsibility, NHTSA instead could issue a determination of responsibility without necessitating that the decision be nonreviewable. Nonreviewability of a NHTSA determination regarding which party is in the best position to conduct a recall, according to International, could cause a chilling effect on manufacturers' willingness to report possible defects or noncompliance to NHTSA.

NTEA recognized NHTSA's concerns regarding nonreviewability, commenting that NHTSA could eliminate or change the proposal but should not change the other proposed amendments to part 573.

#### c. Suggested Alternative Language for Section 573.5

During the negotiated rulemaking process, DaimlerChrysler proposed alternative language for allocating recall responsibility between the incomplete vehicle manufacturer and final-stage manufacturer. DaimlerChrysler suggested that the allocation of legal responsibility in § 567.5 be repeated in § 573.5 and offered language. The language offered by DaimlerChrysler was reprinted in the preamble to the SNPRM, 69 FR 36047; but *see* 69 FR 36056. In their comments responding to the SNPRM, Ford and TMA indicated that the language offered by DaimlerChrysler was preferable to the language proposed by NHTSA, which they flatly opposed.

Although acknowledging that the proposed changes to § 573.5 should not impact directly dealers' involvement in safety recalls, NADA offered the

following substitute language for § 573.5(c):

In the event of a safety-related defect or noncompliance involving a motor vehicle manufactured in two or more stages, each incomplete, intermediate, final-stage or equipment manufacturer is responsible if the defect or noncompliance involved its workmanship or the components or systems it supplied.

Under its proposed language, NADA indicated that NHTSA might occasionally need to determine who is responsible for a defect or noncompliance, but not who is in the best position to conduct a recall. Manufacturers, according to NADA, usually will determine responsibility voluntarily.

NTEA acknowledged the alternative offered by DaimlerChrysler, commenting that the DaimlerChrysler language appears to adopt NHTSA's original proposal, except that it does not discuss allocation of responsibility in the event of a dispute. NTEA indicated its support for the DaimlerChrysler language as well as NHTSA's original proposal.

## 2. Agency Response to Comments on Proposed Revisions to 49 CFR Part 573

### a. NHTSA Determination of Which Manufacturer Is in the Best Position To Conduct a Recall

In response to the public comments on proposed § 573.5(c) permitting the agency to determine which manufacturer is in the best position to conduct a recall, NHTSA has re-examined the merits of this proposal. NHTSA's primary concern is safety; NHTSA is also concerned that the rule be workable. The most compelling fact is that under existing § 573.5, in general, recalls are not delayed by disputes between manufacturers. In fact, practical disputes rarely occur; the last known one of any significance occurred prior to 1990. It is clear from this fact that the private parties are able to resolve and in fact are successfully resolving the issues regarding the conducting of recalls in almost all instances under the existing regulatory structure without the suggestion of any possible need for intervention by the agency. NHTSA has no reason to believe that there will be any greater need for agency intervention in the future. In addition, the proposal was not well received. Accordingly, the agency has decided not to adopt the proposed provision.

### b. Nonreviewability of NHTSA Determination

In light of the agency's decision not to adopt the proposed provision for agency

determinations as to which party is in the best position to conduct a particular recall, the proposal to make agency determinations nonreviewable is moot. Also, there were substantial objections to, and a number of substantial questions about, the merits of this proposal.

### c. Suggested Alternative Language for Section 573.5

The agency has decided not to add to § 573.5 the language suggested by DaimlerChrysler. Further, the agency is not adding an alternative suggestion regarding the allocation of responsibility in the event of a dispute. As discussed above, NHTSA's interest, commensurate with the public interest, is for a rapid and final resolution of recall responsibility so as to have unsafe motor vehicles repaired as soon as possible. In the context of the manufacturer's independent duty under 49 U.S.C. 30118(c) to give notification of and to remedy safety defects that it learns of (*United States v. General Motors Corp.*, 574 F. Supp. 1047, 1049 (D.D.C. 1983)), the existing rule meets the fundamental safety need for prompt recalls. As General Motors noted, historically, incomplete and final-stage manufacturers have been able to resolve issues of determination of responsibility. If not, the default assignment of responsibility is to the final-stage manufacturer, which retains its right to seek indemnification or contribution from the incomplete vehicle manufacturer. This has been NHTSA's historical position (*see* 58 FR 40402) and it has stood the test of time. In addition, we have substantial doubts that a formulaic approach offered by DaimlerChrysler would work as needed for safety-related defects. It does not provide a truly bright line test. As NADA recognized, disputes would arise under it. From a safety perspective, the best resolution is to leave the rule where as it now stands. We would add that this provides an incentive for a final-stage manufacturer to deal with a solid and reputable incomplete vehicle manufacturer. If the rule were cast to impose recall responsibility on the incomplete vehicle manufacturer, final-stage manufacturers' interests in lower production costs likely would in some instances result in the final-stage manufacturers' acquisition and use of incomplete vehicles that would not withstand the rigors of the road as well as those offered at higher prices by competing incomplete vehicle manufacturers. There would be considerable practical issues in obtaining an effective recall by bargain basement incomplete vehicle

manufacturers. For example, in recent years, we have seen a significant influx of low price imports of low quality equipment from essentially unknown foreign manufacturers with no corporate presence in the United States.

## F. Other Issues

### 1. Early Warning Reporting

DaimlerChrysler and Freightliner noted that the rule proposed in the SNPRM does not address the issue of responsibility of incomplete or intermediate vehicle manufacturers with respect to part 579 and the Early Warning Reporting rules. DaimlerChrysler and Freightliner observed that although NHTSA has issued interpretations recognizing final-stage manufacturers as the "vehicle manufacturers" under the early warning rules, final-stage manufacturers in many cases do not receive consumer complaints or carry out warranty work on primary vehicle systems. Accordingly, DaimlerChrysler and Freightliner suggested that if NHTSA adopts regulations altering the responsibilities of incomplete, intermediate, and final-stage manufacturers, it simultaneously should consider revising its interpretations of the early warning rules.

*Agency response:* As the issue raised by DaimlerChrysler and Freightliner is outside scope of this rulemaking, we are not addressing it in this final rule. This may be considered in the assessment of the early warning program, which we expect to begin in about two years. *See* 69 FR 57867 (September 28, 2004).

### 2. Safety of Altering Certified Vehicles

NADA objected to preambular statements regarding vehicle alteration, particularly the suggestion that vehicle alterations are inherently wrong and that NHTSA disfavors vehicle alterations made after the first sale of a vehicle for purposes other than retail.

*Agency response:* Alterations to a certified vehicle prior to first retail sale are not viewed with disfavor by the agency, provided the alterer certifies the vehicle as continuing to comply with the FMVSS affected by the alterations. Alterers of cargo vans, for example, who install work-performing equipment in a completed vehicle, should be treated no differently than a final-stage manufacturer who installs the same work-performing equipment in an incomplete vehicle. However, the agency does view with disfavor vehicle modifications, performed after first retail sale, that take a vehicle out of compliance with applicable FMVSSs, except as permitted under 49 CFR part

595 to accommodate persons with disabilities.

### 3. Effective Date

GM and TMA suggested that the effective date for the rule be the first occurrence of September 1, one year following publication of the Final Rule. GM indicated that this is a reasonable effective date, given that manufacturers may need time to implement several of the proposed requirements pertaining to labeling and documentation. TMA stipulated that this effective date will allow TMA members time for reviewing and updating their IVD and/or body builder books.

*Agency response:* The agency has decided to adopt the suggestion of GM and TMA. The agency believes that their suggested date will provide a reasonable period of time to come into compliance. Thus, the effective date will be September 1, 2006.

## VII. Rulemaking Analyses and Notices

### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking is not significant. Accordingly, the Office of Management and Budget has not reviewed this rulemaking document under E.O. 12866, "Regulatory Planning and Review." The rulemaking action has also been determined to be nonsignificant under the Department's regulatory policies and procedures.

This rule does not impose any additional costs on regulated parties or on the American public since it merely clarifies legal responsibilities related to the certification of vehicles built in two or more stages. To the extent that incomplete vehicle manufacturers accept legal responsibility for their vehicles, they may incur some additional certification costs. Likewise, they will incur additional costs in the event of a recall resulting from their statements on the information label or in the IVD. As a practical matter, most incomplete vehicle manufacturers have been willing to pay for recalls associated with work performed by the incomplete vehicle manufacturer or within the scope of their representations in the IVD even though there has been no express legal requirement that they do so.

### B. Regulatory Flexibility Act

I have considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) I certify that this action does not have a

significant economic impact on a substantial number of small businesses. Although a significant number of final-stage manufacturers and alterers are small businesses, this rule does not have a significant economic impact on these entities. It provides for a new process for temporary exemptions from dynamic crash testing performance requirements. It recognizes multi-stage vehicles as a vehicle type, which allows for adoption of standards with options for them. It provides for full use of pass-through certifications beyond chassis-cabs. It thus reduces burdens on final-stage manufacturers, many of which are small businesses.

### C. National Environmental Policy Act

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act and determined that it does not have any significant impact on the quality of the human environment.

### D. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. This final rule does not have any substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. The final rule is not intended to preempt state tort civil actions.

### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted for inflation with base year of 1995). The final rule does not require the expenditure of resources above and beyond \$100 million annually.

### F. Executive Order 12778 (Civil Justice Reform)

The final rule does not have any retroactive effect. Under section 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to

the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

### G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This final rule contains a collection of information because it expands the number of information labels required beyond manufacturers of chassis-cabs. There is no burden to the general public.

This final rule includes the following "collections of information," as that term is defined in 5 CFR part 1320 Controlling Paperwork Burdens on the Public:

Today's final rule requires information labels similar to a certification label for incomplete vehicles that are not chassis-cabs. At present, OMB has approved NHTSA's collection of labeling requirements under OMB clearance no. 2127-0512, Consolidated Labeling Requirements for Motor Vehicles (Except the Vehicle Identification Number). A request for extension of the clearance for these requirements is pending at OMB. *See also* 69 FR 70168.

For the following reasons, NHTSA estimates that the new information labels will have a minimal net increase in the information collection burden on the public.<sup>11</sup> There are approximately 40 incomplete motor vehicle manufacturers that will be affected by this labeling requirement, and the labels will be placed on approximately 556,000 vehicles per year. The label will be placed on each vehicle by the incomplete vehicle manufacturer and each intermediate manufacturer once. Since, in this final rule, NHTSA specifies the exact content of the labels, the manufacturers will spend 0 hours developing the labels. NHTSA estimates the technical burden time (time required for affixing labels) to be .0002 hours per label. NHTSA estimates that the total

<sup>11</sup> No commenter questioned these calculations, which also appeared in the SNPRM, albeit without an estimation of the burden on intermediate manufacturers.



annual burden imposed on the public as a result of the incomplete vehicle manufacturer labels will be 116 hours (556,600 vehicles multiplied by .0002 hours per label multiplied by 1.5, representing an estimate that intermediate manufacturers will be involved in the production of half of the vehicles affected). Canada already requires labels of the type contemplated in today's notice on incomplete vehicles manufactured for the Canadian market, and the larger incomplete vehicle manufacturers already install this label on a voluntary basis for vehicles sold in the United States.

#### H. Executive Order 13045

Executive Order 13045 applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rulemaking is not economically significant.

#### I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards<sup>12</sup> in its regulatory activities unless doing so would be inconsistent with applicable law (*e.g.*, the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical. In meeting that requirement, we are required to consult with voluntary, private sector, consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, with an explanation of

the reasons for not using such standards. This rulemaking only addresses the allocation of legal responsibilities among regulated parties. As such, the issues involved here are not amenable to the development of voluntary standards.

#### J. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

In consideration of the foregoing, NHTSA amends 49 CFR chapter V as follows:

#### List of Subjects in 49 CFR Parts 555, 567, 568, and 571

Imports, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

#### PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY AND BUMPER STANDARDS

■ 1. The authority citation for part 555 of title 49 continues to read as follows:

**Authority:** 49 U.S.C. 30113, 32502, Pub. L. 105-277; delegation of authority at 49 CFR 1.50.

■ 2. Part 555 is amended by designating §§ 555.1 through 555.10 as subpart A and by adding a heading to read as follows:

#### Subpart A—General

■ 3. Paragraph (b)(6) of § 555.5 is revised to read as follows:

#### § 555.5 Application for exemption.

\* \* \* \* \*

(b) \* \* \*

(6) Specify any part of the information and data submitted which petitioner requests be withheld from public disclosure in accordance with part 512 of this chapter.

(i) The information and data which petitioner requests be withheld from public disclosure must be submitted in accordance with § 512.4 of this chapter.

(ii) The petitioner's request for withholding from public disclosure must be accompanied by a certification in support as set forth in appendix A to part 512 of this chapter.

\* \* \* \* \*

■ 4. Subpart B is added to read as follows:

#### Subpart B—Vehicles Built In Two or More Stages and Altered Vehicles

Sec.

- 555.11 Application.
- 555.12 Petition for exemption.
- 555.13 Basis for petition.
- 555.14 Processing of petitions.
- 555.15 Time period for exemptions.
- 555.16 Renewal of exemptions.
- 555.17 Termination of temporary exemptions.
- 555.18 Temporary exemption labels.

#### Subpart B—Vehicles Built in Two or More Stages and Altered Vehicles

##### § 555.11 Application.

This subpart applies to alterers and manufacturers of motor vehicles built in two or more stages to which one or more standards are applicable. No manufacturer or alterer that produces or alters a total exceeding 10,000 motor vehicles annually shall be eligible for a temporary exemption under this subpart. Any exemption granted under this subpart shall be limited, per manufacturer, to 2,500 vehicles to be sold in the United States in any 12 consecutive month period. Nothing in this subpart prohibits an alterer, an intermediate manufacturer, a manufacturer of incomplete vehicles other than chassis-cabs, or a final-stage manufacturer from applying for a temporary exemption under subpart A of this part.

##### § 555.12 Petition for exemption.

An alterer, intermediate or final-stage manufacturer, or industry trade association representing a group of alterers, intermediate and/or final-stage manufacturers may seek, as to any vehicle configuration built in two or more stages, a temporary exemption or a renewal of a temporary exemption from any performance requirement for which a Federal motor vehicle safety standard specifies the use of a dynamic crash test procedure to determine compliance. Each petition for an exemption under this section must be submitted to NHTSA and must:

- (a) Be written in the English language;
- (b) Be submitted in three copies to:

Administrator, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590;

(c) State the full name and address of the applicant, the nature of its organization (*e.g.*, individual, partnership, corporation, or trade association), the name of the State or country under the laws of which it is organized, and the name of each alterer, or intermediate and/or final-stage manufacturer for which the exemption is sought;

<sup>12</sup> Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as "performance-based or design-specific technical specifications and related management systems practices." They pertain to "products and processes, such as size, strength, or technical performance of a product, process or material."

(d) State the number, title, paragraph designation, and the text or substance of the portion(s) of the standard(s) from which the exemption is sought;

(e) Describe by type and use each vehicle configuration (or range of vehicle configurations) for which the exemption is sought;

(f) State the estimated number of units of each vehicle configuration to be produced annually by each of the manufacturer(s) for whom the exemption is sought;

(g) Specify any part of the information and data submitted which the petitioner requests be withheld from public disclosure in accordance with part 512 of this chapter, as provided by § 555.5(b)(6).

(1) The information and data which petitioner requests be withheld from public disclosure must be submitted in accordance with § 512.4 of this chapter.

(2) The petitioner's request for withholding from public disclosure must be accompanied by a certification in support as set forth in appendix A to part 512 of this chapter.

#### § 555.13 Basis for petition.

The petition shall:

(a) Discuss any factors (e.g., demand for the vehicle configuration, loss of market, difficulty in procuring goods and services necessary to conduct dynamic crash tests) that the applicant desires NHTSA to consider in deciding whether to grant the application based on economic hardship.

(b) Explain the grounds on which the applicant asserts that the application of the dynamic crash test requirements of the standard(s) in question to the vehicles covered by the application would cause substantial economic hardship to each of the manufacturers on whose behalf the application is filed, providing a complete financial statement for each manufacturer and a complete description of each manufacturer's good faith efforts to comply with the standards, including a discussion of:

(1) The extent that no Type (1) or Type (2) statement with respect to such standard is available in the incomplete vehicle document furnished, per part 568 of this chapter, by the incomplete vehicle manufacturer or by a prior intermediate-stage manufacturer or why, if one is available, it cannot be followed, and

(2) The existence, or lack thereof, of generic or cooperative testing that would provide a basis for demonstrating compliance with the standard(s);

(c) Explain why the requested temporary exemption would not unreasonably degrade safety.

#### § 555.14 Processing of petitions.

The Administrator shall notify the petitioner whether the petition is complete within 30 days of receipt. The Administrator shall attempt to approve or deny any complete petition submitted under this subpart within 120 days after the agency acknowledges that the application is complete. Upon good cause shown, the Administrator may review a petition on an expedited basis.

#### § 555.15 Time period for exemptions.

Subject to § 555.16, each temporary exemption granted by the Administrator under this subpart shall be in effect for a period of three years from the effective date. The Administrator shall identify each exemption by a unique number.

#### § 555.16 Renewal of exemptions.

An alterer, intermediate or final-stage manufacturer or a trade association representing a group of alterers or, intermediate and/or final-stage manufacturers may apply for a renewal of a temporary exemption. Any such renewal petition shall be filed at least 60 days prior to the termination date of the existing exemption and shall include all the information required in an initial petition. If a petition for renewal of a temporary exemption that meets the requirements of this subpart has been filed not later than 60 days before the termination date of an exemption, the exemption does not terminate until the Administrator grants or denies the petition for renewal.

#### § 555.17 Termination of temporary exemptions.

The Administrator may terminate or modify a temporary exemption if (s)he determines that:

(a) The temporary exemption was granted on the basis of false, fraudulent, or misleading representations or information; or

(b) The temporary exemption is no longer consistent with the public interest and the objectives of the Act.

#### § 555.18 Temporary exemption labels.

An alterer or final-stage manufacturer of a vehicle that is covered by one or more exemptions issued under this subpart shall affix a label that meets meet all the requirements of 49 CFR 555.9.

■ 5. Part 567 is revised to read as follows:

### PART 567—CERTIFICATION

Sec.

567.1 Purpose.

567.2 Application.

567.3 Definitions.

567.4 Requirements for manufacturers of motor vehicles.

567.5 Requirements for manufacturers of vehicles manufactured in two or more stages.

567.6 Requirements for persons who do not alter certified vehicles or do so with readily attachable components.

567.7 Requirements for persons who alter certified vehicles.

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, 30166, 32502, 32504, 33101–33104, 33108, and 33109; delegation of authority at 49 CFR 1.50.

#### § 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. 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.

#### § 567.2 Application.

(a) This part applies to manufacturers including alterers of motor vehicles to which one or more standards are applicable.

(b) In the case of imported motor vehicles that do not have the label required by 49 CFR 567.4, Registered Importers of vehicles admitted into the United States under 49 U.S.C. 30141–30147 and 49 CFR part 591 must affix a label as required by 49 CFR 567.4, after the vehicle has been brought into conformity with the applicable Safety, Bumper and Theft Prevention Standards.

#### § 567.3 Definitions.

All terms that are defined in the Act and the rules and standards issued under its authority are used as defined therein. The term “bumper” has the meaning assigned to it in Title I of the Cost Savings Act and the rules and standards issued under its authority.

*Addendum* means the document described in § 568.5 of this chapter.

*Altered vehicle* means a completed vehicle previously certified in accordance with § 567.4 or § 567.5 that has been altered other than by the addition, substitution, or removal of readily attachable components, such as mirrors or tire and rim assemblies, or by minor finishing operations such as

painting, before the first purchase of the vehicle other than for resale, in such a manner as may affect the conformity of the vehicle with one or more Federal Motor Vehicle Safety Standard(s) or the validity of the vehicle's stated weight ratings or vehicle type classification.

*Alterer* means a person who alters by addition, substitution, or removal of components (other than readily attachable components) a certified vehicle before the first purchase of the vehicle other than for resale.

*Chassis-cab* means an incomplete vehicle, with a completed occupant compartment, that requires only the addition of cargo-carrying, work-performing, or load-bearing components to perform its intended functions.

*Completed vehicle* means a vehicle that requires no further manufacturing operations to perform its intended function.

*Final-stage manufacturer* means a person who performs such manufacturing operations on an incomplete vehicle that it becomes a completed vehicle.

*Incomplete trailer* means a vehicle that is capable of being drawn and that consists, at a minimum, of a chassis (including the frame) structure and suspension system but needs further manufacturing operations performed on it to become a completed vehicle.

*Incomplete vehicle* means

(1) 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; or

(2) An incomplete trailer.

*Incomplete vehicle document* or *IVD* means the document described in 49 CFR 568.4(a) and (b).

*Incomplete vehicle manufacturer* means a person who manufactures an incomplete vehicle by assembling components none of which, taken separately, constitute an incomplete vehicle.

*Intermediate manufacturer* means a person, other than the incomplete vehicle manufacturer or the final-stage manufacturer, who performs manufacturing operations on a vehicle manufactured in two or more stages.

#### **§ 567.4 Requirements for manufacturers of motor vehicles.**

(a) Each manufacturer of motor vehicles (except vehicles manufactured in two or more stages) shall affix to each vehicle a label, of the type and in the manner described below, containing the

statements specified in paragraph (g) 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) Except for trailers and motorcycles, 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, Washington, D.C. 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 label for trailers shall be affixed to a location on the forward half of the left side, such that it is easily readable from outside the vehicle without moving any part of the vehicle.

(e) The label for motorcycles shall be affixed to a permanent member of the vehicle as close as is practicable to the intersection of the steering post with the handle bars, in a location such that it is easily readable without moving any part of the vehicle except the steering system.

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

(g) The label shall contain the following 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: Except as provided in paragraphs (g)(1)(i), (ii) and (iii) of this section, 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." In the case of imported vehicles to which the label required by this section is affixed by the Registered Importer, the name of the Registered Importer shall also be placed on the label in the manner described in this paragraph,

directly below the name of the actual assembler.

(i) If a vehicle is assembled by a corporation that is controlled by another corporation that assumes responsibility for conformity with the standards, the name of the controlling corporation may be used.

(ii) If a vehicle is fabricated and delivered in complete but unassembled form, such that it is designed to be assembled without special machinery or tools, the fabricator of the vehicle may affix the label and name itself as the manufacturer for the purposes of this section.

(iii) If a trailer is sold by a person who is not its manufacturer, but who is engaged in the manufacture of trailers and assumes legal responsibility for all duties and liabilities imposed by the Act with respect to that trailer, the name of that person may appear on the label as the manufacturer. In such a case the name shall be preceded by the words "Responsible Manufacturer" or "Resp Mfr."

(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. However, for school buses the minimum occupant weight allowance shall be 120 pounds per passenger and 150 pounds for the driver.

(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) One of the following statements, as appropriate:

(i) For passenger cars, the statement: "This vehicle conforms to all applicable

Federal motor vehicle safety, bumper, and theft prevention standards in effect on the date of manufacture shown above." The expression "U.S." or "U.S.A." may be inserted before the word "Federal".

(ii) In the case of multipurpose passenger vehicles (MPVs) and trucks with a GVWR of 6,000 pounds or less, the statement: "This vehicle conforms to all applicable Federal motor vehicle safety and theft prevention standards in effect on the date of manufacture shown above." The expression "U.S." or "U.S.A." may be inserted before the word "Federal".

(iii) In the case of multipurpose passenger vehicles (MPVs) and trucks with a GVWR of over 6,000 pounds, the statement: "This vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture shown above." The expression "U.S." or "U.S.A." may be inserted before the word "Federal".

(6) Vehicle identification number.

(7) The type classification of the vehicle as defined in § 571.3 of this chapter (e.g., truck, MPV, bus, trailer).

(h) *Multiple GVWR-GAWR ratings.* (1) (For passenger cars only) In cases in which different tire sizes are offered as a customer option, a manufacturer may at its option list more than one set of values for GVWR and GAWR, to meet the requirements of paragraphs (g) (3) and (4) of this section. If the label shows more than one set of weight rating values, each value shall be followed by the phrase "with \_tires," inserting the proper tire size designations. A manufacturer may, at its option, list one or more tire sizes where only one set of weight ratings is provided.

*Example: Passenger Car*

GVWR: 4,400 lb with P195/65R15 tires; 4,800 lb with P205/75R15 tires.

GAWR: Front—2,000 lb with P195/65R15 tires at 24 psi; 2,200 lb with P205/75R15 tires at 24 psi. Rear—2,400 lb with P195/65R15 tires at 28 psi; 2,600 lb with P205/75R15 tires at 28 psi.

(2) (For multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles) The manufacturer may, at its option, list more than one GVWR-GAWR-tire-rim combination on the label, as long as the listing contains the tire-rim combination installed as original equipment on the vehicle by the manufacturer and conforms in content and format to the requirements for tire-rim-inflation information set forth in Standard Nos. 110, 120, 129 and 139 (§§ 571.110, 571.120, 571.129 and 571.139 of this chapter).

(3) At the option of the manufacturer, additional GVWR-GAWR ratings for operation of the vehicle at reduced

speeds may be listed at the bottom of the certification label following any information that is required to be listed.

(i) [Reserved]

(j) A manufacturer may, at its option, provide information concerning which tables in the document that accompanies the vehicle pursuant to § 575.6(a) of this chapter apply to the vehicle. This information may not precede or interrupt the information required by paragraph (g) of this section.

(k) In the case of passenger cars imported into the United States under 49 CFR 591.5(f) to which the label required by this section has not been affixed by the original assembler of the passenger car, a label meeting the requirements of this paragraph shall be affixed before the vehicle is imported into the United States, if the car is from a line listed in Appendix A of 49 CFR part 541. This label shall be in addition to, and not in place of, the label required by paragraphs (a) through (j), inclusive, of this section.

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

(2) 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. The location of the label shall be such that it is easily readable without moving any part of the vehicle except an outer door.

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

(4) The label shall contain the following 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:

(i) Model year (if applicable) or year of manufacture and line of the vehicle, as reported by the manufacturer that produced or assembled the vehicle. "Model year" is used as defined in § 565.3(h) of this chapter. "Line" is used as defined in § 541.4 of this chapter.

(ii) Name of the importer. The full corporate or individual name of the importer of the vehicle shall be spelled out, except that such abbreviations as "Co." or "Inc." and their foreign equivalents and the middle initial of individuals, may be used. The name of the importer shall be preceded by the words "Imported By".

(iii) The statement: "This vehicle conforms to the applicable Federal motor vehicle theft prevention standard in effect on the date of manufacture."

(l)(1) In the case of a passenger car imported into the United States under 49 CFR 591.5(f) which does not have a vehicle identification number that complies with 49 CFR 565.4 (b), (c), and (g) at the time of importation, the Registered Importer shall permanently affix a label to the vehicle in such a manner that, unless the label is riveted, it cannot be removed without being destroyed or defaced. The label shall be in addition to the label required by paragraph (a) of this section, and shall be affixed to the vehicle in a location specified in paragraph (c) of this section.

(2) The label shall contain the following statement, in the English language, lettered in block capitals and numerals not less than 4 mm high, with the location on the vehicle of the original manufacturer's identification number provided in the blank: ORIGINAL MANUFACTURER'S IDENTIFICATION NUMBER SUBSTITUTING FOR U.S. VIN IS LOCATED \_\_\_\_\_.

**§ 567.5 Requirements for manufacturers of vehicles manufactured in two or more stages.**

(a) *Location of information labels for incomplete vehicles.* Each incomplete vehicle manufacturer or intermediate vehicle manufacturer shall permanently affix a label to each incomplete vehicle, in the location and form specified in § 567.4, and in a manner that does not obscure other labels. If the locations specified in 49 CFR 567.4(c) are not practicable, the label may be provided as part of the IVD package so that it can be permanently affixed in the acceptable locations provided for in that subsection when the vehicle is sufficiently manufactured to allow placement in accordance therewith.

(b) *Incomplete vehicle manufacturers.*

(1) Except as provided in paragraph (f) of this section and notwithstanding the certification of a final-stage manufacturer under 49 CFR 567.5(d)(2)(v), each manufacturer of an incomplete vehicle assumes legal responsibility for all certification-related duties and liabilities under the Vehicle Safety Act with respect to:

(i) Components and systems it installs or supplies for installation on the incomplete vehicle, unless changed by a subsequent manufacturer;

(ii) The vehicle as further manufactured or completed by an intermediate or final-stage manufacturer, to the extent that the

vehicle is completed in accordance with the IVD; and

(iii) The accuracy of the information contained in the IVD.

(2) Except as provided in paragraph (f) of this section, each incomplete vehicle manufacturer shall affix an information label to each incomplete vehicle that contains the following statements:

(i) Name of incomplete vehicle manufacturer preceded by the words "incomplete vehicle MANUFACTURED BY" or "incomplete vehicle MFD BY".

(ii) Month and year of manufacture of the incomplete vehicle. This may be spelled out, as in "JUNE 2000", or expressed in numerals, as in "6/00". No preface is required.

(iii) "Gross Vehicle Weight Rating" or "GVWR" followed by the appropriate value in kilograms and (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, if known. However, for school buses the minimum occupant weight allowance shall be 120 pounds per passenger and 150 pounds for the driver.

(iv) "Gross Axle Weight Rating" or "GAWR," followed by the appropriate value in kilograms and (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 be stated as a single value, with the label indicating to which axles the ratings apply.

(v) Vehicle Identification Number.

(c) *Intermediate manufacturers.* (1) Except as provided in paragraphs (f) and (g) of this section and notwithstanding the certification of a final-stage manufacturer under § 567.5(d)(2)(v), each intermediate manufacturer of a vehicle manufactured in two or more stages assumes legal responsibility for all certification-related duties and liabilities under the Vehicle Safety Act with respect to:

(i) Components and systems it installs or supplies for installation on the incomplete vehicle, unless changed by a subsequent manufacturer;

(ii) The vehicle as further manufactured or completed by an intermediate or final-stage manufacturer, to the extent that the vehicle is completed in accordance with the addendum to the IVD furnished by the intermediate vehicle manufacturer;

(iii) Any work done by the intermediate manufacturer on the incomplete vehicle that was not performed in accordance with the IVD

or an addendum of a prior intermediate manufacturer; and

(iv) The accuracy of the information in any addendum to the IVD furnished by the intermediate vehicle manufacturer.

(2) Except as provided in paragraphs (f) and (g) of this section, each intermediate manufacturer of an incomplete vehicle shall affix an information label, in a manner that does not obscure the labels applied by previous stage manufacturers, to each incomplete vehicle, which contains the following statements:

(i) Name of intermediate manufacturer, preceded by the words "INTERMEDIATE MANUFACTURE BY" or "INTERMEDIATE MFR".

(ii) Month and year in which the intermediate manufacturer performed its last manufacturing operation on the incomplete vehicle. This may be spelled out, as "JUNE 2000", or expressed as numerals, as "6/00". No preface is required.

(iii) "Gross Vehicle Weight Rating" or "GVWR", followed by the appropriate value in kilograms and (pounds), if different from that identified by the incomplete vehicle manufacturer.

(iv) "Gross Axle Weight Rating" or "GAWR" followed by the appropriate value in kilograms and (pounds), if different from that identified by the incomplete vehicle manufacturer.

(v) Vehicle identification number.

(d) *Final-stage manufacturers.* (1) Except as provided in paragraphs (f) and (g) of this section, each final-stage manufacturer of a vehicle manufactured in two or more stages assumes legal responsibility for all certification-related duties and liabilities under the Vehicle Safety Act, except to the extent that the incomplete vehicle manufacturer or an intermediate manufacturer has provided equipment subject to a safety standard or expressly assumed responsibility for standards related to systems and components it supplied and except to the extent that the final-stage manufacturer completed the vehicle in accordance with the prior manufacturers' IVD or any addendum furnished pursuant to 49 CFR part 568, as to the Federal motor vehicle safety standards fully addressed therein.

(2) Except as provided in paragraphs (f) and (g) of this section, each final-stage manufacturer shall affix a certification label to each vehicle, in a manner that does not obscure the labels applied by previous stage manufacturers, and that contains the following statements:

(i) Name of final-stage manufacturer, preceded by the words "MANUFACTURED BY" or "MFD BY".

(ii) Month and year in which final-stage manufacture is completed. This may be spelled out, as in "JUNE 2000", or expressed in numerals, as in "6/00". No preface is required.

(iii) "Gross Vehicle Weight Rating" or "GVWR" followed by the appropriate value in kilograms and (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. However, for school buses the minimum occupant weight allowance shall be 120 pounds per passenger and 150 pounds for the driver.

(iv) "GROSS AXLE WEIGHT RATING" or "GAWR", followed by the appropriate value in kilograms and (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 be stated as a single value, with the label indicating to which axles the ratings apply.

*Examples of combined ratings:*

(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;

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

(v)(A) One of the following alternative certification statements:

(1) "This vehicle conforms to all applicable Federal Motor Vehicle Safety Standards, [and Bumper and Theft Prevention Standards, if applicable] in effect in (month, year)."

(2) "This vehicle has been completed in accordance with the prior manufacturers' IVD, where applicable. This vehicle conforms to all applicable Federal Motor Vehicle Safety Standards, [and Bumper and Theft Prevention Standards, if applicable] in effect in (month, year)."

(3) "This vehicle has been completed in accordance with the prior manufacturers' IVD, where applicable, except for [insert FMVSS(s)]. This vehicle conforms to all applicable Federal Motor Vehicle Safety Standards, [and Bumper and Theft Prevention Standards if applicable] in effect in (month, year)."

(B) The date shown in the statement required in paragraph (d)(2)(v)(A) of this section shall not be earlier than the manufacturing date provided by the incomplete or intermediate stage manufacturer and not later than the date of completion of the final-stage manufacture.

(C) Notwithstanding the certification statements in paragraph (d)(2)(v)(A) of this section, the legal responsibilities and liabilities for certification under the Vehicle Safety Act shall be allocated among the vehicle manufacturers as provided in 567.5(b)(1), (c)(1), and (d)(1), and 49 CFR 568.4(a)(9).

(vi) Vehicle identification number.

(vii) The type classification of the vehicle as defined in 49 CFR 571.3 (*e.g.*, truck, MPV, bus, trailer).

(e) More than one set of figures for GVWR and GAWR, and one or more tire sizes, may be listed in satisfaction of the requirements of paragraphs (d)(2)(iii) and (iv) of this section, as provided in § 567.4(h).

(f) If an incomplete vehicle manufacturer assumes legal responsibility for all duties and liabilities for certification under the Vehicle Safety Act, with respect to the vehicle as finally manufactured, the incomplete vehicle manufacturer shall ensure that a label is affixed to the final vehicle in conformity with paragraph (d) of this section, except that the name of the incomplete vehicle manufacturer shall appear instead of the name of the final-stage manufacturer after the words "MANUFACTURED BY" or "MFD BY" required by paragraph (d)(2)(i) of this section.

(g) If an intermediate manufacturer of a vehicle assumes legal responsibility for all duties and liabilities for certification under the Vehicle Safety Act, with respect to the vehicle as finally manufactured, the intermediate manufacturer shall ensure that a label is affixed to the final vehicle in conformity with paragraph (d) of this section, except that the name of the intermediate manufacturer shall appear instead of the name of the final-stage manufacturer after the words "MANUFACTURED BY" or "MFD BY" required by paragraph (f) of this section.

**§ 567.6. Requirements for persons who do not alter certified vehicles or do so with readily attachable components.**

A person who does not alter a motor vehicle or who alters such a vehicle only by the addition, substitution, or removal of readily attachable components such as mirrors or tires and rim assemblies, or minor finishing operations such as painting, in such a manner that the vehicle's stated weight ratings are still valid, need not affix a label to the vehicle, but shall allow a manufacturer's label that conforms to the requirements of this part to remain affixed to the vehicle. If such a person is a distributor of the motor vehicle, allowing the manufacturer's label to remain affixed to the vehicle shall

satisfy the distributor's certification requirements under the Vehicle Safety Act.

**§ 567.7 Requirements for persons who alter certified vehicles.**

(a) With respect to the vehicle alterations it performs, an alterer:

(1) Has a duty to determine continued conformity of the altered vehicle with applicable Federal motor vehicle safety, Bumper, and Theft Prevention standards, and

(2) Assumes legal responsibility for all duties and liabilities for certification under the Vehicle Safety Act.

(b) The vehicle manufacturer's certification label and any information labels shall remain affixed to the vehicle and the alterer shall affix to the vehicle an additional label in the manner and location specified in § 567.4, in a manner that does not obscure any previously applied labels, and containing the following information:

(1) The statement: "This vehicle was altered by (individual or corporate name) in (month and year in which alterations were completed) and as altered it conforms to all applicable Federal Motor Vehicle Safety, Bumper and Theft Prevention Standards affected by the alteration and in effect in (month, year)." The second date shall be no earlier than the date of manufacture of the certified vehicle (as specified on the certification label), and no later than the date alterations were completed.

(2) If the gross vehicle weight rating or any of the gross axle weight ratings of the vehicle as altered are different from those shown on the original certification label, the modified values shall be provided in the form specified in § 567.4(g)(3) and (4).

(3) If the vehicle as altered has a different type classification from that shown on the original certification label, the type as modified shall be provided.

■ 5. Part 568 is revised to read as follows:

**PART 568—VEHICLES  
MANUFACTURED IN TWO OR MORE  
STAGES—ALL INCOMPLETE,  
INTERMEDIATE AND FINAL-STAGE  
MANUFACTURERS OF VEHICLES  
MANUFACTURED IN TWO OR MORE  
STAGES**

Sec.

568.1 Purpose and scope.

568.2 Application.

568.3 Definitions.

568.4 Requirements for incomplete vehicle manufacturers.

568.5 Requirements for intermediate manufacturers.

568.6 Requirements for final-stage manufacturers.

568.7 Requirements for manufacturers who assume legal responsibility for a vehicle.

**Authority:** 49 U.S.C. 30111, 30115, 30117, 30166 delegation of authority at 49 CFR 1.50.

**§ 568.1 Purpose and scope.**

The purpose of this part is to prescribe the method by which manufacturers of vehicles manufactured in two or more stages shall ensure conformity of those vehicles with the Federal motor vehicle safety standards ("standards") and other regulations issued under the National Traffic and Motor Vehicle Safety Act, as amended (49 U.S.C. § 30115) and the Motor Vehicle Information and Cost Savings Act, as amended (49 U.S.C. 32504 and 33108(c)).

**§ 568.2 Application.**

This part applies to incomplete vehicle manufacturers, intermediate manufacturers, and final-stage manufacturers of vehicles manufactured in two or more stages.

**§ 568.3 Definitions.**

All terms that are defined in the Act and the rules and standards issued under its authority are used as defined therein. The term "bumper" has the meaning assigned to it in Title I of the Cost Savings Act and the rules and standards issued under its authority. The definitions contained in 49 CFR Part 567 apply to this part.

**§ 568.4 Requirements for incomplete vehicle manufacturers.**

(a) The incomplete vehicle manufacturer shall furnish for each incomplete vehicle, at or before the time of delivery, an incomplete vehicle document ("IVD") that contains the following statements, in the order shown, and all other information required by this part to be included therein:

(1) Name and mailing address of the incomplete vehicle manufacturer.

(2) Month and year during which the incomplete vehicle manufacturer performed its last manufacturing operation on the incomplete vehicle.

(3) Identification of the incomplete vehicle(s) to which the document applies. The identification shall be by vehicle identification number (VIN) or groups of VINs to permit a person to ascertain positively that a document applies to a particular incomplete vehicle after the document has been removed from the vehicle.

(4) Gross vehicle weight rating (GVWR) of the completed vehicle for which the incomplete vehicle is intended.

(5) Gross axle weight rating (GAWR) for each axle of the completed vehicle, listed and 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 incomplete vehicle manufacturer, be stated as a single value, with the label indicating to which axles the ratings apply.

*Examples of combined ratings:*

(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.

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

(6) Listing of the vehicle types as defined in 49 CFR 571.3 (e.g., truck, MPV, bus, trailer) into which the incomplete vehicle may appropriately be manufactured.

(7) Listing, by number, of each standard, in effect at the time of manufacture of the incomplete vehicle, that applies to any of the vehicle types listed in paragraph (a)(6) of this section, followed in each case by one of the following three types of statement, as applicable:

(i) Type 1—A statement that the vehicle when completed will conform to the standard if no alterations are made in identified components of the incomplete vehicle.

*Example:* 104—This vehicle when completed will conform to FMVSS No. 104, Windshield Wiping and Washing Systems, if no alterations are made in the windshield wiper components.

(ii) Type 2—A statement of specific conditions of final manufacture under which the manufacturer specifies that the completed vehicle will conform to the standard.

*Example:* 121—This vehicle when completed will conform to FMVSS No. 121, Air Brake Systems, if it does not exceed any of the gross axle weight ratings, if the center of gravity at GVWR is not higher than nine feet above the ground, and if no alterations are made in any brake system component.

(iii) Type 3—A statement that conformity with the standard cannot be determined based upon the components supplied on the incomplete vehicle, and that the incomplete vehicle manufacturer makes no representation as to conformity with the standard.

(8) Each document shall contain a table of contents or chart summarizing all the standards applicable to the vehicle pursuant to 49 CFR 568.4(a)(7).

(9) A certification that the statements contained in the incomplete vehicle document are accurate as of the date of manufacture of the incomplete vehicle and can be used and relied on by any intermediate and/or final-stage manufacturer as a basis for certification.

(b) To the extent the IVD expressly incorporates by reference body builder or other design and engineering guidance (Reference Material), the incomplete vehicle manufacturer shall make such Reference Material readily available to subsequent manufacturers. Reference Materials incorporated by reference in the IVD shall be deemed to be part of the IVD.

(c) The IVD shall be attached to the incomplete vehicle in such a manner that it will not be inadvertently detached, or alternatively, it may be sent directly to a final-stage manufacturer, intermediate manufacturer or purchaser for purposes other than resale to whom the incomplete vehicle is delivered. The Reference Material in paragraph (b) of this section need not be attached to each vehicle.

#### **§ 568.5 Requirements for intermediate manufacturers.**

Each intermediate manufacturer of a vehicle manufactured in two or more stages shall furnish to the final-stage manufacturer the document required by 49 CFR 568.4 in the manner specified in that section. If any of the changes in the vehicle made by the intermediate manufacturer affects the validity of the statements in the IVD, that manufacturer shall furnish an addendum to the IVD that contains its name and mailing address and an indication of all changes that should be made in the IVD to reflect changes that it made to the vehicle. The addendum shall contain a certification by the intermediate manufacturer that the statements contained in the addendum are accurate as of the date of manufacture by the intermediate manufacturer and can be used and relied on by any subsequent intermediate manufacturer(s) and the final-stage manufacturer as a basis for certification.

#### **§ 568.6 Requirements for final-stage manufacturers.**

Each final-stage manufacturer shall complete the vehicle in such a manner that it conforms to the applicable standards in effect on the date selected by the final-stage manufacturer, including the date of manufacture of the incomplete vehicle, the date of final completion, or a date between those two dates. This requirement shall, however, be superseded by any conflicting provisions of a standard that applies by its terms to vehicles manufactured in two or more stages.

#### **§ 568.7 Requirements for manufacturers who assume legal responsibility for a vehicle.**

(a) If an incomplete vehicle manufacturer assumes legal

responsibility for all duties and liabilities imposed on manufacturers by the National Traffic and Motor Vehicle Safety Act, as amended (49 U.S.C. chapter 301) (hereafter referred to as the Act), with respect to a vehicle as finally manufactured, the requirements of §§ 568.4, 568.5 and 568.6 do not apply to that vehicle. In such a case, the incomplete vehicle manufacturer shall ensure that a label is affixed to the final vehicle in conformity with 49 CFR 567.5(f).

(b) If an intermediate manufacturer of a vehicle assumes legal responsibility for all duties and liabilities imposed on manufacturers by the Vehicle Safety Act, with respect to the vehicle as finally manufactured, §§ 568.5 and 568.6 do not apply to that vehicle. In such a case, the intermediate manufacturer shall ensure that a label is affixed to the final vehicle in conformity with 49 CFR 567.5(g). The assumption of responsibility by an intermediate manufacturer does not, however, change the requirements for incomplete vehicle manufacturers in § 568.4.

### **PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**

■ 7. The authority citation for part 571 of title 49 continues to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, 30166 delegation of authority at 49 CFR 1.50.

■ 8. Section 571.8 is revised to read as follows:

#### **§ 571.8 Effective date.**

(a) *Firefighting vehicles.* Notwithstanding the effective date provisions of the motor vehicle safety standards in this part, the effective date of any standard or amendment of a standard issued after September 1, 1971, to which firefighting vehicles must conform shall be, with respect to such vehicles, either 2 years after the date on which such standard or amendment is published in the rules and regulations section of the **Federal Register**, or the effective date specified in the notice, whichever is later, except as such standard or amendment may otherwise specifically provide with respect to firefighting vehicles.

(b) *Vehicles built in two or more stages vehicles and altered vehicles.* Unless Congress directs or the agency expressly determines that this paragraph does not apply, the date for manufacturer certification of compliance with any standard, or amendment to a standard, that is issued on or after September 1, 2006 is, insofar as its application to intermediate and final-stage manufacturers and alterers is



concerned, one year after the last applicable date for manufacturer certification of compliance. Nothing in this provision shall be construed as prohibiting earlier compliance with the

standard or amendment or as precluding NHTSA from extending a compliance effective date for intermediate and final-stage manufacturers and alterers by more than one year.

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**Jeffrey W. Runge,**  
*Administrator.*

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