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NHTSA Manufacturer Identification Registration Process: A Quick Guide

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The automotive supply chain bears complexity in its production and its regulation. Automotive manufacturers, their original equipment manufacturers (OEMs), and aftermarket parts producers are required to comply with the Federal Motor Vehicle Safety Standards (FMVSS) in the production of vehicles and equipment. The FMVSS are promulgated and enforced by the National Highway Traffic Safety Administration (NHTSA) pursuant to the National Traffic and Motor Vehicle Safety Act of 1966 at 49 USC Chapter 301 (the Vehicle Safety Act). Implementing regulations are found at 49 CFR Parts 500-599.

Production of regulated vehicles and equipment requires observance of a "self-certification" process by manufacturers. In essence, the Vehicle Safety Act requires manufacturers to certify that motor vehicles and regulated component parts offered for sale in the United States comply with all applicable FMVSS. [*See* 49 USC 30115.] NHTSA provides oversight in part by requiring manufacturers to engage in a registration process. However, the Administration does not otherwise issue approval certifications on vehicles or equipment guaranteeing compliance with the applicable FMVSS. Registrations submitted under Part 566 (described below in Section I) are published on the NHTSA website under its list of manufacturers.

Before offering a motor vehicle or motor vehicle equipment item for sale in the United States, the fabricating manufacturer must: (1) designate a permanent resident of the United States as its agent for service of process if the fabricating manufacturer is not located in the United States [49 CFR Part 551, Subpart D *Service of Process on Foreign Manufacturers and Importers*] and (2) submit to NHTSA identifying information on itself and on the products it manufactures to the FMVSS, not later than 30 days after the manufacturing process begins [49 CFR Part 566 *Manufacturer Identification*]. NHTSA maintains on its web site a list of manufacturers that have made Part 566 submissions.

The importance of registration with NHTSA-and designation of domestic agents for foreign manufacturers looking to enter the domestic United States market-has significant public safety implications as well as material risk implications for manufacturers. These compliance activities carry substantial civil penalties for noncompliance as shown at 49 CFR 578.6. Key elements of the registration and agent designation process are outlined below.

1. Manufacturer Registration

NHTSA requires manufacturers of motor vehicles and equipment to which the FMVSS apply to submit identifying information and a description of those items they produce. [*See* 49 CFR 566.1, 566.3.] Successful registration yields a numbered identification code for the tracking and regulation of manufacturers and their equipment. [49 CFR 566.2.] This code is generally required to appear on all regulated vehicles and equipment sold in the United States. Any material changes to registration information on file must be submitted to NHTSA within 30 days. [49 CFR 566.6.]

The registration process involves submission of a Part 566 application no later than 30 days after manufacturing begins. The application requires typical demographic information as well as detailed descriptions of the motor vehicle or covered equipment produced by the manufacturer. [49 CFR 566.5.] NHTSA's vPIC Manufacturer Portal is intended to be used as the platform for submission. In practice, submission often includes a cover letter describing whether it is a new submission or an update and requesting written confirmation of receipt. Certain products require specialized submissions for plant codes, including for production of brake hoses, glazing materials, new tires, retreaded tires, and adapted vehicles. Manufacturers can search the Manufacturer's Information Database (MID) after the registration process is complete in order to confirm information submitted.

2. Foreign (non-US) Designation of Agent

All foreign manufacturers, assemblers, and importers of motor vehicles or motor vehicle equipment must comply with 49 CFR Part 551 and designate a permanent United States resident as an agent for service of process before offering a motor vehicle or item of motor vehicle equipment for importation into the United States. [49 CFR 551.46.] This submission establishes a contact within the United States for the purpose of receiving administrative or judicial notices or processes. This application under Part 551 is a condition precedent to registration under Part 566. Like the Part 566 process, it is also largely accomplished through NHTSA's vPIC Manufacturer Portal.

The online Part 551 submission requires detailed demographic information about the foreign manufacture, its brands and product origins, and also information about the domestic United States party that will serve as agent. Upon submission the NHTSA system will immediately issue a PDF version of the designation form for the manufacturer and agent to sign and print. Submitting information online only, without production of the written documentation, will not satisfy the destination requirements under Part 551, Subpart D.

Following Administration review, the foreign manufacturer will receive a Part 551 acceptance letter from the NHTSA Office of the Chief Counsel. This letter must be submitted together with all other required information to accomplish the Part 566 registration process described above in Section I. The letter is often presented as an enclosure to the cover letter associated with the application. The registration process for foreign manufacturers generally aligns with the process for domestic manufactures after the Part 551 designation is complete.

Benesch's team are experienced in accomplishing NHTSA registrations under Parts 566 and 551 for our clients in the automotive sector. Jonathan Todd is a partner in the Transportation & Logistics practice at Benesch. He may be reached at (216) 363-4658 or jtodd@beneschlaw.com. John Dagon is an associate in the firm's Transportation & Logistics and Litigation practices. He may be reached at (216) 363-6124 or jdagon@beneschlaw.com.