CLIENT ALERTS & INSIGHTS

NHTSA Manufacturer Registration Process

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Authors: Jonathan R. Todd, J. Philip Nester, Robert (Bob) Pleines, Jr.

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Vehicle manufacturing is a highly regulated process for good reason. The lives of all on the U.S. roadways are at stake every moment during operation.

Entry to the U.S. market as a motor vehicle manufacturer or as a motor vehicle equipment manufacturer (Manufacturers) requires application for registration with the National Highway Traffic Safety Administration (NHTSA). NHTSA is the federal agency with jurisdiction over Manufacturers and importers of motor vehicles and motor vehicle equipment. It is tasked with ensuring industry-wide compliance with Federal Motor Vehicles Safety Standards (FMVSS) by conducting investigations, audits, and inspections, and issuing motor vehicle or motor vehicle equipment recalls as necessary.

It is common for domestic and foreign Manufacturers to not know that there is a registration requirement or to experience hurdles during the months-long, multipart process that often requires working closely with NHTSA. Applicants must provide detailed company information, designation of an official representative to liaise with the agency, and submission of a number of supporting documents, including a statement of FMVSS compliance, marketing and advertising information, and motor vehicle or motor vehicle equipment specifications.

Frequent questions arise on whether an operation is or is not a regulated activity. The term “Manufacturer” refers to “a person manufacturing or assembling motor vehicles or motor vehicle equipment; or importing motor vehicles or motor vehicle equipment for resale.” [49 U.S.C. § 30102(a)(6).] Manufacturers must register with NHTSA in a time-consuming process. The registration requirement includes electric vehicles (EVs), autonomous vehicles (AVs), and even converting internal combustion engine vehicles (ICEVs) to EVs as an “Alterer,” which means a person who by addition, substitution, or removal of components alters a certified vehicle before the first purchase of the vehicle.

A threshold question as part of the registration process is precisely what category of Manufacturer or equipment is intended by the registrant. The available options are found at 49 CFR 567.3 and include the following options.

> **Final-Stage Manufacturer:** A person who performs manufacturing operations on an incomplete vehicle to turn it into a completed vehicle, or vehicle that requires no further manufacturing operating to perform its intended functions.
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> **Incomplete Vehicle Manufacturer:** A manufacturer who assembles components that do not, when taken separately, constitute an incomplete vehicle, meaning an assemblage consisting of at least a chassis 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.

Intermediate Manufacturer: A person who performs manufacturing operations on a vehicle manufactured in two or more stages, but does not meet the description of an incomplete vehicle manufacturer or a final-stage manufacturer.

Replica Motor Vehicle: A vehicle produced by a low-volume manufacturer that is intended to resemble the body of another motor vehicle manufactured not less than 25 years before the manufacture of the replica motor vehicle. A replica motor vehicle is manufactured in a single state and the manufacturer cannot produce more than 325 replica motor vehicles in a calendar year.

Completing the NHTSA registration process is an important step in launching new operations and new product lines, and for foreign manufacturers it is a critical item in U.S. market entry. FMVSS compliance in fact begins with properly completing this process. Navigating the registration process can be onerous for companies that have multiple motor vehicle makes and models or that produce motor vehicle equipment or component parts. Start-ups and foreign Manufacturers will be well served to consider the necessary strategic planning to ensure compliance with the agency's regulations, which includes an ongoing commitment to monitor and satisfy any changes or updates to the FMVSS that can impact future production. Failure to do so can result in detentions at U.S. ports during attempted import and, in the extreme, forced re-export of that equipment.

Benesch's Transportation & Logistics Group is experienced in counseling clients to accomplish NHTSA Manufacturer registration across the continuum of the automotive sector as well as FMVSS compliance matters.

Jonathan Todd is Vice Chair of Benesch's Transportation & Logistics Practice Group. He can be reached at 216.363.4658 or jtodd@beneschlaw.com.

Philip Nester is a Senior Managing Associate in the Group. He can be reached at 216.363.6240 or jpnester@beneschlaw.com.

Robert Pleines, Jr. is a Managing Associate in the Group. He can be reached at 216.363.4491 or rpleines@beneschlaw.com.