

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 567****[Docket No. NHTSA–2012–0093, Notice 1]****RIN 2127–AL18****Vehicle Certification; Contents of Certification Labels****AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: This document proposes to clarify the National Highway Traffic Safety Administration (NHTSA) regulations that prescribe the format and contents of certification labels that manufacturers are statutorily required to affix to motor vehicles manufactured for sale in the United States. The proposal would require specified language on the certification labels for certain types of vehicles.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than September 5, 2012.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may

review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit <http://DocketInfo.dot.gov>.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, 1200 New Jersey Avenue SE., Washington, DC 20590; (202) 366–3151.

SUPPLEMENTARY INFORMATION: NHTSA published a final rule on February 14, 2005 (70 FR 7414) that amended title 49 of the Code of Federal Regulations with regard to the certification of vehicles. In amending the certification label requirements, the agency inadvertently omitted from 49 CFR 567.4(g)(5) the requirement that manufacturers include a specific statement in the certification labels that they affix to certain types of motor vehicles. This rulemaking corrects that inadvertent omission.

Background and Amendments: Under the National Traffic and Motor Vehicle Safety Act of 1966, as amended, (49 U.S.C. 30112(a), 30115), a motor vehicle manufactured for sale in the United States must be manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) and bear a label certifying such compliance that is permanently affixed by the vehicle's manufacturer. The label constitutes the manufacturer's certification that the vehicle complies with the applicable standards. Under 49 CFR 567.4, the label, among other things, must identify the vehicle's manufacturer, its date of manufacture, the Gross Vehicle Weight Rating or GVWR, the Gross Axle Weight Rating or GAWR of each axle, the vehicle type classification (e.g., passenger car, multipurpose passenger vehicle, truck, bus, motorcycle, trailer, low-speed vehicle), and the vehicle's Vehicle Identification Number or "VIN." The certification label must also contain a variant of the statement: "This vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture shown above." For example, passenger cars are subject to safety, bumper, and theft prevention standards; therefore, a passenger car certification label must contain 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" as it appears in this statement.

In the final rule published on February 14, 2005 (70 FR 7414), 49 CFR 567.4(g)(5) was amended by replacing the statement "This vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture shown above" with the language, "One of the following statements, as appropriate" followed by subparagraphs i, ii, and iii, which pertain, respectively, to passenger cars, multipurpose passenger vehicles (MPVs) and trucks with a GVWR of 6,000 pounds or less, and multipurpose passenger vehicles and trucks with a GVWR of over 6,000 pounds. Manufacturers of other types of vehicles remained subject to the statutory duty to certify these vehicles to the applicable FMVSSs. And the logical certification language was for these manufacturers to state: "This vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture shown above." But due to an inadvertent omission in the course of amendments to the regulations, the regulations did not specifically state that manufacturers of trailers, buses, motorcycles, and low-speed vehicles (those vehicle types not identified by subparagraphs i, ii, and iii) were required to use this specific language.

To address this lack of specificity regarding certification language for certain vehicle types, the agency proposes to amend section 567.4(g) to add a new subparagraph (iv) that would cover these vehicle types. Subparagraphs i, ii, and iii would remain unchanged.

Effective Date: The effective date of the final rule would be 30 days after its issuance.

Rulemaking Analyses and Notices*A. Executive Order 12866 and DOT Regulatory Policies and Procedures*

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or

State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

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 Executive Order 12866. Further, NHTSA has determined that the rulemaking is not significant under Department of Transportation's regulatory policies and procedures. Manufacturers are required by statute (49 U.S.C. 30115(a)) to permanently affix a tag or label to a vehicle certifying the vehicle's compliance with applicable safety standards. The agency is not aware of any manufacturer that has discontinued inserting the certification language on the certification labels affixed to trailers, buses, motorcycles, and low-speed vehicles manufactured since the regulations were revised in 2005. Based on this, NHTSA anticipates that if made final, the costs of the proposed rule would be so minimal as not to warrant preparation of a regulatory evaluation. The action does not involve any substantial public interest or controversy. If made final, the rule would have no substantial effect upon State and local governments. There would be no substantial impact upon a major transportation safety program.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (95 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) provides that no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this proposed rulemaking under the

Regulatory Flexibility Act, and certifies that if the proposed amendments are adopted they will not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a final regulatory flexibility analysis for this proposed rulemaking. NHTSA makes these statements on the basis that covered entities have been and are subject to a statutory obligation to certify vehicles they manufacture, the proposed rulemaking merely restores text that was part of the regulation before it was last amended in 2005 and manufacturers have continued to affix labels that include the appropriate certification language on trailers, buses, motorcycles, and low-speed vehicles manufactured since then. As a consequence, this rulemaking will not impose any significant costs on anyone. Therefore, it has not been necessary for NHTSA to conduct a regulatory evaluation or Regulatory Flexibility Analysis for this proposed rulemaking.

The costs of the underlying rule were analyzed at the time of its issuance as a final rule. At that time, we explained that the rule did not impose any significant economic impact on a substantial number of small businesses. The rule did not have a significant economic impact on these entities. The agency explained that the rule would reduce burdens on final-stage manufacturers, many of which are small businesses.

The agency is not aware that any vehicle manufacturers have stopped including the certification language that is the subject of this rule on the labels they affix to trailers, buses, motorcycles, or low-speed vehicles. For this reason, we view this proposed rulemaking as merely restoring to the regulation text that was inadvertently omitted in the 2005 amendment and find that there is no change in the meaning or application of the rule as explained in the preamble at 70 FR 7414.

C. Executive Order 13132 (Federalism)

Executive Order 13132 on "Federalism" requires NHTSA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications." Executive Order 13132 defines the term "policies that have federalism implications" to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive

Order 13132, NHTSA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

The proposed rule would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rulemaking action.

D. Executive Order 12988 (Civil Justice Reform)

Executive Order 12988 requires that agencies review proposed regulations and legislation and adhere to the following general requirements: (1) The agency's proposed legislation and regulations shall be reviewed by the agency to eliminate drafting errors and ambiguity; (2) The agency's proposed legislation and regulations shall be written to minimize litigation; and (3) The agency's proposed legislation and regulations shall provide a clear legal standard for affected conduct rather than a general standard, and shall promote simplification and burden reduction.

When promulgating a regulation, Executive Order 12988 specifically requires the agency to make every reasonable effort to ensure that the regulation, as appropriate: (1) Specifies in clear language the preemptive effect; (2) specifies in clear language the effect on existing Federal law or regulation, including all provisions repealed, circumscribed, displaced, impaired, or modified; (3) provides a clear legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction; (4) specifies in clear language the retroactive effect; (5) specifies whether administrative proceedings are to be required before parties may file suit in court; (6) explicitly or implicitly defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship of regulations.

NHTSA has reviewed this proposed rulemaking according to the general requirements and the specific requirements for regulations set forth in

Executive Order 12988. This proposed rulemaking simply restores text that existed before the regulation was amended in 2005 and makes clear the requirement that manufacturers include language in the certification labels that they must affix to vehicles under 49 U.S.C. 30115 and the regulations at 49 CFR part 567. This change does not result in any preemptive effect and does not have a retroactive effect. A petition for reconsideration or other administrative proceeding is not required before parties may file suit in court.

E. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) 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 the base year of 1995). Before promulgating a rule for which a written assessment is needed, Section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and to adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of Section 205 do not apply when they are inconsistent with applicable law. Moreover, Section 205 allows NHTSA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted. Because a final rule based on this proposal would not require the expenditure of resources beyond \$100 million annually, this action is not subject to the requirements of Sections 202 and 205 of the UMRA.

F. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the proposed rule clearly stated?
- Does the proposed rule contain technical language or jargon that is unclear?

—Would a different format (grouping and order of sections, use of heading, paragraphing) make the rule easier to understand?

—Would more (but shorter) sections be better?

—Could we improve clarity by adding tables, lists, or diagrams?

—What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this document.

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 proposed rule includes a "collection of information," as that term is defined in 5 CFR part 1320 *Controlling Paperwork Burdens on the Public*, because it requires manufacturers to insert text in the certification labels they affix to trailers, buses, motorcycles, and low-speed vehicles that is not specified in the regulations as they currently exist. There is no burden on the general public.

OMB has approved NHTSA's collection of information associated with motor vehicle labeling requirements under OMB clearance no. 2127-0512, *Consolidated Labeling Requirements for Motor Vehicles (Except the Vehicle Identification Number)*. NHTSA's request for the extension of this approval was granted on June 6, 2011, and remains in effect until June 30, 2014. For the following reasons, NHTSA believes that the requirements that would be imposed by this rule will not increase the information collection burden on the public. Manufacturers of all motor vehicles manufactured for sale in the United States are required by statute to certify their vehicles' compliance with all applicable Federal motor vehicle safety standards. See 49 U.S.C. 30115(a). The statute provides that "[c]ertification of a vehicle must be shown by a label or tag permanently fixed to the vehicle." *Ibid.* To satisfy this requirement, manufacturers of all motor vehicles, including trailers, buses, motorcycles, and low-speed vehicles, have been affixing certification labels to those vehicles containing the required certification language even though there has been no language addressing this issue in the regulations since the regulations were amended in 2005. Reinstating the specific language into the regulations will therefore not increase the paperwork burden on those manufacturers.

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 rule is preferable to other potentially effective and reasonably feasible alternatives considered by us. This rulemaking is not economically significant and does not concern an environmental, health, or safety risk.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272) directs NHTSA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs the agency to provide Congress, through the OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

In this proposed rule, we propose adding to 49 CFR 567.4(g)(5) the requirement that manufacturers include in the certification labels that they affix to certain types of motor vehicles a statement certifying that the vehicle conforms to all applicable FMVSS. This language was inadvertently omitted from the regulation in 2005 and we are proposing no substantive changes to the regulation nor do we propose any technical standards. For these reasons, Section 12(d) of the NTTAA would not apply.

J. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments. Your comments must not be more than 15 pages long. 49 CFR 553.21. We established this limit to encourage

you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the beginning of this document, under **ADDRESSES**. You may also submit your comments electronically to the docket following the steps outlined under **ADDRESSES**.

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit the following to the NHTSA Office of Chief Counsel (NCC-110), 1200 New Jersey Avenue SE., Washington, DC 20590: (1) A complete copy of the submission; (2) a redacted copy of the submission with the confidential information removed; and (3) either a second complete copy or those portions of the submission containing the material for which confidential treatment is claimed and any additional information that you deem important to the Chief Counsel's consideration of your confidentiality claim. A request for confidential treatment that complies with 49 CFR Part 512 must accompany the complete submission provided to the Chief Counsel. For further information, submitters who plan to request confidential treatment for any portion of their submissions are advised to review 49 CFR part 512, particularly those sections relating to document

submission requirements. Failure to adhere to the requirements of part 512 may result in the release of confidential information to the public docket. In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at the address given at the beginning of this document under **ADDRESSES**.

Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated at the beginning of this notice under **DATES**. In accordance with our policies, to the extent possible, we will also consider comments that Docket Management receives after the specified comment closing date. If Docket Management receives a comment too late for us to consider in developing the proposed rule, we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address and times given near the beginning of this document under **ADDRESSES**.

You may also see the comments on the Internet. To read the comments on the Internet, go to <http://www.regulations.gov> and follow the on-line instructions provided. You may download the comments. The comments are imaged documents, in either TIFF or PDF format. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

K. 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.

List of Subjects in 49 CFR Part 567

Labeling, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA proposes to amend part 567, Certification, in Title 49 of the Code of Federal Regulations as follows:

PART 567—CERTIFICATION

1. The authority citation continues to read as follows:

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.

2. Amend § 567.4(g) by adding paragraph (g)(5)(iv) to read as follows:

§ 567.4 Requirements for manufacturers of motor vehicles.

* * * * *

(g) * * *

(5) * * *

(iv) For all other vehicles, 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".

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Issued On: July 20, 2012.

Daniel C. Smith,

Senior Associate Administrator for Vehicle Safety.

[FR Doc. 2012-18338 Filed 8-3-12; 8:45 am]

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