

Dated: December 22, 1998.

**R.C. North,**

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99-56 Filed 1-4-99; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**RTCA Special Committee 189/  
EUROCAE Working Group 53; Air  
Traffic Services Safety and  
Interoperability Requirements**

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a joint Special Committee (SC)-189/EUROCAE Working Group (WG)-53 meeting to be held February 8-12, 1999, starting at 9:00 a.m. on February 8. The meeting will be held at MAEVA Latitudes, Seilh (30 kilometers from Toulouse), Route de Grenade, 31840 Seilh, France: (33) 5 62 13 14 15 (phone), (33) 5 61 59 77 97 (fax). The host, Serge Bagieu, Aerospatiale, may be reached at (33) 5 61 18 15 81 (phone), (33) 5 61 93 80 90 (fax), or serge.bagieu@avions.aerospatiale.fr (e-mail).

The agenda will be as follows: Monday, February 8, Opening Plenary Session Convened at 9:00 a.m.: (1) Introductory Remarks; (2) Review and Approval of the Agenda (Monday); (3) Review and Approval of Summary of the Previous Meeting; (4) Sub-Group and Related Reports; (5) Position Papers Planned for Plenary Agreement; (6) SC-189/WG-53 Co-chair Progress Report. Tuesday, February 9-Thursday, February 11: (7) Sub-group Meetings (Sub-group 1, Interoperability Requirements; Sub-group 2, Safety Requirements; Sub-group 3, Performance Requirements). Friday, February 12, Closing Plenary Session: (8) Introductory Remarks; (9) Review and Approval of Agenda (Friday); (10) Review of Preliminary Meeting Minutes; (11) Sub-group and Related Reports; (12) Position Papers Planned for Plenary Agreement; (13) SC-189/WG-53 Co-chair Progress Report and Wrap-up.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC

20036, by phone at (202) 833-9339, by fax at (202) 833-9434, or by e-mail at hmoses@rtca.org. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on December 28, 1998.

**Richard A. Cox,**

Designated Official.

[FR Doc. 99-82 Filed 1-4-99; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety  
Administration**

[Docket No. NHTSA-98-4956, Notice 1]

RIN 2127-AH29

**Agency Priorities and Public  
Participation in the Implementation of  
the 1998 Agreement on Global  
Technical Regulations; Statement of  
Policy**

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

**ACTION:** Request for comments; notice of public workshop.

**SUMMARY:** NHTSA is holding a public workshop and soliciting written public comments on a draft statement of policy concerning (1) agency's priorities in the implementation of the United Nations/Economic Commission for Europe 1998 Agreement on Global Technical Regulations for Wheeled Vehicles, Equipment and Parts, and (2) this agency's activities and practices for facilitating public participation in the implementation of the 1998 Agreement. The policy statement would go into effect when the 1998 Agreement enters into force. The notice also explores other methods for promoting public participation, e.g., the possibility of including members of the public as advisers in the NHTSA delegation.

The U.S. Environmental Protection Agency (EPA) which, together with NHTSA, negotiated the Agreement for the U.S., will participate in the public workshop. EPA plans to issue a similar statement of policy.

**DATES:** Public workshop: The public workshop will be held on February 3, 1999, from 9:00 a.m. to 5:00 p.m.

Those wishing to participate in the workshop should contact Ms. Julie Abraham by February 1, 1999.

**Written comments:** Written comments may be submitted to this agency and must be received by February 18, 1999.

**ADDRESSES:** Public workshop: The public workshop will be held in rooms

6200-6204 of the Nassif Building, 400 Seventh St. SW, Washington DC 20590.

**Written comments:** All written comments must refer to the docket and notice number of this notice and be submitted (preferably 2 copies) to the Docket Management, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590. (Docket Room is open 10:00 a.m. to 5:00 p.m., Monday through Friday.)

**FOR FURTHER INFORMATION CONTACT:**

Ms. Julie Abraham, Director, Office of International Harmonization, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC. Telephone: (202) 366-2114. Fax: (202) 366-2106.

Ms. Rebecca MacPherson, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, DC 20590. Telephone: (202) 366-2992. Fax: (202) 366-3820.

**SUPPLEMENTARY INFORMATION:**

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**I. Introduction**

**A. Opening of the 1998 Agreement for Signature**

On June 25, 1998, the U.S. became the first signatory to the United Nations/Economic Commission for Europe (UN/ECE)<sup>1</sup> Agreement Concerning the Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts Which Can Be Fitted And/or Be Used on Wheeled Vehicles (the "1998 Agreement"). This agreement was negotiated under the

<sup>1</sup> The Economic Commission for Europe was established by the United Nations in 1947 to help rebuild post-war Europe, develop economic activity and strengthen economic relations between European countries and between them and the other countries of the world.

auspices of the UN/ECE under the leadership of the U.S., European Community and Japan.<sup>2</sup> The 1998 Agreement provides for the establishment of global technical regulations regarding the safety, emissions, energy conservation and theft prevention of wheeled vehicles, equipment and parts. The covered equipment and parts include, but are not limited to, exhaust systems, tires, engines, acoustic shields, anti-theft alarms, warning devices, and child restraint systems.

#### *B. Purpose of and Need for 1998 Agreement*

The decision of the U.S. to sign the 1998 Agreement and participate in a global standards development process is a critical step toward a cooperative worldwide search for best safety and environmental practices. The U.S. does not have a vote under an existing earlier UN/ECE agreement regarding wheeled vehicles, equipment and parts, known as the 1958 Agreement, since the U.S. is not a signatory to that agreement.<sup>3</sup> This

<sup>2</sup> At the opening of the 1998 agreement for signature, representatives of the European Community and Japan indicated interest in becoming signatories. The representative of the European Community said that the Community is "committed to completing its internal procedures at the earliest opportunity in order to sign the Agreement without delay." Although the representative of Japan did not refer to any specific time frame for Japan's accession to the Agreement, he did state that Japan believes that "it is very important that many countries join this process and cooperate in this forum towards the global harmonization of technical regulations."

<sup>3</sup> In 1955, the United Nations Economic Commission for Europe established, under the Inland Transport Committee, the Working Party on the Construction of Vehicles (commonly known as WP 29). In 1958, WP 29 created procedures for establishing uniform regulations regarding motor vehicles, equipment and parts, including those affecting road safety. These procedures were codified in 1958 by UN/ECE Agreement Concerning the Adoption of Uniform Conditions of Approval and Reciprocal Recognition of Approval for Motor Vehicle Equipment and Parts, (commonly referred to as the 1958 Agreement). The 1958 Agreement also established a system for mutual recognition of each party's approvals of motor vehicle equipment and parts, as long as these approvals were granted in accordance with the 1958 Agreement's conditions. While the original 1958 Agreement dealt primarily with safety issues, in the late 1960s, the Working Group on Pollution and Energy and the Working Group on Noise were instituted as subgroups of WP 29 for the purpose of developing emission and noise regulations respectively, and in 1995, the agreement was revised to include the development of regulations concerning pollution and energy. There are now six Working Groups: the Working Group on Noise; the Working Group on Lighting and Light-Signalling; the Working Group on Pollution and Energy; the Working Group on Brakes and Running Gear; the Working Group on General Safety Provision; and the Working Group on Passive Safety.

Fifty-five countries, including the United States, participate in WP 29. However, only 28 European countries are party to the 1958 Agreement. The WP

has limited the ability of the U.S. to influence the substance of the standards adopted under the 1958 Agreement.

Becoming a Contracting Party to the 1998 Agreement accomplishes several purposes for the U.S. It gives the U.S. a vote in the establishment of global technical regulations for wheeled vehicles, equipment and parts under the UN/ECE and enables the U.S. to take a leading role in effectively influencing the selection of the level of vehicle safety regulations worldwide. This is appropriate since the U.S. has been at the forefront in collecting and analyzing crash data, conducting vehicle safety research, analyzing the impacts of regulatory alternatives, and requiring high levels of safety. The Agreement ensures that U.S. standards and their benefits will be properly considered in any effort to adopt a harmonized global technical regulation.

#### *C. Issue of Public Participation*

Various public interest groups have expressed concerns about the opportunities for the public to participate in activities related to the 1998 Agreement. Similar concerns have been expressed by other groups about other international agreements providing for the establishment of international standards by organizations that meet outside the U.S. The common concern is that global technical regulations will be established abroad without adequate involvement of the American public. In the case of the 1998 Agreement, groups have also expressed the view that the decisions made in Geneva could pre-determine the outcome of subsequent rulemaking proceedings in the U.S., even though Federal motor vehicle safety standards (FMVSSs) cannot be amended or established without satisfaction of the Administrative Procedure Act and the statutory provisions governing the FMVSSs.

#### *D. Purpose of This Notice*

The purpose of this notice is to obtain oral and written comments on a draft policy statement that has two purposes. First, it sets forth a listing of priorities that will guide this agency during its participation in activities under the

29, through its administration of the 1958 Agreement, is the only multinational governmental forum currently coordinating the development of motor vehicle safety and environmental regulations. The 1958 Agreement has provided the European countries with a U.N.-based forum to promulgate their automotive regulations within Europe. More recently, this regulation development forum has become a reference source for motor vehicle regulations for many other parts of the world, which has expanded the adoption of European regulations rather than those of the United States.

1998 Agreement when the Agreement enters into force. Second, it sets forth the practices and activities that this agency could use to ensure that the public has the information and opportunity necessary to follow the development of global technical regulations under the 1998 Agreement and to provide its views, beginning at the earliest stages, regarding those regulations.

## **II. Background**

### *A. May 1998 Final Rule on Process for Assessing Safety Performance and Functional Equivalence of U.S. and Foreign Standards*

On May 13, 1998, this agency published a final rule reaffirming its policy of focusing its international harmonization activities on identifying those foreign vehicle safety standards that clearly reflect best practices, i.e., that require significantly higher levels of safety performance than the counterpart U.S. standard. (63 FR 26508) NHTSA's policy is to upgrade its standards to the level of those foreign standards.

NHTSA emphasized that three goals must remain of primary importance as this agency participates in efforts to explore the possibility of harmonizing its standards with those of other countries and regions in appropriate circumstances. First, this agency must ensure that there is no degradation of the safety provided by a regulation as a result of achieving harmonization. Second, this agency must preserve the quality and transparency of its regulatory process by inviting all interested parties to be heard and duly considered. Third, this agency must preserve its ability to respond, through future rulemaking, to changing safety technology and problems and make appropriate improvements in its safety standards.

The final rule also announced this agency's policy regarding instances in which its comparison of standards indicates that the safety performance required by a foreign standard is not significantly higher, but is still better than or at least as good as that required by the counterpart U.S. standard. In those instances, this agency said that it will consider the possibility of amending the U.S. standard to allow manufacturers to comply with either standard or to harmonize the U.S. standard with the foreign standard.

Since the final rule was issued slightly more than one month before the June 1998 UN/ECE meeting in Geneva at which the U.S. expected to sign the 1998 Agreement, NHTSA reaffirmed in the final rule its commitment to

transparency and public participation in connection with international harmonization activities. With respect to the implementation of the 1998 Agreement, this agency emphasized that it would not only keep the public advised of the key activities and make available key documents relating to the development of vehicle safety standards under the 1998 Agreement, but also provide appropriate, and timely, opportunities for obtaining public input regarding the merits of these matters. This agency said that it would elaborate more fully on its procedures regarding transparency and public participation in the near future.

*B. June 1998 Public Meeting on Initial Plans for Promoting Public Participation in the Implementation of the 1998 Agreement*

In a June 17, 1998 public meeting in Washington, D.C., NHTSA took the next step. It laid out its initial plans for promoting effective public participation at the earliest stage in the consideration of global technical regulations concerning motor vehicle safety. The centerpiece of the plans was a set of activities and practices in the U.S. that would parallel the global technical regulation development process in Geneva. NHTSA said that the activities and practices would include the following measures:

- Access to information. NHTSA will post on its Website information such as a periodically-updated agenda of scheduled meetings of WP 29 and its committees (called working parties of experts) related to the 1998 Agreement; key documents, such as proposed global technical regulations referred under the 1998 Agreement to working parties of experts for their consideration; and working party reports recommending establishment of specific global technical regulations. NHTSA already has worked with the UN/ECE to ensure that the documents generated by WP 29 are accessible on the internet to the public. NHTSA also has worked with the UN/ECE to ensure that the meetings of WP 29 are open to the public.
- Opportunity to be heard. NHTSA will solicit comments from the public at key intervals during the development of global technical regulations. NHTSA will place those comments in the U.S. Department of Transportation's internet-accessible public docket.
- Opportunity to discuss. NHTSA will hold periodic public meetings to discuss developments at recent meetings of WP 29 and its working parties of experts related to the 1998 Agreement.

In addition, this agency invited representatives of the industry and consumer groups and other members of the public to participate as advisers in the U.S. delegation that will attend the meetings of the full membership in Geneva. This agency announced that a public workshop for discussion of the plan will be scheduled and a statement of policy will be published in the **Federal Register** so that the public can review and comment on it.

A broad spectrum of interests were represented at the June public meeting. Among the attendees were representatives of the European Commission, the Japan Automobile Standards Internationalization Center, domestic and foreign motor vehicle manufacturers, and various public interest groups.

Representatives of four public interest groups spoke briefly at the meeting. All four generally supported this agency's planned activities and practices, but urged that even more efforts be made to promote public participation.

Advocates for Highway and Auto Safety (Advocates) said that this agency must do more than offer a chance for the public to comment on technical regulations being developed under the 1998 Agreement. Advocates submitted a paper listing the specific steps that it believed this agency and EPA must take at each of the following three phases of negotiation: before any negotiations begin, during any negotiations, and after negotiations have produced a text of a tentative global technical regulation. For example, it said that this agency must accept public comments before developing its negotiating positions and then must declare those positions before going to Geneva to begin negotiations. If negotiations in Geneva cause this agency to conclude that it is desirable to change a previously declared U.S. negotiating position, this agency's negotiators must first return to the U.S. and seek public comments before actually changing the U.S. position. Before voting on a recommended global technical regulation, this agency must first seek public comment. In addition to providing copies of all key documents, this agency should provide the stated positions of other Contracting Parties to the 1998 Agreement.

The Alliance of Insurance Associations (AIA) endorsed the procedural suggestions made by Advocates. AIA asked that this agency incorporate its public participation measures in a legally binding regulation. That organization also expressed concern about issues related to the World Trade Organization Technical Barriers to Trade Agreement (TBT

Agreement).<sup>4</sup> AIA was particularly concerned that a case could be made under the TBT Agreement against U.S. standards that are higher than the technical regulations adopted under the 1998 Agreement. That organization suggested that objecting countries could argue that the U.S. could have and should have adopted a less trade restrictive approach for achieving the safety benefits in question.

Consumers Union (CU) endorsed the statements by Advocates and AIA. CU urged the establishment of a continuing public forum regarding the implementation of the 1998 Agreement. That organization said that this agency's negotiators<sup>5</sup> should, before going to Geneva, discuss options and alternative

<sup>4</sup>One of the agreements of the Uruguay Round administered by the World Trade Organization (WTO) is the TBT agreement. (<http://www.wto.org>) The purpose of the TBT agreement is to ensure that product standards, technical regulations, and related procedures do not create unnecessary obstacles to trade. At the same time, the TBT agreement clearly recognizes that each country has the right to establish and maintain technical regulations for the protection of human, animal, and plant life and health and the environment, and for prevention against deceptive practices.

In the TBT agreement, the term "standard" is defined as:

[A] document approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for products or related symbols, packaging, marking or labelling requirements as they apply to a product, process or production method.

Also, "technical regulation" is defined as:

[A] document which lays down product characteristics or their related processes and production methods, including applicable administrative provisions, with which compliance is mandatory [emphasis added]. It may also include or deal exclusively with terminology, symbols, packaging, marking, or labelling requirements as they apply to a product, process or production method.

Thus, in the language of the TBT agreement, when a government acts to accept a voluntary standard to make it mandatory, the resulting document is a technical regulation. A measure used to ascertain compliance with a standard or technical regulation is a conformity assessment procedure.

The TBT agreement states that, where technical regulations are required and relevant international standards exist or their completion is imminent, WTO-member countries shall use them, or the relevant parts of them, as a basis for their processes and production methods, with which compliance is not mandatory. It may also include or deal exclusively with terminology, technical regulations, except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfillment of the legitimate objectives pursued. Further, the agreement states that, with a view towards harmonizing technical regulations on as wide a basis as possible, WTO-member countries shall play a full part within the limits of their resources in the preparation by appropriate international standards bodies of international standards for products for which they either have adopted or expect to adopt technical regulations.

<sup>5</sup>NHTSA negotiators include both its representative to WP 29 as well as its representatives on the working parties of experts.

U.S. negotiating positions, how negotiations might go, and where and how far U.S. can or should go in negotiations. CU said that the negotiators should also conduct post-negotiation debriefings. CU mentioned two models that NHTSA could follow in promoting public participation in the implementing of the 1998 Agreement: the U.S. Codex<sup>6</sup> delegation and the U.S. Department of Agriculture's Food Safety Inspection Service. CU urged NHTSA to choose the U.S. Codex delegation, calling it the better of the two models.

The Insurance Institute for Highway Safety expressed support for the views of the other groups and stated that NHTSA's policy with respect to harmonization should always be to harmonize upward and to identify and adopt best safety practices.

### III. Highlights of 1998 Agreement

To aid persons unfamiliar with the 1998 Agreement in gaining an understanding of its provisions, this agency has summarized the key aspects below. The complete text of the Agreement may be found on the Internet at the following address: <http://www.itu.int/itudoc/un/editrans/wp29/wp29wgs/wp29gen/wp29glob.html>.

- The Agreement establishes a global process under the United Nations, Economic Commission for Europe (UN/ECE), for developing and harmonizing global technical regulations ensuring high levels of environmental protection, safety, energy efficiency and anti-theft performance of wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles. Motor vehicle engines are included. (Preamble, Art. 1)

- Members of the ECE, as well as members of the United Nations that participate in ECE activities, are eligible to become Contracting Parties to the 1998 Agreement. Specialized agencies and organizations that have been granted consultative status may participate in that capacity. (Art. 2)

- The Agreement will enter into force by September 26, 1999, if a minimum of five (5) countries or regional economic integration organizations (e.g., the

European Community (EC)) have become Contracting Parties. The five must include the EC, Japan, and U.S. (Art. 11)

If the Agreement does not enter into force by that date, it will enter into force thereafter when a minimum of eight (8) countries or regional economic integration organizations become Contracting Parties. At least one of the eight must be either the EC, Japan, or the U.S. (Art. 11)

- The Agreement explicitly recognizes the importance of continuously improving and seeking high levels of safety and environmental protection and the right of national and subnational authorities, e.g., California, to adopt and maintain technical regulations that are more stringently protective of health and the environment than those established at the global level. (Preamble)

- The Agreement explicitly states that one of its purposes is to ensure that actions under the Agreement do not promote, or result in, a lowering of safety and environmental protection within the jurisdiction of the Contracting Parties, including the subnational level. (Art. 1)

- To the extent consistent with achieving high levels of environmental protection and vehicle safety, the Agreement also seeks to promote global harmonization of motor vehicle and engine regulations. (Preamble)

- The Agreement emphasizes that the development of global technical regulations will be transparent. (Art. 1)

Annex A provides that the term "transparent procedures" includes the opportunity to have views and arguments represented at:

- (1) meetings of Working Parties through organizations granted consultative status; and

- (2) meetings of Working Parties and of the Executive Committee through pre-meeting consulting with representatives of Contracting Parties.

- The Agreement provides two different paths to the establishment of global technical regulations. The first is the harmonization of existing standards. The second is the establishment of a new global technical regulation where there are no existing standards. (Article 6.2 and 6.3)

- The process for developing a harmonized global technical regulation includes a technical review of existing regulations of the Contracting Parties and of the UN/ECE regulations, as well as relevant international voluntary standards (e.g., standards of the

International Standards Organization<sup>7</sup>). If available, comparative assessments of the benefits of these regulations (also known as functional equivalence assessments) are also reviewed. (Art. 1.1.2, Article 6.2)

- The process for developing a new global technical regulation includes the assessment of technical and economic feasibility and a comparative evaluation of the potential benefits and cost effectiveness of alternative regulatory requirements and the test method(s) by which compliance is to be demonstrated. (Article 6.3)

- To establish any global technical regulation, there must be a consensus vote. Thus, if any Contracting Party votes against a recommended global technical regulation, it would *not* be established. (Annex B, Article 7.2)

- The establishment of a global technical regulation does not obligate Contracting Parties to adopt that regulation into its own laws and regulations. Contracting Parties retain the right to choose whether or not to adopt any technical regulation established as a global technical regulation under the Agreement. (Preamble, Article 7)

- Consistent with the recognition of that right, Contracting Parties have only a limited obligation when a global technical regulation is established under the Agreement. If a Contracting Party voted to establish the regulation, that Contracting Party must initiate the procedures used by the Party to adopt such a regulation as a domestic regulation. (Article 7)

For the U.S., this would likely entail initiating the rulemaking process by issuing an Advanced Notice of Proposed Rulemaking (ANPRM) or a Notice of Proposed Rulemaking (NPRM). If the U.S. were to adopt a global technical regulation into national law, it would do so in accordance with all applicable procedural and substantive statutory provisions, including the Administrative Procedure Act, 5 U.S.C. § 553 et seq., the Vehicle Safety Act, and comparable provisions of other relevant statutes, such as the Clean Air Act.

- The Agreement allows for global technical regulations to contain a "global" level of stringency for most

<sup>6</sup>The U.S. Codex delegation consists of officials from the U.S. Department of Agriculture, the U.S. Food and Drug Administration, and the U.S. Environmental Protection Agency. They participate in the activities of the Codex Alimentarius Commission. The Codex is the major international mechanism for promoting the health and economic interests of consumers, while encouraging fair international trade in food. The U.S. Codex Manager coordinates all Codex activities within the United States. The Manager, who reports to the Under Secretary for Food Safety in USDA, is assisted by the U.S. Codex Office, housed in the Food Safety and Inspection Service, USDA.

<sup>7</sup>The International Standards Organization (ISO) is a non-governmental, worldwide federation of national standards bodies from approximately 130 countries. (<http://www.iso.ch>) It was established in 1947. Its mission is to promote the development of standardization and related activities in the world with a view to facilitating the international exchange of goods and services, and to developing cooperation in the spheres of intellectual, scientific, technological and economic activity. Its work is carried out through a hierarchy of technical committees, subcommittees, and working groups.

parties and 'alternative' levels of stringency for developing countries. In this way, all countries, including the least developed ones, can participate in the development, establishment and adoption of global technical regulations. It is anticipated that a developing country may wish to begin by adopting one of the lower levels of stringency and later successively adopt higher levels of stringency. (Article 4)

#### IV. Discussion of the Draft Policy Statement and Response to Public Comments at the June 17 Public Meeting

*Publication of a policy statement.* In this notice, this agency sets forth a draft policy statement that generally describes its priorities and its planned activities and practices for promoting public participation. NHTSA will revise the statement as appropriate in response to public comment and publish it in the **Federal Register**. NHTSA has tentatively chosen this approach, instead of a binding regulation as suggested by AIA, in recognition of the newness both of the Agreement and of NHTSA's involvement in activities under an international agreement to which the U.S. is a contracting party. Particularly at the beginning, there must be a sufficient degree of flexibility so that the activities and procedures can evolve easily and quickly as the U.S. and other Contracting Parties gain experience in using limited resources to implement the Agreement in a manner that advances safety and environmental protection and involves the public in that effort.

While the need for flexibility must be met, NHTSA recognizes that there is also an equal need for identifying this agency's specific activities and practices that will provide the three basic elements outlined at the June public meeting. Those elements are: access to information, opportunity to be heard, and opportunity to discuss. Activities and practices relating to each of those elements are clearly set out in the draft policy statement.

*Access to information.* This agency will publish an annual calendar of meetings and listing of global technical regulations under consideration. To promote the availability of documents as they are generated under the 1998 Agreement and become available in English, this agency will provide the addresses to the Websites of the UN/ECE and the International Telecommunication Union (ITU):

United Nations Economic Commission for Europe (UN/ECE)

<http://www.unece.org/Welcome.html>

Inland Transport Committee (ITC) of the UN/ECE

[http://www.unicc.org/unece/trans/WorkingPartyontheConstructionofVehicles\(WP29\)oftheITC](http://www.unicc.org/unece/trans/WorkingPartyontheConstructionofVehicles(WP29)oftheITC)

<http://www.unicc.org/unece/trans/main/unecewp.htm>

Working parties of experts of WP 29  
<http://www.itu.ch/itudoc/un/editrans/wp29/wp29wgs.html>

The ITU maintains a Website that covers, among other subjects, the activities of the Inland Transport Committee of the UN/ECE and its various working parties. (<http://www.itu.ch/itudoc/un/editrans.html>) Within the limits of its resources, and primarily with respect to the development of particularly important global technical regulations, this agency will also place the documents in the internet-accessible DOT docket and place key documents on a word-searchable location in its Website.

*Opportunity to be heard.* This agency plans to seek public comment at two points during the development of global technical regulations. In the case of a proposal to be submitted by the U.S. for a global technical regulation, the first point would be before the proposal is submitted.<sup>8</sup> In the case of a proposed global technical regulation submitted by a Contracting Party other than the U.S., the first point at which the agency would solicit public comment would be when the proposal is referred under the 1998 Agreement to a working party of experts for consideration. In all cases, the second point would be when and if a working party of experts issues a report recommending the adoption of a global technical regulation.

NHTSA will seek comments by publishing a request for comments. In the case of a proposal that the U.S. contemplates offering, the notice would describe the contemplated proposal and assess its impacts. This agency would fully consider those comments and make any appropriate changes to its proposal for a global technical regulation, if commenters submit sufficient supporting technical data and analysis. In the case of a proposal submitted by another Contracting Party, the U.S. would likely issue a short notice summarizing the proposal and seeking comments.

*Opportunity to discuss.* This agency plans to hold informal meetings to brief the public about recent and anticipated deliberations and standards development work under the 1998

Agreement at those meetings. In addition, interested parties may raise questions related to those subjects. The public meetings would be scheduled so that one would precede each of the three annual WP 29 meetings (i.e., in March, June and November).

NHTSA solicits comments on where it should hold its public meetings on activities related to the 1998 Agreement. It also solicits comments on whether these 1998 Agreement meetings should be combined with this agency's existing quarterly public meetings at which it discusses its vehicle rulemaking. Three of those quarterly rulemaking meetings are held in Detroit, Michigan. The fourth is held in Washington, D.C.

*Discussion of U.S. negotiating positions.* To the extent consistent with retaining the ability to negotiate effectively with other Contracting Parties, NHTSA would use the quarterly meetings to keep interested parties generally informed about the U.S. negotiating positions on issues under the 1998 Agreement. However, this agency tentatively concludes that it would be impracticable to adopt the suggestion by Advocates at the June 17 public meeting that the NHTSA negotiators should return to the U.S. and justify any departure from a previously announced negotiating position under that Agreement. Having to return to the U.S., as suggested by Advocates, would make negotiations very lengthy and unwieldy.

*Post-negotiation debriefings.* NHTSA believes that this need can be met at the public meetings to be held on activities related to the 1998 Agreement.

*Establishment of a continuing forum.* This agency believes that the periodic meetings will provide the public not only with an opportunity to discuss recent and future developments under the 1998 Agreement, but also general procedural issues involved in the implementation of that Agreement.

*Following the model of the U.S. Codex delegation or FDA in providing for public participation.*

At the suggestion of CU, the NHTSA Director of International Harmonization met with Dr. F. Edward Scarbrough, the U.S. Manager for Codex, on August 13, 1998. Dr. Scarbrough described the efforts made by the members of the U.S. Codex delegation to develop and publicize a general description of the U.S. position regarding the agenda items to be discussed at upcoming meetings of the committees of Codex Alimentarius Commission. By way of example, he mentioned the descriptions that would be provided and discussed the next day at a public meeting held in preparation for the September 1998 meeting of the

<sup>8</sup> If the proposal concerns issues on which this agency has recently obtained public comment as part of a rulemaking proceeding, it would not seek further comment before submitting the proposal.

Codex Committee on General Principles. (The notice announcing that meeting was published at 63 Fed. Reg. 42608, on August 10, 1998.)

He also noted the notice published by the FSIS on February 12, 1998 about duties of U.S. Government delegates and delegation members including non-government members. (63 Fed. Reg. 7118) That notice:

describes the activities of the Codex Alimentarius Commission (Codex); describes the duties of the United States delegate and alternate delegate to Codex committees; provides the criteria and procedures to be used in selecting non-government members to various United States delegations to Codex committees; describes the appropriate role of non-government members on Codex committees; identifies the manner in which the public will be informed of and may participate in Codex activities; and requests comments on these matters.

With respect to advising the public of the positions of the U.S. Government about Codex activities, paragraph V.C. of that notice states:

The United States delegate will notify members of the public who have indicated an interest in a particular Codex committee's activities of the status of each agenda item and the United States Government's position or preliminary position on the agenda item, if such a position has been determined. The United States delegate may request members of the public who have indicated an interest in a particular Codex committee's activities to submit written comments. Public meetings may also be held to receive comments.

The content and disposition of public comments is discussed in paragraph V.E. of the February notice:

Public comments relevant to Codex committee activities should be supported by as much data or research as possible and such data or research should be properly referenced to enhance the persuasive impact of the comments. The United States delegate will consider all comments received but will not be bound to agree with any comment. The views expressed in these comments may or may not be presented by the United States delegate to a Codex committee.

Dr. Scarbrough also discussed the role and responsibilities of non-government members of U.S. delegations. For example, he noted that the February 1998 notice stated that while the U.S. delegate will, to the extent feasible, consult and seek recommendations for non-government members, the U.S. delegate will not be obliged to present at any Codex committee session any recommendation made by a non-government member.

NHTSA has attempted to reflect the results of its talk with Dr. Scarbrough in the draft policy statement. However, this agency is open to further suggestions and perspectives.

Accordingly, this agency invites commenters to address the following question: In establishing the activities and practices that NHTSA will use in providing for public participation in the implementation of the 1998 Agreement, what specific lessons should be drawn from the experiences of the Food and Drug Administration (FDA) and the Department of Agriculture's Food Safety Inspection Service (FSIS) with respect to the Codex, and FDA with respect to the International Conference of Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH) (drug safety)?<sup>9 10</sup>

Interested persons desiring information regarding these other harmonization activities may wish to consult the following Websites:

US Codex Office

<http://www.fsis.usda.gov/OA/codex/>;  
Codex Alimentarius Commission:

<http://www.fao.org/waicent/faoinfo/economic/esn/codex/>

FDA (including the ICH)

<http://www.fda.gov/oia/homepage.htm>

**Best safety practices.** This agency reaffirms its prior statements that the identification and adoption of best safety practices is its highest priority in its international harmonization activities.

**TBT Agreement issues.** The U.S. is well-positioned to defend its vehicle safety standards against a complaint under the TBT Agreement that the

<sup>9</sup> The ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA). The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

<sup>10</sup> For information concerning FDA and FSIS involvement in the Codex and ICH, see the following **Federal Register** notices or contact those agencies directly:

- FDA, "International Harmonization; Policy on Standards," (October 11, 1995; 60 FR 53078).
- FSIS, "Codex Strategic Planning Meeting," (May 1, 1997; 62 Fed. Reg. 23745).
- FDA, "Consideration of Codex Alimentarius Standards," (July 7, 1997; 62 FR 36243).

standard is higher than the technical regulations adopted under the 1998 Agreement as well as against a complaint that the standard is more trade restrictive than necessary to achieve the safety benefits in question. NHTSA takes great care in establishing the safety needs for its standards and in assessing the benefits and other impacts of its safety standards. Both the TBT Agreement and the 1998 Agreement expressly recognize the right of nations to adopt safety standards more stringent than existing international standards.

#### V. Other Methods for Promoting Public Participation

Currently, the motor vehicle industry and consumers are represented at meetings of WP 29 and of its working parties of experts by international organizations that have been granted consultative status by the Economic and Social Council of the United Nations. The industry is represented by the Organisation Internationale Des Constructeurs D'Automobiles (OICA) (International Organization of Motor Vehicle Manufacturers), while consumers are represented by Consumers International. Those organizations participate in the discussions, but cannot vote.

The 1998 Agreement expressly provides for participation of any specialized agency and any organization, including intergovernmental organizations and non-governmental organizations. Paragraph 2.3 of Article 2 provides

Any specialized agency and any organization, including intergovernmental organizations and non-governmental organizations, that have been granted consultative status by the Economic and Social Council of the United Nations, may participate in that capacity in the deliberations of any Working Party during consideration of any matter of particular concern to that agency or organization.

At the June 17 public meeting, the Administrator raised the possibility of members of the public participating as private sector advisers on a U.S. delegation at meetings under the 1998 Agreement. This agency notes that if a manufacturer or public interest group were to take advantage of this opportunity, it would have to provide its own funding. The selection of private sector advisers and protocol governing their participation are set forth in the final guidelines published by the Department of State concerning the participation of representatives of affected private sector interests to serve as advisers on U.S. delegations to international conferences, meetings and negotiations (44 Fed. Reg. 17846; March

23, 1979). This agency solicits comments on the extent of public interest and ability to serve as private sector advisers.

## VI. Public Workshop

All interested persons and organizations are invited to attend the workshop. To assist interested parties to prepare for the February 3, 1999 workshop, this agency has developed a preliminary agenda, shown below, of introductory presentations and of major topics for discussion at the meeting. Requests for this agency to consider adding additional topics should be addressed to Ms. Julie Abraham at the address or numbers given above.

### A. Purpose

This agency is holding a workshop to facilitate the interactive exchange and development of ideas among all participants. The purpose is to present and discuss the planned activities and practices for facilitating public participation in the implementation of the 1998 Agreement. NHTSA hopes that through an interactive discussion, opportunities to improve the draft policy statement can be identified. NHTSA plans to consider the information and views presented at the workshop and in the subsequent written comments in developing the policy statement it will issue.

### B. Procedures

This agency intends to conduct the workshop informally. The Director of International Harmonization will preside at the workshop, with the participation of the NHTSA's and EPA's representatives on WP 29's working parties of experts. The Director will first give a brief overview of the 1998 Agreement, followed by brief presentations by agency officials regarding the operation of WP 29 and its work plans. Then the presiding official will discuss all of this agency's planned activities and practices for promoting public participation. As each activity or practice is presented, the participants will be asked for comments and input. At any point during the workshop, and upon request, the presiding official will allow participants to ask questions or provide comments. When commenting, participants should approach the microphone and state their name and affiliation for the record. All participants are asked to be succinct. Participants may also submit written questions to the presiding official and request that they be directed to particular participants.

Any person planning to participate should contact Ms. Julie Abraham at the

address and telephone number given at the beginning of this notice, no later than 10 calendar days before the workshop.

### C. Agenda

- i. Opening remarks  
Ricardo Martinez, Administrator (NHTSA)—10 min.
- ii. 1998 Agreement: opportunities for seeking higher levels of safety and broader public participation  
Julie Abraham, Director of International Harmonization (NHTSA)—15 min.
- iii. WP 29 procedures for developing technical regulations under the 1958 and 1998 Agreements  
Ken Feith, Policy Advisor, Office of Air and Radiation (EPA)—20 min.
- iv. The U.S. role in the implementation of the 1958 Agreement  
WP 29 Working Party of Experts on Lighting and Light-Signalling: recent events and future directions  
Richard Van Iderstine, U.S. Representative (NHTSA)—5 min.  
WP 29 Working Party of Experts on Pollution and Energy: recent events and future directions  
Thomas Baines, U.S. Representative (EPA)—5 min.  
WP 29 Working Party of Experts on Noise: recent events and future directions  
Ken Feith, U.S. Representative (EPA)—5 min.  
WP 29 Working Party of Experts on Passive Safety: recent events and future directions  
Dr. William R. S. Fan, U.S. Representative (NHTSA)—5 min.  
Case example illustrating the current role of NGO's in the development of a UN/ECE technical regulation  
Frank Turpin, Office of International Harmonization (NHTSA) (Retired)—10 min.
- v. Interactive discussion of public participation in the implementation of the 1998 Agreement<sup>11</sup>  
The policy statement  
Access to information  
Opportunity to comment  
Opportunity to discuss  
Other measures for promoting public participation  
Participation in U.S. delegation

<sup>11</sup> The participants in the interactive discussion are encouraged to discuss the issues on which the agency has solicited comments in the preamble to this notice, i.e.:

What lessons should be drawn from the experiences of the FDA and FSIS with respect to the Codex, and of the FDA with respect to the International Conference of Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH) (drug safety)?

## VII. Rulemaking Analyses and Notices

Since this request for comment contemplates the establishment of a statement of policy (as opposed to a regulation or rule) that will not have the force and effect of law, this request is not subject to the requirements of the various Executive Orders (e.g., Executive Order 12866), statutes or DOT regulatory policies and procedures for analysis of the impacts of rulemaking. Further, it is not subject to the notice and comment requirements of the Administrative Procedure Act. Nevertheless, this agency has decided to seek public comment on the statement of policy before publishing a final version.

### VIII. Comments

This agency invites all interested parties to submit written comments. This agency notes that participation in the public workshop is not a prerequisite for submission of written comments. Written comments should be sent to the address and follow the same requirements specified above in section ADDRESSES. It is requested but not required that two copies be submitted.

All comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including the purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and two copies from which the purportedly confidential information has been deleted should be submitted to Docket Management. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in this agency's confidential business information regulation. 49 CFR Part 512.

All comments received by NHTSA before the close of business on the comment closing date indicated above for the notice will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the policy statement to be issued will be considered as suggestions for future action. Comments on the notice will be

available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and recommends that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Statement of Policy: NHTSA Priorities and Public Participation in the Implementation of the UN/ECE 1998 Agreement on Global Technical Regulations

I. Our Priorities Under the 1998 Agreement

A. Advance vehicle safety by identifying and adopting best safety practices from around the world or by developing new standards reflecting technological advances and current and anticipated safety problems.

B. Seek to harmonize our safety standards with those of other countries, to the extent consistent with maintaining existing levels of motor vehicle safety.

C. Notwithstanding our harmonization efforts, preserve our ability to adopt standards that meet U.S. vehicle safety needs.

D. Ensure the opportunity for public participation, through means such as pre-rulemaking activities and practices.

II. Procedures for Providing Public Information and Facilitating Public Participation

A. Access to information.

1. Annual calendar of activities and list of pending work.

We will publish annually a notice providing (a) a calendar of scheduled meetings of WP 29 and its working parties of experts; and (b) a list of the global technical regulations relating to motor vehicle safety, theft or energy conservation that are being considered by a working party of experts, or that have been recommended by a working party of experts for establishment under the 1998 Agreement.

2. Availability of documents relating to global technical regulations proposed by Contracting Parties and global

technical regulations recommended by working parties of experts.

As we obtain English versions of key documents relating to motor vehicle safety, theft or energy conservation that are generated under the 1998 Agreement (e.g., proposals referred to a working party of experts, and reports and recommendations issued by a working party), we will place them in the internet-accessible DOT docket ([www.dms.dot.gov](http://www.dms.dot.gov)). Since documents in the DOT docket are imaged documents, they cannot be word-searched. Within the limits of available resources, we will also place the documents on an international activities page that will be included in our Website. This additional step will give interested persons the ability to word-search the documents.

B. Opportunity to comment.

1. Proposals by Contracting Parties for consideration of global technical regulations.

a. Proposals by the U.S.

Before we submit a proposal for the development of a global technical regulation relating to motor vehicle safety, theft or energy conservation for consideration under the 1998 Agreement, we will publish a notice requesting public comments on our proposal. We will consider those comments before submitting our proposal to the Executive Committee.

(1) U.S. proposal for harmonizing existing technical regulations.

Our notice will compare the proposed harmonized standard and the related existing U.S. standard, including the relative impacts of those standards.

(2) U.S. proposal for establishing a new global technical regulation.

Our notice will discuss (i) the safety, theft or energy conservation problem addressed by the proposal, (ii) the rationale for the proposed approach for addressing the problem, and (iii) the impacts of the proposal.

b. Proposals by Contracting Parties other than the U.S.

After a Contracting Party other than the U.S. submits a proposal for a global technical regulation relating to motor vehicle safety, theft or energy conservation for consideration under the 1998 Agreement, we will place a copy of an English language version of the proposal in the DOT docket and, within the limit of our resources, may

also post it on our Website. We will also publish a brief notice summarizing the proposal, indicating where it may be located in the DOT docket (and/or on the internet), and inviting public comment. We will consider those comments in connection with our participation in future deliberations under that Agreement.

2. Recommendations by a working party of experts for the establishment of a global technical regulation.

When a working party of experts issues a report recommending the establishment of any global technical regulation (including one based on one of our proposals) relating to motor vehicle safety, theft or energy conservation, we will place a copy of an English language version of the report in the DOT docket and, within the limit of our resources, may also post it on our Website. We will also publish a brief notice summarizing the recommended regulation, indicating where the report may be located in the DOT docket (and/or on the internet), and inviting public comment. We will consider those comments in connection with our participation in future deliberations under the 1998 Agreement.

(Note: If we subsequently initiate a rulemaking proceeding concerning the subject matter of any document mentioned above in paragraphs 1-3, we will place the comments relating to the document in the docket for that proceeding and address them as appropriate.)

C. Opportunity to discuss.

We will hold public meetings to summarize the events under the 1998 Agreement since the last meeting held pursuant to this policy statement and the anticipated upcoming events. We will also discuss key issues regarding pending standards development work relating to motor vehicle safety, theft or energy conservation under the 1998 Agreement, and public comments regarding those issues. Our representatives on the working parties of experts, and, as appropriate, other agency officials, will also participate in those meetings.

Issued on December 29, 1998.

**Julie Abraham,**

*Director, Office of International Harmonization.*

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