

Sleep will not be opened at this time. Instead, the issue of opening a filing window for each channel will be addressed by the Commission in a subsequent *Order*.

**DATES:** Effective September 18, 2000.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Victoria M. McCauley, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 98-97, adopted July 26, 2000, and released August 4, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

#### PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Hudson, Channel 275C and Channel 286A, and Ten Sleep, Channel 286C3.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 00-21402 Filed 8-22-00; 8:45 am]

**BILLING CODE 6712-01-P**

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 00-1756; MM Docket No. 98-88; RM-9285, RM-9654]

#### Radio Broadcasting Services; Wright and Clearmont, WY

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Mountain Tower Broadcasting, allots Channels 268C at Wright, Wyoming, as the community's first local aural transmission service (RM-9285). See 63 FR 34620, June 25, 1998. At the request of Mount Rushmore Broadcasting, Inc., we also allot Channel 287A at Wright, Wyoming, as the community's second local aural transmission service; and Channel 287A at Clearmont, Wyoming as the community's first local aural transmission service (RM-9654).

Channel 268C can be allotted at Wright in compliance with the Commission's minimum distance separation requirements at city reference coordinates; and Channel 287A can also be allotted to Wright at city reference coordinates. Additionally, Channel 287A can be allotted to Clearmont in compliance with the Commission's minimum distance separation requirements at city reference coordinates.

The coordinates for Channel 268C at Wright are 43-45-02 North Latitude and 105-29-53 West Longitude. Additionally, the coordinates for Channel 287A at Wright are 43-44-49 North Latitude and 105-28-12 West Longitude; and the coordinates for Channel 287A at Clearmont are 44-38-18 North Latitude and 106-22-48 West Longitude.

**DATES:** Effective September 18, 2000. A filing window for Channels 268C and 287A at Wright, and Channel 287A at Clearmont, will not be opened at this time. Instead, the issue of opening filing windows for these channels will be addressed by the Commission in a subsequent order.

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 98-88, adopted July 26, 2000, and released August 4, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

#### PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 54, 303, 334, 336.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming is amended by adding Wright, Channels 268C and 287A; and Clearmont, Channel 287A.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 00-21404 Filed 8-22-00; 8:45 am]

**BILLING CODE 6712-01-P**

### DEPARTMENT OF TRANSPORTATION

#### National Highway Traffic Safety Administration

#### 49 CFR Part 553

[Docket No. NHTSA-00-7817]

RIN 2127-AH29

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

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Final rule; statement of policy.

**SUMMARY:** This final rule adopts a policy statement describing the agency's activities and practices for facilitating public participation concerning issues that arise in the implementation of an international agreement for establishing global technical regulations on the safety, emissions, energy efficiency and theft prevention of wheeled vehicles, equipment and parts. The policy statement also sets forth the general substantive policy goals regarding vehicle safety that the agency will pursue in participating in the implementation of the agreement. This final rule adds the statement as a new appendix to the agency's rulemaking procedure regulation.

**DATES:** This final rule takes effect on September 22, 2000. Petitions for reconsideration must be received by October 10, 2000.

**ADDRESSES:** Petitions for reconsideration should refer to the docket and notice

number of this notice and be submitted to: The Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** For technical and policy issues: Ms. Julie Abraham, Director, Office of International Policy and Harmonization, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366-2114. Fax: (202) 366-2559.

For legal issues: Nancy Bell, Attorney Advisor, Office of the Chief Counsel, NCC-20, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366-2992. Fax: (202) 366-3820.

#### SUPPLEMENTARY INFORMATION

##### Table of Contents

- I. Background
- II. January 1999 Request for Comments on Draft Policy Statement
- III. Summary of Issues Raised by Comments on Draft Policy Statement
  - A. Binding regulation versus policy statement
  - B. NHTSA's policy goals
  - C. Opportunities for public comment and briefings
    - 1. NHTSA's selection of subjects for global technical regulations
    - 2. NHTSA's development and submission of proposals for global technical regulations
    - 3. Technical consultations regarding proposed global technical regulations being considered by WP.29
  - D. NHTSA's voting policy with respect to establishing global technical regulations
  - E. Public participation in U.S. delegations attending WP.29 meetings
  - F. Dissemination of information to the public
  - G. Location of NHTSA's public meetings
  - H. Ex parte contacts
  - I. Other comments
- IV. Post-Comment Period Events
  - A. Adoption of Terms of Reference and Rules of Procedures for Implementing the 1998 Global Agreement and other Agreements Implemented by WP.29
  - B. April 1999 Transatlantic Consumer Dialogue Meeting and Resolution
- V. Final Policy Statement—Discussion of and Response to Comments
  - A. Binding regulation versus policy statement
  - B. NHTSA's policy goals
  - C. Opportunities for public comment and briefings
    - 1. NHTSA's selection of subjects for global technical regulations
    - 2. NHTSA's development and submission of proposals for global technical regulations
    - 3. Technical consultations regarding proposed global technical regulations being considered by WP.29
  - D. NHTSA's voting policy with respect to establishing global technical regulations

- E. Public participation in U.S. delegations attending WP.29 meetings
- F. Dissemination of information to the public
- G. Location of NHTSA's public meetings
- H. Ex parte contacts
- I. Other comments
- VI. Rulemaking Analyses and Notices
  - Appendix—Highlights of the 1998 Global Agreement Text to be added to CFR

#### I. Background

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 and Technical Regulations for Wheeled Vehicles, Equipment and Parts Which Can Be Fitted And/or Be Used On Wheeled Vehicles (the "1998 Global Agreement"). The 1998 Global Agreement provides for the establishment of global technical regulations regarding the safety, emissions, energy efficiency and theft prevention of wheeled vehicles, equipment and parts.<sup>2</sup> The Agreement contains procedures for establishing global technical regulations by either harmonizing existing regulations or developing a new regulation.<sup>3</sup>

The establishment of global technical regulations is expected to lead to a significant degree of convergence in motor vehicle regulations at the regional and national levels. However, while in some instances the result may be the adoption of identical or substantially identical regulations at those levels, in other instances, the result may be regulations that, although dissimilar in some respects, do not conflict with each other. While the Agreement obligates the Contracting Parties, under certain circumstances, to *consider* adopting the global technical regulations within their own jurisdictions, it does not obligate the Parties to adopt them. The Agreement recognizes that governments have the right to determine whether the global technical regulations established under the Agreement are suitable for their own particular safety needs. Those

<sup>1</sup>The Economic Commission for Europe was established by the United Nations (UN) 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.

<sup>2</sup>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.

<sup>3</sup>To aid persons unfamiliar with the 1998 Global Agreement in gaining an understanding of its provisions, this agency has summarized the key aspects in an appendix to the preamble of this notice. The complete text of the Agreement may be found on the Internet at the following address: <http://www.unece.org/trans/main/wp29/wp29wgs/wp29gen/wp29glob.html>.

needs vary from country to country due to differences in the traffic environment, vehicle fleet composition, driver characteristics and seat belt usage rates. Further, the Agreement explicitly recognizes the right of governments to adopt and maintain technical regulations that are more stringently protective of safety and the environment than the global technical regulations.

This Agreement was negotiated under the auspices of the UN/ECE's World Forum for Harmonization of Vehicle Regulations (WP.29)<sup>4</sup> under the leadership of the United States (U.S.),<sup>5</sup> the European Community (EC), and Japan. Becoming a Contracting Party to the 1998 Global Agreement accomplishes several purposes for the U.S. First, it provides the U.S. with 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 world wide.<sup>6</sup> Second, it ensures that U.S. standards and their benefits will be properly considered in any effort to adopt a harmonized global technical regulation.

The 1998 Global Agreement will enter into force on August 25, 2000. The Agreement provides that it will enter into force 30 days after the number of Contracting Parties<sup>7</sup> reaches eight. On July 26, 2000, the number of Contracting Parties reached eight.<sup>8</sup> A ninth country, the Republic of South Africa, has signed subject to ratification. In addition,

<sup>4</sup>Formerly, "Working Party on the Construction of Vehicles (WP.29)." The Forum's website is <http://www.unece.org/trans/main/welcwp29.htm>

<sup>5</sup>The U.S. was represented in those negotiations by this agency and the U.S. Environmental Protection Agency (EPA).

<sup>6</sup>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" because it is not a contracting party to that agreement. Historically, the United States did not become a contracting party to the 1958 Agreement because (1) it was not feasible to develop regulations regarding motor vehicle safety in what was then a primarily common European regulatory development forum and (2) NHTSA's enforcement procedures precluded the U.S. from engaging in the 1958 Agreement's mutual recognition obligations. Although the 1958 Agreement was amended in late 1995 to reduce the impediments to becoming a contracting party, the U.S. determined that further amendments were necessary. Ultimately, it determined in talks with the contracting parties to the 1958 Agreement that the most desirable course of action was to develop a new, parallel agreement.

<sup>7</sup>As used here and in the balance of this notice, "Contracting Parties" refers to Contracting Parties to the 1998 Global Agreement.

<sup>8</sup>The first eight Contracting Parties are: Canada, the EC, France, Germany, Japan, the Russian Federation, United Kingdom, and the U.S.

according to the UN/ECE, Spain has decided to sign the Agreement.

In anticipation of the Agreement's entry into force, NHTSA recently published a notice (65 FR 44565; July 18, 2000) seeking public comment on the agency's preliminary recommendations for first motor vehicle safety technical regulations to be considered for establishment under that Agreement.

## II. January 1999 Request for Comments on Draft Policy Statement

On January 5, 1999, NHTSA published a notice seeking public comments on a draft statement of policy concerning the agency's goals, and its activities and practices for public participation, in the implementation of the 1998 Global Agreement. (64 FR 563). NHTSA issued the notice in recognition of the importance of obtaining public input before making decisions regarding activities under matters arising under the Agreement. In addition, the agency was mindful that various public interest groups had expressed concerns about the opportunities for the public to participate in activities related to the 1998 Global Agreement. Similar concerns had 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 was that global technical regulations will be established abroad without adequate involvement of the American public. In the case of the 1998 Global Agreement, groups had also expressed the view that the decisions made in Geneva about global technical regulations could predetermine the outcome of subsequent rulemaking proceedings in the U.S. regarding Federal Motor Vehicle Safety Standards (FMVSSs) even though FMVSSs cannot be amended or established without adhering to the Administrative Procedure Act and the statutory provisions governing those standards.

The agency developed the draft policy statement based on the comments from a public meeting held by NHTSA in June 1998 and other available information. The draft policy statement had two purposes. First, it set forth a list of policy goals that would guide this agency during its participation in activities under the 1998 Global Agreement. Second, it set 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 Global Agreement and to provide

its views, beginning at the earliest stages, regarding those regulations.

More specifically, the agency described its proposal as follows:

This agency will publish an annual calendar of [WP.29] meetings and listing of global technical regulations under consideration [by WP.29]

\* \* \* \* \*

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. 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.

\* \* \* \* \*

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 \* \* \* meetings [of WP.29 participants] (*i.e.*, in March, June and November).

NHTSA said that it had tentatively chosen not to issue the policy statement in the form of a binding regulation. The agency requested comments on several specific issues considered pertinent to the draft policy statement. One of the specific requests was for comments on what specific lessons should be drawn from the involvement of U.S. agencies in several other international harmonization fora. In particular, NHTSA asked about the experiences of the Food and Drug Administration (FDA) and the Department of Agriculture's Food Safety Inspection Service (FSIS) as members of the U.S. Codex delegation in the international food safety standard activities of the Codex Alimentarius Commission (Codex). It also asked about the FDA's experiences in the international drug safety activities of the International Conference of Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). Finally, the agency solicited comments on the extent of the interest and ability of the public to serve as private sector advisors at WP.29 meetings.<sup>9</sup>

<sup>9</sup> In the interest of simplicity, this notice uses the term "WP.29 meetings" to refer to sessions of

In addition, the agency announced a February 1999 public workshop to discuss the draft policy statement with interested persons.

## III. Summary of Issues Raised by Comments on Draft Policy Statement

The February 1999 workshop was attended by representatives of U.S. governmental agencies, motor vehicle manufacturer groups, insurance groups, and consumer interest groups. Prepared statements were presented by Joan Claybrook (Public Citizen), Vann Wilber (Alliance of Automobile Manufacturers (AAM)), and Byron Bloch (Auto Safety Design (ASD)).

Subsequently, written comments were received from the following organizations: AAM, Motorcycle Industry Council (MIC), Rubber Manufacturers Association (RMA), the Society of Automotive Engineers (SAE), American Insurance Association (AIA), Advocates for Highway and Auto Safety (Advocates), ASD, Center For Auto Safety (CAS), Consumers Union (CU), and Public Citizen.

AAM, SAE, MIC, and RMA expressed support for the draft policy statement. These organizations generally agreed that (1) The agency, through the policy statement, provides adequate opportunity for all interested parties to voice opinions and otherwise participate in the 1998 Global Agreement process, (2) the regulatory process under the Vehicle Safety Act provides additional procedural safeguards for all interested parties, and (3) the policy statement must provide the agency with sufficient flexibility to consult with other countries.

Consumer group commenters (AIA, Advocates, ASD, CAS, CU and Public Citizen) disagreed, expressing concern that global technical regulations will be established abroad without adequate involvement of the American public. Consumer group comments regarding public participation fell generally within the following categories: (A) Issuance of binding regulation instead of policy statement, (B) NHTSA's policy goals, (C) Opportunities for public comment and briefings, (D) NHTSA's voting policy with respect to establishing global technical regulations, (E) Public participation in U.S. delegations attending WP.29 meetings, (F) Dissemination of information to the public, (G) Location of NHTSA's public meetings, (H) Ex parte contacts, and (I) Other comments.

WP.29, meetings of WP.29 working parties of experts, and meetings of the Executive Committee.

### A. Binding Regulation Versus Policy Statement

All consumer group commenters stated that NHTSA's policy regarding its participation under the 1998 Global Agreement should be issued in the form of a regulation, not a policy statement. For example, Public Citizen asserted that unlike a policy statement that could be easily ignored or summarily revoked by a new administration, a regulation provides the public with greater reliability, clarity and specificity and that these considerations far outweigh NHTSA's purported need for the "flexibility" of a policy statement based on 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." Further, Public Citizen suggested that "NHTSA can always propose amendments to the policy regulation through notice and comment rulemaking." Other commenters urged that a binding regulation would ensure that the public is aware of the issues to be decided, is able to provide regular input that can effect agency determinations, and is appraised of the reasons for the positions taken by the agency.

### B. NHTSA's Policy Goals

All consumer groups said that the first of NHTSA's proposed goals under the 1998 Global Agreement, *i.e.*, advancing vehicle safety, by either adopting best safety practices from around the world or developing new global technical regulations reflecting technological advances, should be restated to make it clear that it is the most important of the agency's goals. Several of those consumer groups said further that that first goal should focus solely on global technical regulations reflecting current and anticipated technology. Seeking to harmonize NHTSA's standards for non-safety reasons, *i.e.*, achieving economic efficiency and cutting costs in the design and production of vehicles, should only be a secondary concern. Some suggested that the commitment in the 1998 Global Agreement to continuous improvement of safety should be reaffirmed to ensure that international standards are kept up-to-date.

Consumer group commenters requested NHTSA not to harmonize existing standards with any foreign standard or add a foreign standard to a FMVSS as a functionally equivalent compliance alternative if: (1) agency resources could be used more productively in developing a significantly improved standard; (2) the

agency would have to develop new test procedures or purchase new testing equipment or facilities and if such work or expenditures would detract from other agency activities; or (3) it is simply for the purpose of integrating existing standards. Others stated that harmonization efforts should focus on test procedures and devices, not on performance requirements.

### C. Opportunities for Public Comment and Briefings

Consumer groups said that it is essential that NHTSA use procedures similar to the notice and comment rulemaking procedures of the Administrative Procedure Act (APA) at all stages of its harmonization activities under the 1998 Global Agreement including: (1) NHTSA's selection of subjects for global technical regulations, (2) NHTSA's development of proposals for global technical regulations, and (3) negotiations regarding proposed global technical regulations. A key element of this request is that the agency respond in writing to the public's comments. Advocates said that the proposed two opportunities for written public input are insufficient. That organization said that more must be done to provide for public participation throughout the WP.29 process and during the negotiations among the working parties of experts.

#### 1. NHTSA's Selection of Subjects for Global Technical Regulations

Consumer group commenters stated that NHTSA should use notice and comment procedures and hold public meetings in selecting the subjects for which it will develop proposed global technical regulations. More specifically, several consumer groups also suggested that NHTSA publish a notice (1) requesting comments on whether, for each FMVSS, (a) there are any counterpart foreign standards with significantly higher benefits, or (b) there is practicable technology that would make possible developing and implementing a higher FMVSS, (2) discussing comments on any preceding notice regarding harmonization priorities, and (3) requesting comments on the priorities that should be adopted by NHTSA. Alternatively, they suggested that NHTSA publish a notice announcing its tentative decisions regarding the agency's priorities and soliciting comments.

#### 2. NHTSA's Development and Submission of Proposals for Global Technical Regulations

Consumer group commenters stated that when NHTSA publishes a draft

proposed global technical regulation for comment, it should also publish a regulatory analysis and identify comparable or related foreign standards. They also said that NHTSA should request public comments on the draft global standards that it plans to propose to WP.29 regardless of whether the agency has previously received comments on similar issues in response to notices published by the agency under the Vehicle Safety Act (subsequently codified under Title 49 of the U.S. Code in Chapter 301, Motor Vehicle Safety).

#### 3. Technical Consultations Regarding Proposed Global Technical Regulations Being Considered by WP.29

Consumer group commenters recommended that the agency establish a public docket for each proposed regulation referred to a working party of experts. They said that the policy statement should state that the agency will provide at least two opportunities for public comment on each regulation under development by WP.29, accept public comments before developing negotiating positions, respond to public comments explaining acceptance or rejection of comments, and announce the agency's negotiating positions in advance of negotiations. Further, they stated that NHTSA should publish a notice requesting comments every time that a substantive change is made or proposed at a meeting of a WP.29 working party of experts or a meeting of WP.29, publish a notice summarizing events and developments and inviting public comments after each such meeting, and not deviate from any announced negotiating position after the agency has solicited and responded to comments. Also, negotiators should return to U.S. to seek public comments if negotiations lead the agency to want to change a previously declared U.S. negotiating position.

Consumer groups commented that, in addition to publishing notices and responding to comments, NHTSA should hold public meetings to solicit comments prior to at least some WP.29 meetings and to receive public comments when significant changes occur in a global technical regulation under consideration by WP.29 or in the U.S. position regarding that regulation. CU urged the establishment of an ongoing public forum regarding the implementation of the 1998 Global Agreement, including pre- and post-negotiation meetings. Advocates questioned whether NHTSA would provide timely debriefings of past WP.29 meetings and whether a single agency meeting could provide sufficient

time to comment on and discuss, in detail, the issues discussed at the most recent WP.29 meetings.

CU also urged NHTSA to follow the practices of the U.S. Codex delegation in promoting public participation while Advocates and Public Citizen argued that U.S. Codex does not provide for sufficient public participation. They said that under U.S. Codex all steps taken to involve the public are voluntary and that U.S. Codex maintains complete discretion as to the formulation of policy. Further, they stated that notification of Codex activities are limited to parties who have previously expressed an interest in the activities and there is not obligation for the government to respond to comments or provide a statement of basis and purpose for its position on agenda items.

#### *D. NHTSA's Voting Policy With Respect to Establishing Global Technical Regulations*

Consumer group commenters urged that NHTSA consider public comments and all factors legally relevant to rulemaking under the Vehicle Safety Act before voting on a recommended global technical regulation. They said that the U.S. should vote affirmatively on a global technical regulation only if the following three conditions are met: (1) the level of safety of the new global standard would be at least equal to that in existing FMVSSs; (2) the global standard fully reflects the Best Available Technology (BAT); and (3) future technology is considered.

#### *E. Public Participation in U.S. Delegations Attending WP.29 Meetings*

Public Citizen argued that (1) NHTSA is not legally precluded from paying for the attendance of nongovernmental representatives, (2) 1979 State Department regulations do not preclude the agency from requesting budget authority to pay for consumer or environmental representations at WP.29, (3) NHTSA should investigate other governmental efforts to pay for nongovernmental representatives and request such appropriations, and (4) the agency must ensure that if there is any nongovernmental participation in the U.S. delegation it must be equally divided between industry and consumer representatives. Other commenters expressed concern regarding the fairness of the selection process for participation on U.S. delegations. Further, consumer groups stated that if NHTSA cannot pay the travel expenses of consumer groups so that they are able to participate in the U.S. delegations, there should not be

any nongovernmental organization (NGO) delegates in the U.S. delegation.

#### *F. Dissemination of Information to the Public*

Dissemination of information to the public can be improved, according to consumer group commenters, by expediting the availability of documents available under the 1958 Agreement and the 1998 Global Agreement. They suggested placing WP.29 materials on the international page on the NHTSA website. Advocates called for the agency to make publicly available all key documents stating positions of other Contracting Parties to the 1998 Global Agreement. Commenters suggested that NHTSA investigate and establish alternative means, such as mailing/facsimile lists and media outlets, to notify interested persons who do not have electronic access of WP.29 activities and documents.

#### *G. Location of NHTSA's Public Meetings*

Consumer commenters urged that NHTSA hold its meetings in Washington, D.C., not Detroit, because of the travel and expense associated with attending these meetings. They urged further that those meetings not be combined with existing industry and public meetings since the latter meetings would provide insufficient time for a full discussion of the issues.

#### *H. Ex Parte Contacts*

Commenters asked that NHTSA disclose ex parte contacts in which nongovernmental persons or entities such as industry representatives express views concerning activities under the 1998 Global Agreement. Some commenters stated that such ex parte contacts between NHTSA and industry are undesirable and should not be allowed.

#### *I. Other Comments*

Consumer group commenters urged that at least one of the three annual meetings of WP.29 should be held in Washington, DC and that stronger provisions for NGO participation in substantive policymaking discussions in the WP.29 be adopted. They said that the new terms of reference should permit NGOs to observe the substantive discussions of the Executive Committee, receive Executive Committee documents, and "participate" in the activities of the working parties of experts. Also, some commenters argued that representation of U.S. consumer groups and the U.S. public at WP.29 meetings is not satisfied by the involvement of international organizations that have been granted

consultative status by the UN Economic and Social Council parties, noting that all but two of the organizations which have obtained that status represent the interests of manufacturers.

AIA said that other countries could use the Technical Barriers to Trade Agreement (TBT Agreement) to challenge U.S. efforts to maintain or promulgate better safety standards by bringing action under the World Trade Organization (WTO) dispute resolution system. It suggested that the policy statement should provide assurance that there will be a vigorous defense of any U.S. standard which is challenged under the TBT Agreement.<sup>10</sup> Likewise, Public Citizen expressed concern that the U.S. motor vehicle standards would be subject to a trade challenge under the TBT Agreement. It said further that, even if the U.S. were to defend its standards vigorously, the U.S. might not prevail in such a challenge despite the fact that the U.S. motor vehicle standards are amply supported by "substantial evidence" for purposes of the United State's domestic administrative law. Public Citizen asked NHTSA to define the term "international standard" for Uruguay Round TBT purposes," and specifically to explain whether a WP.29 standard would be considered an "international standard" if only the United States and some European countries participate in WP.29.

## **IV. Post-Comment Period Events**

### *A. Adoption of Terms of Reference and Rules of Procedures for Implementing the 1998 Global Agreement and other Agreements Implemented by WP.29*

At its 119th session in November 1999, WP.29 adopted revised "Terms of Reference and Rules of Procedure." The new terms and rules were endorsed by the Inland Transport Committee at its 62nd session in February 2000 and became effective beginning with WP.29's 120th session in March 2000. In addition to creating procedures for the coordinated implementation of the 1998 Global Agreement and other related agreements administered by WP.29, such as the 1958 Agreement, the new Terms of Reference enhance the

<sup>10</sup> One of the agreements of the Uruguay Round administered by the 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 national technical regulations for the protection of human, animal, and plant life and health and the environment, and for prevention against deceptive practices.

transparency of and public participation in the activities of WP.29.

#### *B. April 1999 Transatlantic Consumer Dialogue Meeting and Resolution*

Following the Transatlantic Consumer Dialogue (TACD) meeting in Brussels on April 23–24, 1999, the TACD submitted its “Resolution On Auto Safety Standards” to NHTSA. This document, which was placed on the public docket for the January 1999 notice, contains comments that are the same or substantially similar to those discussed above.

#### **V. Final Policy Statement—Discussion of and Response to Comments**

We have made a variety of changes in response to the public comments. We have decided to add the statement as a new appendix to the agency’s rulemaking procedure regulation. In addition, we have expanded our description of the public participation procedures. In a number of instances, we have drawn on our discussions in the preamble of the January 1999 notice to add detail to our descriptions in the statement of the actions we will take to provide for public participation. To promote a continuing public dialogue, the policy statement now provides an opportunity for public comment on NHTSA’s tentative selection of technical regulations for establishment under the 1998 Global Agreement. Further, NHTSA has provided an explicit list of the general agenda items for its public meetings relating to activities under the Agreement.

The following section discusses the comments summarized in Section III and describes the changes made to the 1999 draft policy statement in response to some of those comments.

#### *A. Binding Regulation Versus Policy Statement*

NHTSA is issuing these goals and processes in the form of a non-binding policy statement which provides a general outline of the intentions of this agency and which does not create or confer any rights, privileges, or benefits. As discussed in its January 1999 notice, NHTSA must ensure, particularly at the beginning of these processes, that there is enough flexibility to allow a sufficient degree of experimentation and to allow the specific aspects of its activities and procedures to evolve easily and quickly as the U.S. and other Contracting Parties gain experience in utilizing limited resources to implement the Agreement in a manner that advances safety and environmental protection and involves the public in that effort. Taking this approach, rather than issuing a binding

regulation in the Code of Federal Regulations (CFR), also recognizes the novelty for NHTSA of its involvement in activities under an international agreement to which the U.S. is a contracting party.

However, while we are not issuing a binding regulation, we are giving the policy statement additional visibility by adding it to the Code of Federal Regulations as Appendix C to Part 553, “Rulemaking Procedures.”

We emphasize that our adoption of this policy statement will not change the process by which we adopt FMVSSs and put them into effect. We will continue to issue FMVSSs in accordance with the Vehicle Safety Act and through rulemaking proceedings conducted under the Administrative Procedure Act and any other applicable statute.

#### *B. NHTSA’s Policy Goals*

In the draft policy statement, the agency listed the goal of advancing safety first because it regarded that as its most important goal. To emphasize that goal’s primacy, NHTSA has revised the statement so that it explicitly states that the agency’s foremost goal under the 1998 Global Agreement is to advance vehicle safety, particularly by developing and adopting technical regulations reflecting consideration of existing technology as well as anticipated technological advances and safety problems. The agency has also revised its goal regarding the harmonization of existing standards to state that the emphasis in its harmonization activities would be on raising U.S. standards at least to the level of the best practices in the safety standards of other Contracting Parties. In response to suggestions by commenters that the agency ensure that international standards are kept up-to-date, this agency has revised its policy goals to reaffirm its commitment in the 1998 Global Agreement to continuous improvement of safety. NHTSA’s other two priority goals, as also revised by this final rule, are adopting and maintaining U.S. standards that fully meet the need in the U.S. for vehicle safety and enhancing regulatory effectiveness through regulatory cooperation with other countries and regions, thereby providing greater safety protection with available government resources.

#### *C. Opportunities for Public Comment and Briefings*

The policy statement makes extensive provision for the public to make its views known to the agency. However, the agency will not use APA-like notice

and comment procedures because they are impracticable for the activities under the policy statement. Our decisionmaking under the 1998 Global Agreement and our course of action in WP.29 will reflect our consideration of the input from a broad spectrum of the public.

We have expanded our description in the policy statement of the activities and procedures for public participation by incorporating some of the details in the preamble to the January 1999 notice. There will be two opportunities for written public comment on each global technical regulation under development by WP.29 during. The first opportunity will be provided in connection with the proposal of a global technical regulation. In the case of U.S. proposals, this opportunity will be provided during the development of the proposal. In the case of proposals by other Contracting Parties, it will be provided after the proposal had been submitted to WP.29 and referred to a working party of experts. The second opportunity will be provided after a working party of experts has issued a report and a recommended global technical regulation.

In addition, there will be other ongoing opportunities for public participation. The policy statement provides for holding public meetings during which public can discuss and comment on consultations regarding proposed global technical regulations under the 1998 Global Agreement. The agency may also use those meetings periodically to brief the public on any other significant international activities, such as developments under International Harmonized Research Activities (IHRA). Under the IHRA, working groups have been formed to address six issues: (1) Biomechanics, (2) Side Impact, (3) Advanced Offset Frontal Crash Protection, (4) Vehicle Compatibility, (5) Pedestrian Safety, and (6) Intelligent Transportation Systems.

#### **1. NHTSA’s Selection of Subjects for Global Technical Regulations**

NHTSA will periodically publish a notice seeking public comments on the subjects for which new global technical regulations should be considered for establishment under the 1998 Global Agreement. A subsequent notice will identify the priorities on which NHTSA will focus in the future under the Agreement.

## 2. NHTSA's Development and Submission of Proposals for Global Technical Regulations<sup>11</sup>

NHTSA's proposals under the 1998 Global Agreement will derive largely from the agency's rulemaking under the Vehicle Safety Act. Thus, NHTSA's development of proposals for global technical regulations will be based on the results of its existing and ongoing efforts to develop FMVSSs. The research and analyses in support of new or revised FMVSSs will be used to develop and justify the proposed global technical regulations.

When NHTSA develops a draft U.S. proposal for a global technical regulation, it will publish a notice discussing the merits of the proposal and providing the public with the opportunity to comment on the draft regulation.<sup>12</sup> The notice will generally discuss the safety problem addressed by the draft regulation, the rationale for the proposed approach for addressing the problem, and the impacts (*e.g.*, benefits and cost-effectiveness) of the draft regulation. It will also compare the draft regulation with any existing counterpart U.S. standard and generally discuss the relative merits of the draft regulation and standard. Additionally, NHTSA will consider the comments and revise the proposal and any of its supporting documentation as it deems appropriate before submitting the proposal to WP.29.

## 3. Technical Consultations Regarding Proposed Global Technical Regulations Being Considered by WP.29<sup>13</sup>

With regard to a proposal submitted to WP.29 by a Contracting Party other than the U.S., the final policy statement specifies that the agency will publish a notice requesting public comments on the proposal after it has been referred to a working party of experts and has been made available by WP.29. The agency will consider the comments in developing a U.S. position on the proposal.

If a working party of experts recommends a global technical regulation (whether proposed by the U.S. or another Contracting Party) and sends the regulation and an explanatory report to the Executive Committee, NHTSA will publish a notice requesting

public comment on the recommended global technical regulation and report. NHTSA will consider the comments in developing or revising its position on the recommended regulation, and in subsequently voting within the Executive Committee on whether to establish the recommended regulation.

The final policy statement also incorporates explanatory details from the preamble to January 1999 notice about the public meetings that the agency will hold regarding activities under the 1998 Global Agreement and about its solicitation of comments prior to WP.29 sessions and meetings of the working parties of experts. The public meeting before the annual November session of WP.29 participants may be held separately from or in conjunction with the agency's quarterly meeting on its vehicle rulemaking and research and development held in the Washington, DC area in September of each year. The public meetings will be held during the 60-day period before each of the three annual sessions of WP.29 participants.

To the extent possible and appropriate, each notice announcing one of these public meetings will discuss the agenda of the upcoming session of WP.29 participants and discuss the agency's general positions on the pending work to be discussed at that session. However, the agency cautions that its ability to discuss upcoming sessions of WP.29 participants and to develop and announce any positions will, in part, be dependent upon the timely availability of the provisional agenda for each upcoming WP.29 session. The provisional agendas are distributed by the WP.29 Secretariat according to the WP.29 Terms of Reference and Rules of Procedure. At present, they are rarely available more than 30 days before the sessions of WP.29 participants.

In response to the concern of the consumer group commenters that the breadth of the agenda for the public meetings would preclude detailed discussion of any particular issues, NHTSA has revised its statement of policy to make more explicit the details of those meetings, including their timing, agenda, and the opportunity for public comment at the meetings, and the dissemination of information prior to those meetings. Specifically, at its public meetings, NHTSA will: (1) Brief the public on the significant developments that occurred at the WP.29 meetings held since the most recent previous public meeting, (2) inform the public about the issues to be addressed at upcoming WP.29 meetings and any votes scheduled at the next meeting of the Executive Committee on

recommended technical regulations, and (3) invite public comment on those past developments and upcoming issues and votes and on possible U.S. positions regarding those votes. The agendas for these meetings and NHTSA's reports discussing prior WP.29 meetings will be filed in the public docket to keep the public updated and familiar with WP.29 activities and to allow the members of the public to determine which particular issues they wish to discuss at the meetings. Further, the agency may hold ad hoc meetings to discuss particular issues.

NHTSA cannot, due to its limited resources and the practical necessities involved in conducting effective consultations with other Contracting Parties, provide notice and comment or hold public agency meetings every time that a substantive change is made or proposed in a proposed global technical regulations under consideration or that a substantive change occurs in the U.S. position regarding that regulation. Significant changes, such as the introduction of a new proposal or an amendment to a proposal, will not occur during a meeting of the Executive Committee. Instead, if the Committee concludes that a recommended global technical regulation needs substantive revision, it will refer the matter back to the appropriate working party of experts. If the working party of experts responds with significant revisions to a previous recommendation, NHTSA may publish a notice seeking public comments on the revisions.

### *D. NHTSA's Voting Policy With Respect to Establishing Global Technical Regulations*

NHTSA will be guided in its voting to establish global technical regulations by the priority goals in its policy statement:

- Continuously improve safety and seek high levels of safety, particularly by developing and adopting new global technical regulations reflecting consideration of current and anticipated technology and safety problems.
- Harmonize U.S. standards with those of other countries or regions, particularly by raising U.S. standards at least to the level of the best practices in those other safety standards.
- Enhance regulatory effectiveness through regulatory cooperation with other countries and regions, thereby providing greater safety protection with available government resources. Further, NHTSA will consider the suitability of the regulation for adoption as a FMVSS under the Vehicle Safety Act.

<sup>11</sup> This step is diagrammed in Figure 1 of the Appendix.

<sup>12</sup> Given the close relationship between activities under the 1998 Global Agreement and the Vehicle Safety Act, NHTSA may combine its notice requesting comments on a draft proposal for a global technical regulation with a notice of proposed rulemaking under the Vehicle Safety Act.

<sup>13</sup> These processes are diagrammed in the Flowcharts in Figures 1 and 2 of the Appendix.

*E. Public Participation in U.S. Delegations Attending WP.29 Meetings*

We initially explored the inclusion of private entities on U.S. delegations to WP.29 in the January 1999 notice and in the February 1999 public meeting. Currently, there are no private sector representatives serving as participants in the NHTSA delegation. The agency, upon further consideration and research into this issue, has determined that it will not seek, through the Department of State, to include such participants at this time. We are guided in this decision by the Department of State guidelines, which describe the objectives of private sector participation and the factors to be considered in the justification process. We believe that these objectives will be satisfied by the activities and processes described in the policy statement. Should we later determine that private sector participation in the delegation is desirable, we would follow the guidelines and procedures of the Department of State. In response to comments urging balanced representation, we note that the guidelines address this concern, and we are committed to full compliance, in the event of any future decision to include private sector participation. The guidelines do not permit the payment of travel expenses for private sector participants, absent specific authorization and appropriations. As the agency does not currently plan to include private sector participants in U.S. delegations, NHTSA will not seek specific appropriations to fund such participants.

*F. Dissemination of Information to the Public*

NHTSA will promote the availability of documents under the 1958 Agreement and the 1998 Global Agreement to the public. This effort will include placing WP.29-related materials, including summaries of WP.29 meetings, in the Internet-accessible DOT docket (<http://dms.dot.gov/>) and, to the extent possible, on the NHTSA international website (<http://www.nhtsa.dot.gov/cars/rules/international/index.html>). NHTSA will also establish a public docket for each proposed regulation referred to a working party of experts. While it is beyond the resource capabilities of NHTSA to establish and maintain a mailing/facsimile list or utilize media outlets for those who do not have electronic access, as suggested by some commenters, all docket materials are available in the public docket for public viewing from 10:00 am to 5:00 pm, Monday through Friday, in Docket

Management, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590.

*G. Location of NHTSA's Public Meetings*

In response to the public comments and in recognition of the need to facilitate the attendance of agency personnel involved in WP.29 activities, NHTSA anticipates holding these meetings in Washington, DC.

*H. Ex parte Contacts*

All ex parte communications and contacts with nongovernmental representatives regarding WP.29 activities will be handled in accordance with DOT Order 2100.2 governing ex parte communications.

*I. Other Comments*

NHTSA was urged that the Terms of Reference for WP.29, which were still being negotiated at the time of the written comments, should permit NGOs to observe the substantive discussion of the WP.29 Executive Committee and receive Executive Committee documents, as well as provide for NGO participation in the activities of the working parties of experts. Further, consumer groups expressed the view that the international organizations that have been granted consultative status by the Economic and Social Council of the United Nations provide no substantive opportunity for participation by the U.S. public and that all but two of the organizations represent the interests of manufacturers. Article 2, section 2.3 of the Agreement states that,

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.

Because WP.29 operates under the auspices of the UN/ECE, whose arrangements for consultations with nongovernmental organizations are governed by guidelines that the Economic and Social Council set in Resolution 1296 (XLIV) of May 1968, NHTSA does not have the authority to include NGOs that have not been granted consultative status in deliberations of Working Parties. However, all sessions of WP.29 and its subsidiary bodies, including the working parties, will be held in public and all NGOs may attend as allowed under Rule 19 of the Terms of Reference

for WP.29.<sup>14</sup> Further, as any NGO has the opportunity, as per Article 1 and Annex A of the 1998 Global Agreement, to have its views and arguments presented at meetings of the WP.29 working parties of experts and of the Executive Committee through pre-meeting consulting with representatives of Contracting Parties, NHTSA affirms that it will entertain and consider all views and arguments presented to it in a timely manner before the beginning of those meetings. Further, NHTSA, when possible, will promote the availability of Executive Committee documents when they are made public, as discussed in Section VI. F. of this notice.

Commenters also asked NHTSA to (1) define "international standard" for the purposes of the TBT Agreement within the policy statement, (2) explain whether a WP.29 standard would be considered an "international standard," and (3) assure vigorous defense of any U.S. standard which is challenged under the TBT Agreement.

The term "international standard" is not defined under the TBT Agreement, and it is beyond the purview of NHTSA's discretion to issue a definition for its use under the TBT Agreement. We note, however, that the term "international body or system" is defined under the Agreement as a "body or system whose membership is open to the relevant bodies of at least all Members." We note further that that term has been deemed relevant by parties to the TBT Agreement, such as the U.S. and the EC, in examining the meaning of "international standardizing bodies of international standards" in their official submissions to the WTO Committee on TBT. The EC for example, has proposed that the key criterion for determining whether a body should be accepted as producing international standards is that of "international impartiality."<sup>15</sup> "International impartiality," as defined by the EC, means that "all countries with an interest in standardization must have access to the work, and international control over the results, without either discrimination or privilege as to the nationality of the participants." Id. In its submissions, the U.S. has stated that it is important to ensure that the international standardization process is representative of the interests of all parties concerned and that "bodies

<sup>14</sup> Rule 19 provides that "(t)he sessions of WP.29 and its subsidiary bodies shall be held in public."

<sup>15</sup> G/TBT/W/87, 14 September 1998 (98-3468), Committee on Technical Barriers to Trade, "On the Conditions for Acceptance and Use of International Standards in the Context of the WTO Technical Barriers to Trade Agreement," Note from the European Community.

which operate with open and transparent procedures which afford an opportunity for consensus among all interested parties will result in standards which are relevant on a global basis and prevent unnecessary barriers to trade.”<sup>16</sup>

While it is premature to examine whether global technical regulations under the 1998 Global Agreement could be characterized as “international standards,” the WP.29, as an international standards body, will remain accountable to an entire range of interested parties and should achieve a high degree of effectiveness in the role assigned to it by the 1998 Global Agreement.

Finally, the Office of the U.S. Trade Representative is responsible for coordinating and developing policy regarding U.S. standards challenged under the TBT Agreement. Accordingly, questions regarding the defense of U.S. standards under that Agreement should be directed to that Office.

## VI. Rulemaking Analyses and Notices

Since this final rule establishes a statement of policy (as opposed to a regulation or rule) that will not have the force and effect of law, it 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 was not subject to the notice and comment requirements of the Administrative Procedure Act. Nevertheless, this agency sought public comment on the statement of policy before publishing a final version.

### Appendix—Highlights of the 1998 Global Agreement

- The Agreement establishes a global process under the United Nations, Economic Commission for Europe (UN/ECE), for developing 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 member countries of the United Nations that participate in certain ECE activities, are eligible to become Contracting Parties to the 1998 Global Agreement. Specialized agencies and organizations that have been granted consultative status may participate in that capacity. (Art. 2)

- 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 safety 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 recognizes that governments have the right to determine whether the global technical regulations established under the Agreement are suitable for their needs. (Preamble)

- The Agreement emphasizes that global technical regulations will be developed using transparent procedures. (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 of experts through organizations granted consultative status; and

(2) meetings of working parties of experts and of the Executive Committee (i.e., the Contracting Parties to the 1998 Global Agreement) 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>17</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, i.e., all Contracting Parties present and voting must vote for establishment. 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 the inclusion in global technical regulations of a “global” level of stringency for most parties and “alternative” levels of stringency for developing countries. In this way, all countries, including the developing ones, will have an interest in participating in the development, establishment, adoption and implementation 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)

### List of Subjects in 49 CFR Part 553

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR Part 553 is amended as follows:

### PART 553—RULEMAKING PROCEDURES

1. The authority citation for Part 553 continues to read as follows:

**Authority:** 49 U.S.C. 322, 1657, 30103, 30122, 30124, 30125, 30127, 30146, 30162, 32303, 32502, 32504, 32505, 32705, 32901, 32902, 33103 and 33107; delegation of authority at 49 CFR 1.50.

<sup>16</sup>G/TBT/W/75, 30 June 1998 (98-2611), Committee on Technical Barriers to Trade, “Transparency in International Standards Draft U.S. Proposal for a Decision,” Contribution from the United States.

<sup>17</sup>The International Standards Organization (ISO) is a nongovernmental, 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.

2. Part 553 is amended by adding the following new Appendix C:

**Appendix C to Part 553—Statement of Policy: Implementation of the United Nations/Economic Commission for Europe (UN/ECE) 1998 Agreement on Global Technical Regulations—Agency Policy Goals and Public Participation**

**I. Agency Policy Goals for the 1998 Global Agreement and International Motor Vehicle Safety Harmonization**

*A. Paramount Policy Goal Under the 1998 Global Agreement*

Continuously improve safety and seek high levels of safety, particularly by developing and adopting new global technical regulations reflecting consideration of current and anticipated technology and safety problems.

*B. Other Policy Goals*

1. Adopt and maintain U.S. standards that fully meet the need in the U.S. for vehicle safety.

2. Harmonize U.S. standards with those of other countries or regions, particularly by raising U.S. standards at least to the level of the best practices in those other safety standards.

3. Enhance regulatory effectiveness through regulatory cooperation with other countries and regions, thereby providing greater safety protection with available government resources.

**II. Public Participation and the Establishing of Global Technical Regulations for Motor Vehicle Safety, Theft, and Energy Efficiency**

*A. Summary of the Process Under the 1998 Global Agreement for Establishing Global Technical Regulations*

1. Proposal Stage

A Contracting Party submits a proposal for either a harmonized or new global technical regulation to the Executive Committee of the 1998 Global Agreement (*i.e.*, the Contracting Parties to the Agreement). If appropriate, the Committee then refers the proposal to a working party of experts to develop the technical elements of the regulation.

2. Recommendation Stage

When a working party of experts recommends a harmonized or new global technical regulation, it sends a report and the recommended regulation to the Executive Committee. The Committee then determines whether the recommendations are adequate and considers the establishment of the recommended regulation.

3. Establishment Stage

If the Executive Committee reaches consensus in favor of that recommended global technical regulation, the global technical regulation is established in the Global Registry.

*B. Notice of Annual Work Program of WP.29*

Each year, NHTSA will publish a notice concerning the motor vehicle safety, theft, and energy efficiency aspects of the annual program of work for the UN/ECE's World

Forum for Harmonization of Vehicle Regulations (WP.29). Each notice will include:

1. A calendar of scheduled meetings of WP.29 participants and working parties of experts, and meetings of the Executive Committee; and

2. A list of the global technical regulations that:

a. Have been proposed and referred to a working party of experts, or

b. Have been recommended by a working party of experts.

Periodically, the notice will also include a request for public comments on the subjects for which global technical regulations should be established under the 1998 Global Agreement. The agency will publish a subsequent notice identifying the priorities on which NHTSA will focus in the future under the 1998 Global Agreement.

*C. Public Meetings*

NHTSA will hold periodic public meetings on its activities under the 1998 Global Agreement. If the extent of recent and anticipated significant developments concerning those activities so warrant, NHTSA will hold a public meeting within the 60-day period before each of the three sessions of WP.29 held annually. At each of these public meetings, NHTSA will:

1. Brief the public on the significant developments that occurred at the session of WP.29, the meetings of the working parties of experts and the meetings of the Executive Committee since the previous public meeting;

2. Based on the availability of provisional agendas, inform the public about the significant issues to be addressed at upcoming session of WP.29 and meetings of the working parties of experts and any votes scheduled at the next session of the Executive Committee on recommended global technical regulations; and

3. Invite public comment and questions concerning those past developments and upcoming issues and votes and the general positions that the U.S. could take regarding those votes, and concerning any other significant developments and upcoming matters relating to pending proposed or recommended global technical regulations.

Appropriate agency officials will participate in the public meetings. These public meetings may be held separately from or in conjunction with the agency's quarterly meetings on its vehicle rulemaking and research and development programs. The agency may hold additional public meetings.

*D. Notices Concerning Individual Global Technical Regulations*

1. Notice Requesting Written Comment on Proposed Global Technical Regulations

a. *Proposals by the U.S.* (See Figure 1.)

Before submitting a draft U.S. proposal for a global technical regulation to WP.29, NHTSA will publish a notice requesting public comments on the draft proposed global technical regulation. In the case of a draft proposal for a harmonized global technical regulation, the notice will compare that regulation with any existing, comparable U.S. standard, including the relative impacts

of the regulation and standard. In the case of a draft proposal for a new global technical regulation, the notice will generally discuss the problem addressed by the proposal, the rationale for the proposed approach for addressing the problem, and the impacts of the proposal. NHTSA will consider the public comments and, as it deems appropriate, revise the proposal and any of its supporting documentation and then submit the proposal to WP.29.

b. *Proposals by a Contracting Party other than the U.S.* (See Figure 2.)

After a proposal by a Contracting Party other than the U.S. has been referred to a working party of experts and has been made available in English by WP.29, NHTSA will make the draft proposal available in the DOT docket (<http://dms.dot.gov/>). The agency will then publish a notice requesting public comment on the draft proposal and will consider the comments in developing a U.S. position on the proposal.

2. Notice Requesting Written Comment on Recommended Global Technical Regulations

If a working party of experts recommends a global technical regulation and sends a report and the recommended regulation to the Executive Committee, NHTSA will make an English language version of the report and the regulation available in the DOT docket (<http://dms.dot.gov/>) after they are made available by WP.29. The agency will publish a notice requesting public comment on the report and regulation. Before participating in a vote of the Executive Committee regarding the establishment of the regulation, the agency will consider the comments and develop a U.S. position on the recommended technical regulation.

3. Notice Requesting Written Comment on Established Global Technical Regulations

If a global technical regulation is established in the Global Registry by a consensus vote of the Executive Committee, and if the U.S. voted for establishment, NHTSA will publish a notice requesting public comment on adopting the regulation as a U.S. standard. Any decision by NHTSA whether to issue a final rule adopting the regulation or to issue a notice terminating consideration of that regulation will be made in accordance with applicable U.S. law and only after careful consideration and analysis of public comments.

*E. Availability of Documents*

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 (<http://dms.dot.gov/>). Within the limits of available resources, we will also place the documents on an international activities page that will be included in our Website (<http://www.nhtsa.dot.gov/cars/rules/international/index.html>).

**Figure 1**  
**Public Participation**  
**US Proposal**  
**for a Harmonized or New Global Technical Regulation**

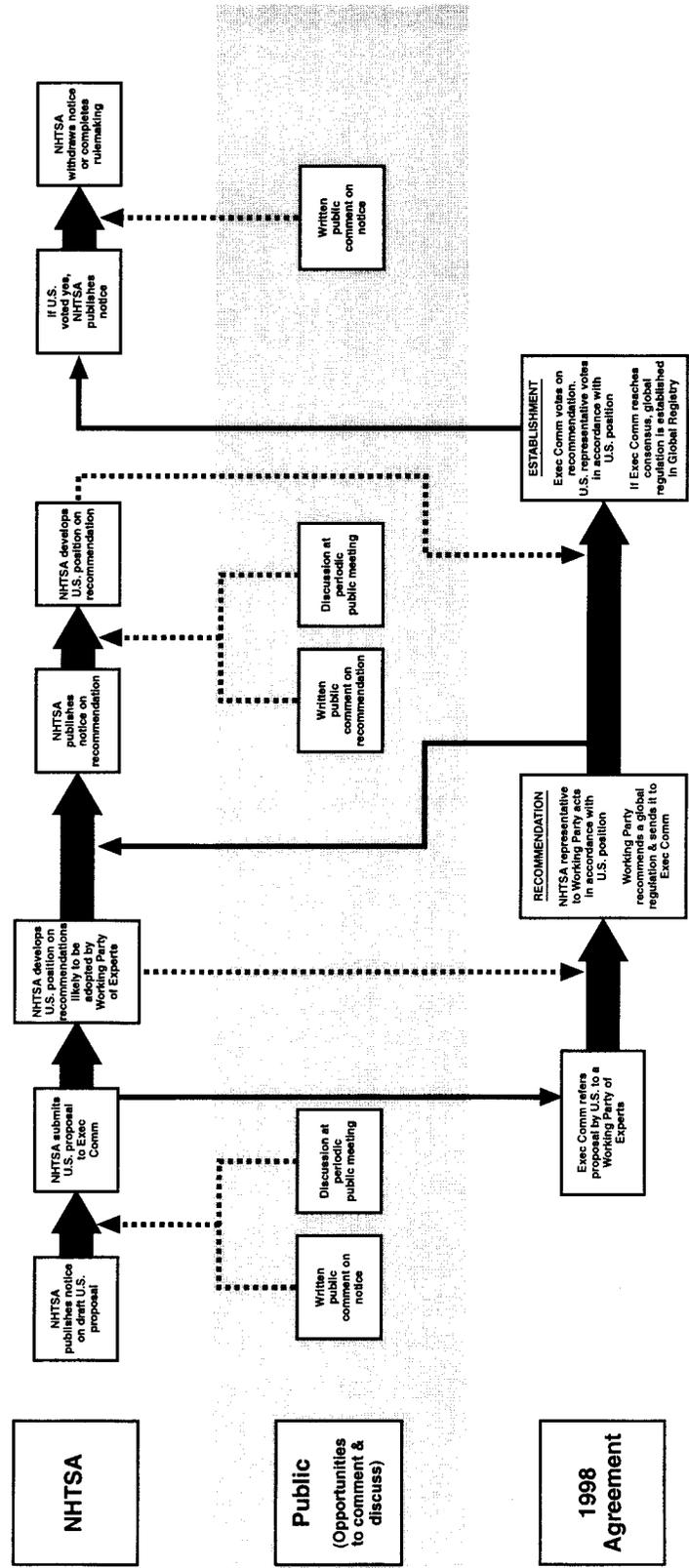
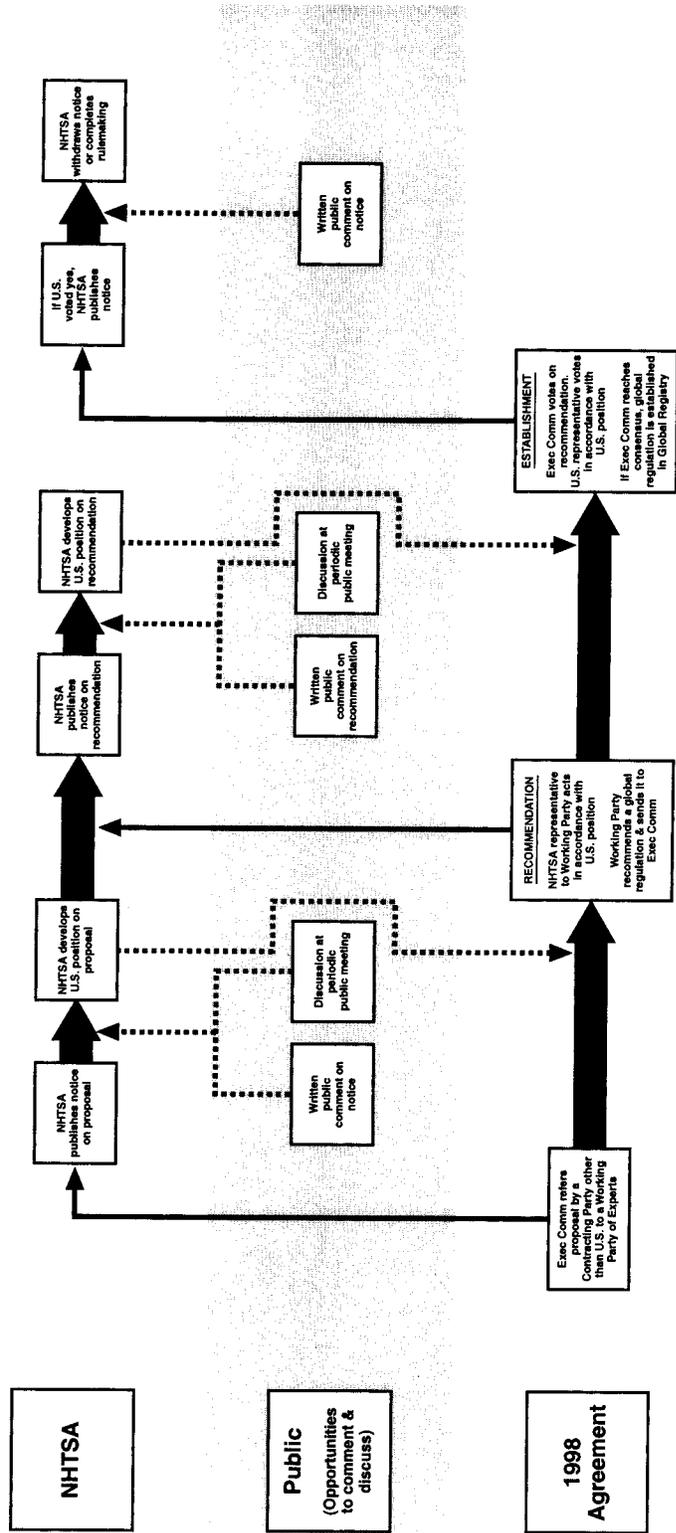


Figure 2  
Public Participation

Non-US Proposal  
for a Harmonized or New Global Technical Regulation



Issued on August 17, 2000.

L. Robert Shelton,  
Executive Director.

[FR Doc. 00-21450 Filed 8-22-00; 8:45 am]

BILLING CODE 4910-59-C