PETERSON
MANUFACTURING COMPANY

October 28, 2003

Docket Management
Room PL-401
U.S. Department of Transportation
400 Seventh Street, SW, Nassif Building
Washington, DC 20590-0001

SUBJECT: **Docket No. NHTSA 03-15651**
Agency: National Highway Transportation Safety Administration
Action: Notice of Draft Interpretations: request for comments

NHTSA:

Peterson Manufacturing Company appreciates the opportunity to respond to the subject "request for comments" on publicized draft interpretations.

Peterson is a manufacturer of safety lighting equipment for almost all size vehicles ranging from motorcycles thru Class 8 truck tractors and large (18 wheel) trailers. Therefore, we are inherently interested in all lighting regulations and their effect on the vehicles and on component products (lighting equipment) for those vehicles.

The authority cited in the notice of draft interpretations is 49 U.S.C. 30111; 49CFR 501.8(d)(5). 49CFR 501.8 is titled "delegations"; (d) states "chief counsel. The Chief Counsel is delegated authority to: (5) issue authoritative interpretations of the statutes administered by NHTSA and the regulations issued by the agency."

Peterson Mfg. Co. believes this authority is currently limited to the narrow specific application of the standard to a peculiar installation[①]. The involvement of "important novel issues and potentially broad impacts" is not authorized under the interpretive process in our opinion. Rulemaking will be required to expand the scope to industry-wide issues as detailed in the subject docket. In many respects, it would serve the industry well if it was covered since it could expedite the removal of non-compliant product from the marketplace. Peterson Mfg. Co., like NHTSA, has seen many of these illegal products (red bulbs, blue bulbs, green bulbs, LED bulb-based devices for replacements of bulbs, etc.) show up on America's roads. It is a major concern for legitimate manufacturers of lighting devices, and "slants the playing field" in favor of the non-compliant product manufacturers.

[①]This procedure should continue in effect for it has served the industry well.

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If the proliferation of non-compliant product continues, the industry will see increases in accidents, injuries and deaths similar to the Firestone debacle, which resulted in the Tread Act. Such a situation would further harm the legitimate manufacturers.

However, we see this prescriptive cure may be as bad as the disease.

While the RFC states these "interpretations" have broad impact to the industry the detail is limited to the passenger car and light truck segment (at least highly stylized and designed in lighting devices). It does not apply, nor should it, to the truck, truck tractor and trailer market segments. FMVSS 108 has always applied universally independent of vehicle class with the only distinction being the under 80 inch wide/80 inch wide and greater categories.

The standard has and should remain a performance-based standard. To consider changing this long standing approach to regulating the vehicle lighting industry would uproot 35 years of tradition in the industry and possibly create conditions requiring recall notifications spanning many years for legitimate manufacturers of lighting devices. Such a situation would create a severe economic impact to the industry, which was not addressed in the notice.

Converting to a design standard, in contravention of the Safety Act, would have serious intellectual property concerns for many replacement parts (lighting devices) manufacturers. The design would be restricted to the OE design, stifle creativity, reduce competition and most likely result in increased prices to the vehicle owner.

The NHTSA docket (02-13957) regarding comments on Adaptive Front-Lighting Systems (AFS) seemed to take the opposite view of a design restrictive standard. Being performance-based, 108 would not disallow the use of AFS providing the requirements of 108 were met in the static condition. This is paraphrased from the notice.

If the intent of these draft interpretations is to remove non-compliant product from the streets then Peterson Mfg. Co. is fully supportive of the effort but other methodology must be obtained to achieve that end, namely, rulemaking.

Peterson Mfg. Co. would additionally like to comment on the subject matter of the proposed interpretation.

Draft Interpretation No. 1

We are in agreement with the NHTSA that the lamps **AS INSTALLED ON THE HONDA CIVIC** are not in compliance with FMVSS 108. The basis for the agreement is that the reflex reflectors are not "as far apart as practicable" as installed on the car.

This could have been issued as a standard letter of interpretation without further elaboration. We do not agree with the Agency's statement that "the specific requirements of Standard No. 108 that apply to an item of replacement equipment are determined by reference to the original equipment being replaced and the vehicle for which it was designed."

Since it is a performance-based standard, FMVSS 108 allows a lighting manufacturer to comply with the latest standard even though the lighting device may be installed on a 20-year-old vehicle which was subject to previous versions of FMVSS 108. This allows the industry to improve the safety of vehicles through technology. This procedure would be lost in following the NHTSA's proposals.

Draft Interpretation No. 2

The summary question of draft interpretation no. 2 is "are light source modifications permissible for aftermarket lamps"? The Agency's reply to all the questions in the two categories asked by Calcoast-ITL is NO. We can accept that reply under the old guidelines that a letter of interpretation was a very narrow specific application of the standard. However, under the premise of this public notice that the interpretation could have potentially broad impacts to the industry Peterson cannot accept it.

In regard to the question: "May a lamp manufacturer design a replacement to use a different wattage bulb, such as switching from an 1157 to a 2057?" NHTSA response must be that this would be allowed only if the vehicle complied with Standard 108 after the replacement lamp is installed. The performance-based safety standards place requirements on both the manufacturer and installer of replacement equipment. There are two items of concern raised by this question.

1) It is illegal for an installer of replacement equipment to make a vehicle defective by creating a problem with the vehicle electrical system.
2) The replacement lamp number may not be clear when it comes time for replacement; however, the manufacturer can mark the replacement bulb type on the lamp to eliminate confusion.

NHTSA's response to the balance of questions asked in the interpretation number 2 must follow a similar scenario in that the decision whether a particular component could be used depends on the vehicle compliance with 108 after the lamp containing that component is installed.

If the vehicle is still in compliance with 108 then the component is acceptable for use in the lighting device.

As a manufacturer of both original equipment lighting products as well as replacement lighting products we manufacture lights that may actually upgrade over the original equipment. An extreme example may be the replacements of an incandescent 4-1/4 inch round stop/tail lamp on an eighteen-wheeler with an LED 4-1/4 inch round lamp. The LED may have a different pigtail (local wiring harness) and certainly a different light source but performs the same function more efficiently (lower power requirements), exceeds the FMVSS 108 standard and extends the product life. In this instance we can certify to the vehicle owner that his lights meet the requirements of FMVSS 108.

Peterson certifies to the O.E. trailer manufacturer (new vehicle) that the LED light assembly complies with FMVSS 108 when properly installed. Why then would the same light not comply on a trailer that is two years old because it replaces an incandescent?

A few years ago fleets were retrofitting their vehicles with LED lights (replacing incandescents) so they could install ABS systems and assure themselves they had electrical capacity to activate the ABS due to the lower power requirements of the LED lights. This not only complied with the standard but also resulted in a potential improvement in safety. Our experience with the industry is that reputable vehicle manufacturers and rebuilders work with competent lighting manufacturers to achieve their goals.

We disagree with the statement in the notice that "Thus, the manufacturer of a replacement lamp (or other replacement equipment covered by the standard) is required to certify that the equipment meets the standard's requirements." If the last use of the word equipment refers to the vehicle then the vehicle manufacturer has the responsibility of certifying that the vehicle complies with FMVSS 108, as well as other safety standards and requirements. If it refers to replacement lamp then we can certify that the lamp complies with the standard PROVIDED IT IS CORRECTLY INSTALLED. In the heavy-duty industry, knowledgeable OEM's will ask to have the lights tested in the installed location.

The notice states that the "...manufacturer must design that lamp to ensure that the vehicle will continue to comply with Standard No. 108 when the replacement lamp is installed." We believe it is the vehicle manufacturer or re-manufacturer's (installer's) responsibility to select the correct light assembly, with the correct functions and correctly install it to be sure the VEHICLE CONTINUES TO CONFORM TO THE STANDARD.

Since rulemaking is required to address the issues identified by the Agency we believe that the salient features should be added to section S5.8 of FMVSS 108:

- Each replacement lamp, reflective device or item of associated equipment:

Shall meet:

- (a) the same requirements of this standard which were in effect at the time the vehicle was manufactured, or
- (b) the updated requirements of this standard after the vehicle was manufactured,

- (c) shall include all the same functions as the original item, or
- (d) contain multiple devices which collectively will meet the same requirements as the original equipment.

- The vehicle replacement parts installer shall certify that the vehicle remains in compliance with FMVSS 108 (and other standards regulating other replacement equipment covered by FMVSS).

- Each lamp, reflective device, or item of associated equipment intended to replace like equipment on a vehicle shall be marked on the lens with the symbol "DOT" and the letters indicating device functions from SAE Standard J759 June 2001, Lighting Identification Code [re-write of S5.8.10]
  This symbol and accompanying code shall constitute a certification by the device manufacturer that it conforms to applicable Federal Motor Vehicle Safety Standards.

The conclusions reached by Peterson Manufacturing Company is that the burden of manufacturing lighting devices, which are designed to conform to the performance requirements of FMVSS 108, resides with the lighting device manufacturer. A legitimate lighting device manufacturer should be willing to certify that the device complies with 108 and mark the lens appropriately to indicate the function(s) to which the device complies. We emphasize that the lighting device should be evaluated based on performance, not a prescribed formula.

The burden of proper selection and installation of the lighting device(s) so the vehicle conforms to the requirements of the FMVSS 108 Standard rests with the vehicle manufacturer or replacement parts installer.

Peterson Manufacturing Company again thanks the NHTSA for this opportunity to respond to the Agency's request for comments prior to a final interpretation being issued.

Sincerely,

Timothy C. Murphy
Vice President, Engineering

TCM/bm

cc: Jim Rowden
Art Richardson
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