- (8) Negotiate an advance agreement with the contractor setting forth, at a minimum, cost ceiling amounts on restructuring projects and, when necessary, a cost amortization schedule. Cost ceilings may not exceed the amount of projected restructuring savings on a present value basis. The advance agreement shall not be executed until the certification required by 231.205–70(c)(1)(iv) is obtained.
- (9) Submit to the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition & Technology), ATTN: OUSD(A&T)DP/CPF, a recommendation for certification of net benefit. Include the information described in 231.205–70(e).
- (e) Information needed to obtain certification of net benefit. (1) The novation agreement (if one is required).
- (2) The contractor's restructuring proposal.
 - (3) The proposed advance agreement.
 - (4) The audit report.
 - (5) Any other pertinent information.
- (6) The cognizant ACO's recommendation for certification. This recommendation must clearly indicate that contractor projections of future cost savings resulting for DoD from the business combination are based on audited cost data and should result in overall reduced costs for the Department.

SUBPART 242.12—NOVATION AND CHANGE-OF-NAME AGREEMENTS

3. Sections 242.1202 and 242.1204 are added to read as follows:

242.1202 Responsibility for executing agreements.

The contracting officer responsible for processing and executing novation and change-of-name agreements shall ensure agreements are executed promptly.

242.1204 Agreement to recognize a successor in interest (novation agreement).

- (e) When a novation agreement is required and the transferee intends to incur restructuring costs as defined at 231.205–70, the cognizant contracting officer shall include the following provision as paragraph (b)(7) of the novation agreement instead of the paragraph (b)(7) provided in the sample format at FAR 42.1204(e):
- "(7)(i) Except as set forth in subparagraph (7)(ii) below, the Transferor and the Transferee agree that the Government is not obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any related increases, directly or indirectly arising out of or resulting from the transfer or this Agreement, other than those that the Government in the absence of this transfer or

Agreement would have been obligated to pay or reimburse under the terms of the contracts.

(ii) The Government recognizes that restructuring by the Transferee incidental to the acquisition/merger may be in the best interests of the Government. Restructuring costs that are allowable under part 31 of the Federal Acquisition Regulation (FAR) or part 231 of the Defense Federal Acquisition Regulation Supplement (DFARS) may be reimbursed under flexibly-priced novated contracts, provided the Transferee demonstrates that the restructuring will reduce overall costs to the Department of Defense (DoD) and/or the National Aeronautics and Space Administration (NASA), and the requirements included in DFARS 231.205-70 are met. These costs and the contracting parties' responsibilities shall be addressed in a Memorandum of Understanding to be negotiated between the cognizant contracting officer and the Transferee. The Memorandum of Understanding will specify the types and treatment of restructuring costs and the methodology to be used to demonstrate reduced costs to DoD and/or NASA. Restructuring costs shall not be allowed on novated contracts unless there is an audit of the restructuring proposal; a determination by the contracting officer of overall reduced costs to DoD/NASA; and an Advance Agreement setting forth cost ceiling amounts on restructuring projects and the period to which such costs shall be assigned.'

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 555

[Docket 93-40; Notice 3]

RIN 2127-AE88

Temporary Exemption From Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT. **ACTION:** Technical correction; final rule.

SUMMARY: This notice corrects a grammatical error in the language of the certification label required for a vehicle temporarily exempted from compliance with the Federal motor vehicle safety standards.

DATES: The effective date of the final rule is February 6, 1995.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (202–366–5263).

SUPPLEMENTARY INFORMATION: On October 29, 1993, NHTSA amended 49 CFR 555.9(c)(1), the certification requirements for motor vehicles that have been temporarily exempted from

compliance with one or more of the Federal motor vehicle safety standards, to conform it to the requirements of 49 CFR 567.4(g)(5) for nonexempted vehicles by including a reference to the Theft Prevention Standard (58 FR 58103).

As amended, the manufacturer of an exempted vehicle, under paragraph 555.9(c)(1), shall:

- (c) Meet all applicable requirements of Part 567 of this chapter, except that—
- (1) Instead of the statement required by Sec. 567.4(g)(5) of this chapter, the following statement shall appear:

"THIS VEHICLE CONFORMS TO ALL APPLICABLE FEDERAL MOTOR VEHICLE SAFETY AND THEFT PREVENTION STANDARDS (and, if a passenger car), BUMPER STANDARD IN EFFECT ON THE DATE OF MANUFACTURE SHOWN ABOVE EXCEPT FOR STANDARDS NOS. (listing the standards by number and title for which an exemption has been granted) EXEMPTED PURSUANT TO NHTSA EXEMPTION NO.

Michael Grossman, representing Automobili Lamborghini, telephoned NHTSA to comment that this wording would require an exempted manufacturer of a passenger car to certify in part to "* * * THEFT PREVENTION STANDARDS, BUMPER STANDARD. * * *" He recommended that NHTSA correct this grammatical error by incorporating the language of the general certification requirement at Sec. 567.4(g)(5) with the exception now in effect under which the exempted standards are listed. NHTSA concurs with this comment, and is amending paragraph 555.9(c)(1) in an appropriate manner. A manufacturer of an exempted vehicle shall now:

- (c) Meet all applicable requirements of Part 567 of this chapter, except that—
- (1) The statement required by paragraph 567.4(g)(5) of this chapter shall end with the phrase "except for Standards Nos. [listing the standards by number and title for which an exemption has been granted] exempted pursuant to NHTSA Exemption No.

This amendment also addresses a recent observation by Chrysler Corporation that vehicles other than passenger cars, such as its electric vans which are covered by a Temporary Exemption, are not yet subject to 49 CFR Part 541 Federal Motor Vehicle Theft Prevention Standard, and its recommendation that the parenthetical reference to passenger cars should precede and not follow the reference to the theft prevention standard in paragraph 555.9.