

is therefore important that senior individuals within each interest group be designated to represent that interest. No individual will be required to "bind" the interest represented, but the individual should be at a high enough level to represent the interest with confidence. For this process to be successful, the interests represented should be willing to accept the final Committee product.

(E) *Notice of Intent to Establish Advisory Committee and Request for Comment:* In accordance with the requirements of FACA, an agency of the Federal government cannot establish or utilize a group of people in the interest of obtaining consensus advice or recommendations unless that group is chartered as a Federal advisory committee. It is the purpose of this Notice to indicate NHTSA's intent to create a Federal advisory committee, to identify the issues involved in the rulemaking, to identify the interests affected by the rulemaking, to identify potential participants who will adequately represent those interests, and to ask for comment on the use of regulatory negotiation and on the identification of the issues, interests, procedures, and participants.

(F) *Requests for Representation:* One purpose of this notice is to determine whether interests exist that may be substantially affected by a rule, but have not been represented in the list of prospective Committee members. Commenters should identify such interests if they exist. Each application or nomination to the Committee should include (i) the name of the applicant or nominee and the interests such person would represent; (ii) evidence that the applicant or nominee is authorized to represent parties related to the interest the person proposes to represent; and (iii) a written commitment that the applicant or nominee would participate in good faith. If any additional person or interest requests membership or representation on the Committee, NHTSA shall determine (i) whether that interest will be substantially affected by the rule, (ii) if such interest would be adequately represented by an individual on the Committee, and (iii) whether the requested organization should be added to the group or whether interests can be consolidated to provide adequate representation.

(G) *Final Notice:* After evaluating the comments received in response to this Notice, NHTSA will issue a further notice announcing the establishment of the Federal advisory committee, unless it determines that such action is inappropriate in light of comments received, and the composition of the

Committee. After the Committee is chartered, the negotiations should begin.

(H) *Administrative Support and Meetings:* Staff support would be provided by NHTSA and meetings would take place in Washington, D.C. unless agreed otherwise by the Committee.

(I) *Tentative Schedule:* If the Committee is established and selected, NHTSA will publish a schedule for the first meeting in the **Federal Register**. The first meeting will focus on procedural matters, including dates, times, and locations of further meetings. Notice of subsequent meetings would also be published in the **Federal Register** before being held.

NHTSA expects that the Committee would reach consensus and prepare a report recommending a proposed rule within ten months of the first meeting. However, if unforeseen delays occur, the Administrator may agree to an extension of that time if it is the consensus of the Committee that additional time will result in agreement. The process may end earlier if the Facilitator so recommends.

(J) *Committee Procedures:* Under the general guidance of the Facilitator, and subject to legal requirements, the Committee would establish the detailed procedures for meetings which it considers appropriate.

(K) *Records of Meetings:* In accordance with FACA's requirements, NHTSA would keep a summary record of all Committee meetings. This record would be placed in Docket No. 95-28. Meetings of the Committee would be open to the public to observe, but not to participate.

(L) *Consensus:* The goal of the negotiating process is consensus. NHTSA proposes that the Committee would develop its own definition of consensus, which may include unanimity, a simple majority, or substantial agreement such that no member will disapprove the final recommendation of the Committee. However, if the Committee does not develop its own definition, consensus shall mean unanimous concurrence.

(M) *Regulatory Approach:* The Committee's first objective is to prepare a report recommending a regulatory approach for resolving the issues discussed in the BACKGROUND section of this notice. If consensus is not obtained on some issues, the report should identify the areas of agreement and disagreement, and explanations for any disagreement. It is expected that participants will be mindful of cost/benefit considerations.

NHTSA will issue a notice of proposed rulemaking based upon the approach recommended by the Committee.

(N) *Key Issues for Negotiation:* NHTSA has reviewed correspondence, reports, petitions, relevant data, and other information. Based on this information and rulemaking requirements, NHTSA has tentatively identified major issues that should be considered in this negotiated rulemaking. Other issues related to headlamp amiability and beam pattern not specifically listed in this Notice may be addressed as they arise in the course of the negotiation. Comments are invited concerning the appropriateness of these issues for consideration and whether other issues should be added. These issues are:

1. Should NHTSA be involved in specifying headlamp amiability requirements? Standard No. 108 applies only to the manufacture and sale of new vehicles and new equipment. It is the States that specify headlamp aim regulations for vehicles in service. Some States, at present, specify procedures for visually aiming headlamps, even though headlamps are not intended to be visually aimed. Is it appropriate for NHTSA to try to develop a single approach to visual aim or any other aim? Should NHTSA delete amiability requirements from Standard No. 108 and leave this subject to be regulated at the State level?

2. If negotiations produce a result, is it likely that the States and individual inspection stations would follow the results to adjust the aim of headlamps on vehicles in service, or would those groups continue to use inappropriate procedures to aim headlamps? If they would choose not to follow the procedures of the potential solution, is there any reason to proceed with negotiations?

3. Is SAE Standard J1735 *Harmonized Vehicle Headlamp Performance Requirement* acceptable to all parties as a starting point from which to begin negotiating the details of a visual aim provision in Standard No. 108?

IV. Public Participation

NHTSA invites comments on all issues, procedures, guidelines, interests, and suggested participants embodied in this Notice. All comments and requests for participation should be submitted to the Docket Clerk, NHTSA, Room 5109, 400 Seventh Street, S.W., Washington, D.C. 20590.