

## Lighting Equipment Advances & Government Regulations

### Issues Affecting the Automotive Aftermarket



■ As a bedrock principal, SEMA has championed the fact that the federal safety standards are based on performance requirements rather than design specifications. This guarantees that consumers will have the widest selection of compliant design choices from which to choose.

**L**ighting technology has entered a new dimension. Light-emitting diodes, for example, are blazing a new path from taillamps to headlamps. Car lamps can now produce light beams that bend around corners, lengthen when the car is going fast and shorten and widen when the car slows down.

The specialty-equipment industry is on the leading edge of these technological advances that promote safety and provide styling alternatives for new lighting products. Much of this innovative aftermarket equipment for cars, trucks and SUVs provides greater road illumination and creates increased visibility.

Federal and state regulators are working to keep current with these advances and also confirm that new products comply with existing regulations. In an effort to help the specialty-equipment industry stay informed as well, SEMA is providing this overview of federal and state regulations. SEMA also maintains ongoing guidance to

the complete Federal Motor Vehicle Safety Standards (FMVSS) on its website, including the full text of FMVSS No. 108, which covers lamps, reflective devices and associated equipment.

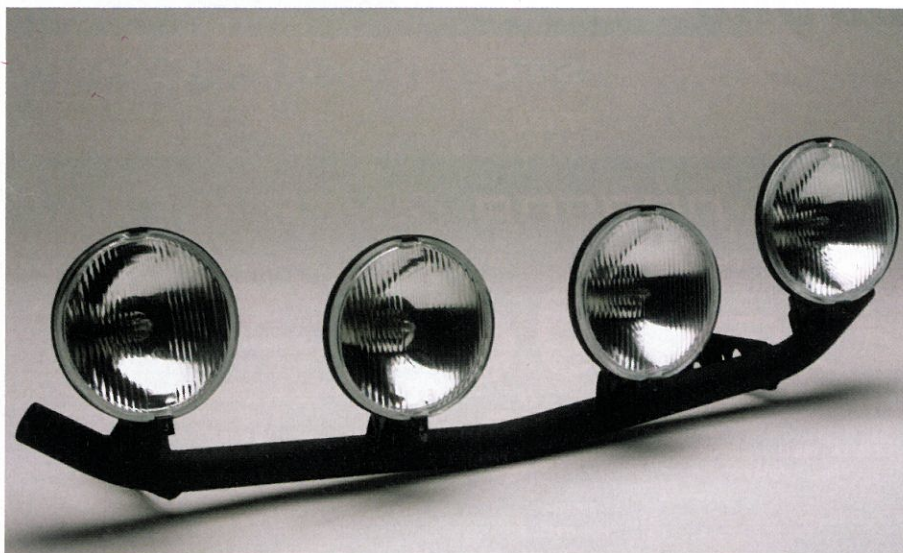
#### Federal Oversight

The National Highway Traffic Safety Administration (NHTSA) is the federal agency that regulates original and aftermarket motor vehicle lighting products, including newer technologies coming into the marketplace. NHTSA has also stepped up enforcement against aftermarket manufacturers that market lighting equipment which does not comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, including imported goods. Attention has been focused on non-compliant High Intensity Discharge (HID) conversion kits that may produce glare and restyled combination lamps that are missing required functions existing on the original-equipment lamps. Certain clear taillamp covers, marker lamps, certain "blue" headlamp bulbs and other equipment has also been subject to scrutiny.

SEMA is working with NHTSA to ensure that the aftermarket lighting industry's perspective is heard and, simultaneously, to remind its members to obey the rules of the road. In this fashion, our SEMA members can offer a full range of cutting-edge, compliant motor vehicle lighting products. As a bedrock principal, SEMA has championed the fact that the federal safety standards are based on performance requirements rather than design specifications. This guarantees that consumers will have the widest selection of compliant design choices from which to choose.

#### Rules of the Road

The Federal Motor Vehicle Safety Act and related laws impose specific responsibilities on manufacturers and installers of



■ Compliance with the federal regulation is mandatory for products designed for use on vehicles operated on the public roads. If a lighting product is marketed as “off-road only” but has the potential to be used on the highway, it will likely be subject to regulation under FMVSS No. 108 as well.

aftermarket lighting equipment. The corresponding regulations issued by NHTSA identify technical specifications for lighting equipment required by federal law and stemming from identifiable safety concerns. Requirements may include manufacturer registration, technical specifications, product self-certification, product marking and other responsibilities.

FMVSS No. 108 applies to the basic lighting equipment found on all cars—taillamps, headlamps, reflex reflectors, side markers, etc.—both original and aftermarket equipment. Compliance with the federal regulation is mandatory for products designed for use on vehicles operated on the public roads. If a lighting product is marketed as “off-road only” but has the potential to be used on the highway, it will likely be subject to regulation under FMVSS No. 108 as well.

Manufacturers that fail to comply with FMVSS No. 108, or intentionally mis-mark or misrepresent products to indicate compliance, can be prosecuted under federal civil law and risk substantial penalties. If the equipment your company manufactures or installs is auxiliary lighting not directly covered under FMVSS No. 108, it is nonetheless important to ensure the item does not impede or render inoperative any safety equipment or feature required under a federal safety standard. This would include equipment that indirectly alters or modifies required lighting equipment. While the federal law does not

regulate installation of equipment by consumers, manufacturers must be sure that use of the product will leave the vehicle and its safety features in compliance with federal law. Phrased another way, it is against the law to sell any equipment that renders a vehicle or vehicle equipment out of compliance with a federal standard.

### Registering With NHTSA

Foreign and domestic manufacturers of original and aftermarket equipment subject to the federal safety standards (except tires) are required to register with NHTSA. That would include lighting equipment manufacturers subject to FMVSS No. 108. Registration allows NHTSA to know what manufacturers are conducting business and where they are located and also to assign a code numbering system for all regulated manufacturers. It should be noted that Federal law defines “manufacturer” to include importers of motor vehicle equipment.

### Certifying Lighting Equipment

NHTSA does not “certify” or “approve” products. Compliance with NHTSA regulations is based on self-certification by the manufacturer. This means that the manufacturer of regulated equipment must exercise due care in performing whatever tests, studies or calculations are required to satisfy itself that the certified items comply with the regulations. The manufacturer’s self-certification is then passed along



■ SEMA, through its Government Affairs office in Washington, D.C., monitors newly proposed lighting rules and actively seeks to shape laws and regulations so that they do not unnecessarily preclude options based on style and performance.

through the distribution chain. Certification is automatically implied when a product is offered for sale, since the law prohibits a manufacturer, distributor, importer, dealer or motor vehicle repair business from knowingly selling equipment that is not in compliance with the FMVSS. Certification is also affirmed through marking requirements such as NHTSA's rule that certain lighting equipment be marked "DOT."

#### Defects or Noncompliance

Federal law also regulates equipment manufacturers in instances of safety-related product defects or in-use noncompliance with federal standards. If a company encounters a potential safety-related defect or a noncompliance issue, it is important to review the federal requirements immediately, preferably with the assistance of legal counsel familiar with these laws. NHTSA's regulations set forth specific steps to take in notifying the agency and responding to the problem. These requirements must be observed carefully by manufacturers not only for federal law compliance but also to

establish responsible action should a civil action arise.

#### State Regulation

State-level enforcement of federally required lighting equipment should not deviate from what is prescribed by the federal government. The Federal Motor Vehicle Safety Act prohibits states from issuing motor vehicle safety regulations that conflict with federal standards. This is called federal preemption. However, states are free to enact and enforce safety and equipment regulations that are identical to the federal safety standards.

States also have jurisdiction to enact and enforce vehicle equipment and safety regulations covering equipment not regulated at the federal level, such as "optional" or "accessory" lighting equipment. It is the responsibility of the manufacturer to be aware of varying state laws and regulations in order to meet compliance requirements. Manufacturers must also be aware that state laws and regulations are often modified and new proposals are introduced annually. SEMA, through its Government Affairs

office in Washington, D.C., monitors these proposals and actively seeks to shape laws and regulations so that they do not unnecessarily preclude options based on style and performance. SEMA encourages manufacturers to take part in the process as well to protect against proposals that are not supported by a demonstrated safety need.

Vehicle equipment regulations are often complex, from both a technical and legal standpoint. We recommend seeking the assistance of qualified professionals when considering compliance issues or in addressing potential non-compliance and safety defect issues. Keep in mind that each violation of the FMVSS is punishable by steep civil penalties. As noted, states may have lighting standards not covered under the FMVSS. Therefore, states may have similar noncompliance requirements along with their own civil fines.

For more information about the Federal Motor Vehicle Safety Standards, FMVSS No. 108 and how to register as a manufacturer, please visit: <http://www.sema.org/main/semaorhome.aspx?id=50505>. 