

preamble to the June 18, 2002 interim final rule, the agency found that the RVIA and NTEA petitions raised questions regarding NHTSA's earlier estimates of the compliance costs that the upper interior head protection requirements imposed on multi-stage manufacturers. We indicated that some of the points raised by the RVIA and NTEA could have merit, including the possibility that NHTSA had overestimated the degree by which cooperative and component, rather than full vehicle, testing could lower compliance costs. We also observed that incomplete vehicle manufacturers who supply unfinished vehicles to intermediate and final stage manufacturers appeared to be certifying smaller areas of the upper interior of the vehicles than was anticipated when the upper interior head protection requirements were promulgated.

The Regulatory Flexibility Act of 1980 requires agencies to evaluate the potential impacts of their proposed and final rules on small businesses. When NHTSA issued the final rule establishing the upper interior head impact protection requirements of Standard No. 201 in August 1995, the agency determined that the new requirements would impose a burden on small manufacturers, but that this burden would not result in a significant economic impact. The October 2001 petition filed by RVIA and the November 2001 petition filed by NTEA disputed the agency's position that compliance with the upper interior head protection requirements of Standard No. 201 would not be unduly burdensome. Both petitioners argued that efforts by their member companies to meet the upper interior requirement suggest that NHTSA's prior estimates may have been incorrect.

The member companies of RVIA and NTEA are manufacturers who purchase incomplete vehicles from major manufacturers to serve as the basis for specialty vehicles to meet certain uses and markets. As such, they may face a variety of challenges in certifying that their vehicles meet applicable safety standards. To afford final stage manufacturers sufficient leadtime to comply with the new upper interior head protection requirements, the agency's August 18, 1995 final rule stated that final stage manufacturers did not have to meet the standard until the last year of the phase-in. Nonetheless, our June 2002 interim final rule indicated that NHTSA could, when establishing the aforementioned deadline, have underestimated the difficulties faced by final stage

manufacturers in meeting the new requirements.

In particular, we indicated that cooperative testing—which we had considered as one option for reducing costs when we issued the final rule in 1995—might not be practicable depending on the uniqueness of the vehicle interior and the features incorporated into it. In this market, where the uniqueness of the interior and the features incorporated into that interior are primary concerns of buyers, competitors are not likely to share their designs. We also observed that reducing compliance test costs by testing components outside of a vehicle rather than testing a complete vehicle may not be as practical as we had estimated in the 1995 final rule. Finally, we noted that final stage manufacturer modifications, such as raising or replacing the original roof, would likely result in relocation of certain specified target areas and reduce the ability of these manufacturers to rely on the incomplete vehicle manufacturer's certification that the vehicle met the standard for the target areas at their original location.

Because NHTSA needed further time to complete rulemaking, we issued an interim final rule extending the existing compliance date for final stage manufacturers to September 1, 2003. Although RVIA and NTEA requested that the agency extend the compliance date to March 1, 2004, we indicated our belief that such an extension was not necessary and that any future rulemaking could further modify the deadline established by this interim final rule.

### **III. Comments in Response to the June 2002 Interim Final Rule**

The comment period for the June 2002 interim final rule closed on August 19, 2002. NHTSA did not receive any comments regarding the June 2002 interim final rule. However, as noted below in Section V, the agency has received a comment opposing additional extensions to the compliance date as requested by the January 20, 2003 RVIA and February 6, 2003 NTEA petitions for rulemaking.

### **IV. RVIA and NTEA Petitions For Rulemaking**

On January 20, 2003, RVIA submitted a petition for rulemaking requesting that NHTSA grant an extension of the September 1, 2003 compliance date applicable for vehicles built in two or more stages to September 1, 2004. The organization stated that conversion vehicle and motorhome manufacturers are often small business entities who

need additional time to develop required safety devices and designs. These small businesses also, according to RVIA, would need additional time to conduct research and certification testing on their vehicles. RVIA noted that since NHTSA was still completing rulemaking that may involve changes to the Standard as it applies to multi-stage vehicles, its members could not complete all the necessary testing to conform to any new requirements. Accordingly, RVIA indicated that an additional extension would be appropriate.

On February 6, 2003, NTEA submitted a petition for rulemaking seeking to extend the compliance date for vehicles built in two or more stages from September 1, 2003 to a future date that would provide its members with sufficient time to comply with any new requirements imposed by the pending rulemaking. In support of its request, NTEA observed that the preamble to the agency's June 18, 2002 interim final rule indicated that extension of the compliance deadline for multi-stage manufacturers was necessitated by NHTSA's ongoing consideration of potential changes to the upper interior head protection requirements applicable to these manufacturers. Since NHTSA had not yet completed the rulemaking action that led to the original grant of an extension, NTEA stated that the agency should further extend the compliance date to complete the rulemaking and provide manufacturers of multi-stage vehicles with sufficient leadtime to meet any new requirements issued as a result of that rulemaking.

The petition also referred NHTSA to some of the issues raised by NTEA in its November 2001 petition. In particular, NTEA reiterated that its members are small businesses with limited financial resources. Given these limited resources and its estimate that compliance would impose costs of more than \$160,000,000 on the work truck industry, NTEA argued that requiring its members to meet the existing upper interior head protection provisions of Standard No. 201 is economically impracticable. Moreover, NTEA argued again that the volume of testing that would have to be completed by its members—who produce large numbers of unique vehicles customized for different applications—also made compliance impracticable.

Since NHTSA had not completed its ongoing rulemaking action and would not do so in time for its members to comply with the September 1, 2003 compliance date, NTEA requested that NHTSA extend the compliance deadline for multi-stage manufacturers to an