(d) To the extent that a manufacturer within a control relationship was outside that relationship for a previous model year and not within any other control relationship, shortfalls incurred by the manufacturer for such model year may be offset by credits earned by the group of manufacturers within the control relationship for subsequent model years in which the manufacturer is within the relationship, subject to the agreement of the other manufacturers, the availability of the credits, and the general three-year restriction on carrying credits backward.

(e) If a manufacturer which is controlled by another manufacturer is sold or otherwise spun off so that it is no longer within that control relationship and is not within any other control relationship, it may use credits that were earned by the group of manufacturers within the control relationship while the manufacturer was within that relationship, subject to the agreement of the other manufacturers, the availability of the credits and the general restriction on carrying credits forward.

(f) If a manufacturer which is controlled by another manufacturer is sold or otherwise spun off so that it is no longer within that control relationship but is within another control relationship, it may use credits that were earned by the group of manufacturers within the former control relationship while the manufacturer was within that relationship, subject to the agreement of the other manufacturers, the availability of the credits, and the general restriction on carrying credits forward, and subject to a demonstration by the manufacturer, and approved by the Administrator, that the credits to be used are no more than the manufacturer could use if it were not within another control relationship.

(g) If a manufacturer which is controlled by another manufacturer is sold or otherwise spun off so that it is no longer within that control relationship and is not within any other control relationship, credits earned by that manufacturer may be used by the manufacturer or group of manufacturers previously within the control relationship for model years in which the manufacturer was within that relationship, subject to the agreement of the previously controlled manufacturer, the availability of the credits and the general restriction on carrying credits backward.

(h) If a manufacturer which is controlled by another manufacturer is sold or otherwise spun off so that it is no longer within that control relationship but is within another control relationship, credits earned by manufacturers within the latter control relationship for model years in which the manufacturer is within that relationship may be used by the manufacturer or group of manufacturers within the former control relationship for model years in which the manufacturer was within that relationship, subject to the agreement of the group of manufacturers within the latter control relationship, the availability of the credits, and the general restriction on carrying credits backward, and subject to a demonstration by the manufacturer, and approved by the Administrator, that the credits to be used are no more than the manufacturer would have earned if it were not within another control relationship.

§ 534.6 Situations not directly addressed by this regulation.

To the extent that this regulation does not directly address an issue concerning the rights and responsibilities of manufacturers in the context of a changes in corporate relationships, the agency will make determinations based on interpretation of the statute and the principles reflected in the regulation.

Issued on: January 10, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–1524 Filed 1–19–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 554, 573, and 576

[Docket No. NHTSA 2001–8677; Notice 1]

RIN 2127–AI25

Standards Enforcement and Defect Investigation; Defect and Noncompliance Reports; Record Retention

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: This document requests comments on ways that the National Highway Traffic Safety Administration (NHTSA) may implement the ''early warning reporting requirements'' of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. The TREAD Act directs NHTSA to publish a rule requiring vehicle and equipment manufacturers to report claims data and other information, whether originating in the United States or in a foreign country, that may assist in identifying defects related to motor vehicle safety in vehicles or equipment in the United States. The Act further authorizes NHTSA to require the reporting of other information. These manufacturers must also report to us all incidents, of which they receive notice, involving fatalities or serious injuries which are alleged or proven to have been caused by a possible defect in their products, whether in the United States or abroad, when the possible defective vehicle or equipment is identical or substantially similar to a vehicle or equipment offered for sale in the United States. We intend to issue a notice of proposed rulemaking (NPRM) later in 2001 to amend our procedural regulations on standards enforcement and defect investigation, reporting requirements, and recordkeeping, on the basis of comments we receive in response to this ANPRM.

DATES: Comment closing date: Comments must be received on or before March 23, 2001.

ADDRESSES: All comments on this notice should refer to the docket and notice number set forth above and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. The docket room hours are from 9:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, contact George Person, Office of Defects Investigation, NHTSA (phone: 202–366–5210). For legal issues, contact Taylor Vinson, Office of Chief Counsel, NHTSA (phone: 202–366–5263).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background:
- A. The Firestone ATX and Wilderness tire recall.
- B. Information and data in the possession of NHTSA before May 2, 2000, related to possible safety problems with Firestone ATX and Wilderness tires.
- C. Information and data in the possession of Firestone and Ford indicating that the tires might contain a safety-related defect.
- D. Reporting requirements before the TREAD Act.
- E. The TREAD Act (Pub. L. 106–414).

II. General Definitions.
III. Who is Covered by the New Reporting Requirements?
IV. What Information Should Be Reported?
V. When Should Information be Reported?
VI. How Should Information be Reported?

VII. How NHTSA Might Handle and Utilize Early Warning Information Reported to it.
VIII. Periodic review.
IX. Rulemaking analyses.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Firestone ATX and Wilderness Tire Recall

On August 9, 2000, Bridgestone/Firestone, Inc. (Firestone) announced that it would recall certain ATX, ATXII, and Wilderness AT tires that contained a defect related to sudden tread separation (collectively referred to in this notice as ''the recalled tires''). On August 16, Firestone filed its formal defect report with NHTSA pursuant to 49 CFR part 573. The recall covered P235/75R15 size tires including all ATX and ATX II tires of that size, and all Wilderness AT tires of that size produced at Firestone's Decatur, Illinois, manufacturing plant. At the time, Firestone estimated that approximately 6.5 million of the 14.4 million tires covered by the recall were still in use throughout the United States.

B. Information and Data in the Possession of NHTSA Before May 2, 2000, Related to Possible Safety Problems With Firestone ATX and Wilderness Tires

Between March 1990 and February 2000, NHTSA's consumer complaint database received approximately 46 complaints about Firestone ATX and Wilderness tires (we received additional limited information in July 1998 from State Farm Insurance Company related to insurance claims allegedly involving Firestone ATX tires). Beginning in February 2000, we began to receive additional complaints following a broadcast by a Houston, Texas, television station of a program on the failure of these tires on Ford Explorer vehicles. In March 2000, NHTSA's Office of Defects Investigation (ODI) opened an initial evaluation (IE) to consider whether to open a defect investigation. On May 2, 2000, we opened such an investigation (Investigation No. PE00–020) after having received an additional 44 reports since February 2000. Most of these complaints involved tires installed on Ford Explorer vehicles. None of the complaints covered tires in use outside the United States. The investigation covered over 47 million ATX and Wilderness tires, of various sizes, made in several plants.

C. Information and Data in the Possession of Firestone and Ford Indicating That the Tires Might Contain a Safety-Related Defect

At about the time of the Texas television program in February 2000, Firestone had recorded 193 personal injury claims, 2,288 property damage claims, and was a defendant in 66 law suits related to the tires covered by the investigation. It had also received a number of requests for financial adjustments from consumers who were unhappy with their tires. NHTSA was not aware of these data until after we opened our investigation because Firestone was not required to provide this information to us in the absence of a specific request, and it did not voluntarily provide it.

Ford Motor Company (Ford) had previously taken several actions overseas to address safety problems related to Wilderness tires on Ford Explorer vehicles. In August 1999, Ford offered to replace the P255/70R16 Firestone Wilderness AT tires installed as original equipment on certain Ford Explorer and Mercury Mountaineer models in use in the Persian Gulf region. Ford stated that this action was taken because the tires ''may experience interior tire degradation and tread separation, due to unique Gulf Coast usage patterns and environmental conditions, resulting in a loss of vehicle control.'' Late in February 2000, Ford made a similar offer for almost identical reasons to owners in Malaysia and Thailand of ''certain 1997 Explorers equipped with P235/75R15 Firestone ''All Terrain'' Brand Tires.'' A third offer was made, for the same reasons as the other two offers, in May 2000, to owners in Venezuela covering ''certain 1996 through 1999 Explorers equipped with P235/75R15 or P255/70R16 Firestone 'All Terrain' brand tires.'' Firestone was aware of each of these actions. In none of the three instances did Ford or Firestone notify NHTSA of these actions. Although 49 U.S.C. 30166(f) as implemented by 49 CFR 573.8 would have required Ford to notify us of these actions if they had occurred in the United States, there was no requirement for it to do so because they did not occur in the United States.

D. Federal Safety-Related Defect Reporting Requirements Before the TREAD Act

Title 49, United States Code, Chapter 301—Motor Vehicle Safety, is the basic motor vehicle safety statute administered by NHTSA (the ''Vehicle Safety Act''). Under 49 U.S.C. 30118(c)(1), a manufacturer of a motor vehicle or replacement equipment must notify NHTSA if the manufacturer ''learns the vehicle or equipment contains a defect and decides in good faith that the defect relates to motor vehicle safety.'' [1] As noted in *United States* v. *General Motors Corp. (X-Cars)*, ''a manufacturer incurs its duties to notify [NHTSA] and remedy [the defect] whether it actually determined, or it should have determined, that its vehicles are defective and the defect is safety-related.'' 656 F. 2d 1555, 1559 n. 5 (D.C. Cir. 1987). The *X-Cars* court held that a ''manufacturer cannot evade its statutory obligations that exist when it determines that a defect is safety-related 'by the expedient of declining * * * to reach its own conclusion as to the relationship between a defect in its vehicles and * * * safety.' '' *Id.* (quoting *United States* v. *General Motors Corp.,* 574 F. Supp. 1047, 1050 (D. D.C. 1983).

Prior to the TREAD Act, a manufacturer's automatic (*i.e.,* not in response to NHTSA's information requests under which information is required as part of an investigation) reporting obligations under Section 30166 were established by 49 U.S.C. 30166(f), providing copies of communications about defects and noncompliance, as implemented by 49 CFR 573.8, Notices, bulletins, and other communications. Section 30166(f) provides that:

> A manufacturer shall give [NHTSA] a true or representative copy of each communication to the manufacturer's dealers or to owners or purchasers of a motor vehicle or replacement equipment produced by the manufacturer about a defect or noncompliance with a motor vehicle safety standard * * * in a vehicle or equipment that is sold or serviced.

NHTSA issued a regulation thereunder, 49 CFR 573.8, which specifies that:

> Each manufacturer shall furnish to the NHTSA a copy of all notices, bulletins, and other communications (including those transmitted by computer, telefax or other electronic means, and including warranty and policy extension communiques and product improvement bulletins), other than those required to be submitted by Sec. 573.5(c)(9), sent to more than one manufacturer, distributor, dealer, lessor, lessee, or purchaser, regarding any defect in its vehicles or items of equipment (including any failure or malfunction beyond normal deterioration in use, or any failure of performance, or flaw or unintended deviation

[1] Notification is also required if a manufacturer ''decides in good faith that the vehicle or equipment does not comply with an applicable motor vehicle safety standard issued under this chapter.'' Section 30118(c)(2). These standards are the Federal motor vehicle safety standards (FMVSS) appearing at 49 CFR part 571.

from design specifications), whether or not such defect is safety related. Copies shall be in readable form and shall be submitted monthly, not more than five (5) working days after the end of each month.[2]

However, the statute and regulation did not require manufacturers to provide these documents with respect to actions occurring outside the United States.

E. The TREAD Act (Pub. L. 106–414)

In October 2000, H.R. 5164, the ''Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act'' was passed by the Congress. It was signed by the President on November 1, 2000, Pub. L. 106–414.

In H. R. Rep. 106–954, accompanying H.R. 5164, Congress noted that NHTSA did not have adequate, timely data about Firestone ATX and Wilderness tires:

First, it is clear that the data available to NHTSA regarding the problems with the Firestone tires was insufficient. While testimony showed that the agency had received some complaints about the tires, both from consumers and from an automobile insurance company, they did not receive data about Ford's foreign recall actions or the internal company data on claims related to this data. * * * The Committee believes that the provisions of this legislation are an initial step toward correcting these problems. (p. 7)

The TREAD Act seeks to ensure that NHTSA receives appropriate data in a timely fashion, including that related to foreign recall actions and internal company data on claims and lawsuits related to defects. It does so in part by amending 49 U.S.C. 30166 to add a new subsection (m), Early warning reporting requirements. Subsection (m) requires NHTSA to initiate a rulemaking proceeding not later than 120 days after enactment of the TREAD Act to establish early warning reporting requirements for manufacturers of motor vehicles and motor vehicle equipment. NHTSA is further required to issue a final rule not later than June 30, 2002.

Sections 30166(m)(3), (4), and (5) specify requirements for, respectively, the reporting elements of early warning, the handling and utilization of reporting elements, and periodic review and update of the final rule.

The crux of the early warning provisions is Section 30166(m)(3), which states:

(3) Reporting elements.

(A) Warranty and claims data. As part of the final rule * * * the Secretary [of Transportation] shall require manufacturers of motor vehicles and motor vehicle equipment to report, periodically or upon request by the Secretary, information which is received by the manufacturer derived from foreign and domestic sources to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States and which concerns—

(i) data on claims submitted to the manufacturer for serious injuries (including death) and aggregate statistical data on property damage from alleged defects in a motor vehicle or in motor vehicle equipment; or

(ii) customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment.

(B) Other data. As part of the final rule * * *, the Secretary may, to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States, require manufacturers of motor vehicles or motor vehicle equipment to report, periodically or upon request of the Secretary, such information as the Secretary may request.

(C) Reporting of possible defects. The manufacturer of a motor vehicle or motor vehicle equipment shall report to the Secretary, in such manner as the Secretary establishes by regulation, all incidents of which the manufacturer receives actual notice which involve fatalities or serious injuries which are alleged or proven to have been caused by a possible defect in such manufacturer's motor vehicle or motor vehicle equipment in the United States, or in a foreign country when the possible defect is in a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States.

The TREAD Act thus provides for NHTSA to require manufacturers of motor vehicles and motor vehicle equipment to provide information related to claims for deaths and serious injuries, property damage, communications to customers, other data, and incidents causing fatalities or serious injuries in which a manufacturer's product was involved, caused by possible defects in vehicles or equipment in the United States, or in identical or substantially similar vehicles or equipment in a foreign country. Information provided under the TREAD Act will enhance the ability of NHTSA to be aware of potential safety-related defects as soon as possible. We also anticipate that the Act will provide an incentive to manufacturers to develop or refine internal systems more attuned to analysis of data and early detection of possible safety problems.

The purpose of this ANPRM is to initiate rulemaking on the early warning reporting requirements and to discuss the ways in which NHTSA may best use this information and data to fulfill the statutory goal.

II. General Definitions

Section 30166(m) uses some terms that were originally defined in the National Traffic and Motor Vehicle Safety Act of 1966 (now codified as 49 U.S.C. Chapter 301—Motor Vehicle Safety) and introduces some new ones that have not been defined. The terms defined in Section 30102 that are relevant to this document are:

1. Motor vehicle—''a vehicle driven or drawn by mechanical power and manufactured primarily for use on the public streets, roads, and highways. * * *''

2. Motor vehicle equipment—''(A) any system, part or component of a motor vehicle as originally manufactured; (B) any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle; or (C) any device or an article or apparel * * * that is not a system, part, or component of a motor vehicle and is manufactured, sold, delivered, offered, or intended to be used only to safeguard motor vehicles and highway users against risk of accident, injury, or death.''

3. Manufacturer—''a person—(A) manufacturing or assembling motor vehicles or motor vehicle equipment; or (B) importing motor vehicles or motor vehicle equipment for resale.''

4. Defect—''includes any defect in performance, construction, a component, or material of a motor vehicle or motor vehicle equipment.''

5. Motor vehicle safety—''the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.''

The terms in Section 30166(m) that have not been defined by Section 30102 and for which we seek to develop a meaning are ''claim,'' ''property damage,'' ''aggregate statistical data,'' ''serious injury,'' and ''substantially similar.'' We shall discuss these terms and their possible meanings in the course of this document.

III. Who Is Covered by the New Reporting Requirements?

The TREAD Act requires information to be submitted by manufacturers of motor vehicles and motor vehicle equipment. We have identified the following categories of manufacturers of vehicles and equipment.

Motor vehicle manufacturers. Domestic vehicle manufacturers are

[2] The notices, bulletins, and other communications required to be submitted by Sec. 573.5(c)(9), which Sec. 573.8 excludes, are those that relate directly to a noncompliance or a safety-related defect that a manufacturer has determined and reported to NHTSA.

manufacturers who produce motor vehicles in the United States, including corporations that are subsidiaries of, or otherwise controlled by, manufacturers incorporated in a country outside the United States. Foreign vehicle manufacturers are manufacturers who produce motor vehicles outside the United States, which are shipped to and sold in the United States. A foreign motor vehicle manufacturer may have a subsidiary in the United States. Multinational motor vehicle manufacturers are manufacturers that produce vehicles in one or more foreign countries and the United States. Some have acquired other motor vehicle manufacturers who continue to produce vehicles under their original nameplates. Some, like Ford Motor Company (which has acquired Volvo, Land Rover, Jaguar, Aston Martin, and Pivco of Norway), are headquartered in the U.S. Others, like DaimlerChrysler AG (which acquired Chrysler Corporation), are headquartered in a foreign country.

Many motor vehicles manufactured in the United States are produced by companies which are U.S. subsidiaries of corporations organized under the laws of other countries (*e.g.*, the Dodge Stratus, manufactured by DaimlerChrysler Corporation which is a subsidiary of DaimlerChrysler AG). A number of other vehicles are produced outside the United States by foreign manufacturers and imported by their U.S. subsidiaries (*e.g.*, Mercedes-Benz passenger cars produced in Germany by DaimlerChrysler AG and imported by Mercedes-Benz USA, Inc.). Where multinational manufacturers do business both in the United States and elsewhere, some vehicles certified for sale in the United States may have counterpart models sold outside the United States (*e.g.*, Mercedes-Benz C Class, Toyota's right-hand drive Camry produced in Kentucky for export to Japan, and Toyota's Echo, sold in other countries as the Yaris). While these models may not be exactly identical to the models sold in the United States, they are similar enough such that in many or most cases, it is likely that defects occurring in counterpart models sold outside the United States will also exist in their U.S. model counterparts. Information about such problems in these foreign vehicles is also subject to the early warning requirements to be specified in our regulations. Thus, for example, if Toyota Motors Ltd. of Japan (the foreign parent) has information about a safety problem on the Yaris that caused a serious injury or that led to a recall or similar campaign in Japan or another foreign country, Toyota USA would be required to report it to us, since it could be an indication of possible problems with the Echo, sold in the United States.

The increasing globalization of the automotive industry in the past decade is likely to result, in the coming years, in various efficiencies and benefits from common platforms and common parts. When this occurs, new and more complex issues may arise about the relationship of defects in derivative vehicles, and whether vehicles and equipment are substantially similar to each other.

The TREAD Act specifically requires vehicle and equipment manufacturers to provide information on safety-related incidents and activities occurring outside the United States. Normally, we would expect this information to be provided through a designated entity in the United States (*e.g.*, the importer or a U.S. manufacturing subsidiary). However, the information could be reported directly by the foreign manufacturer or the foreign portion of a multinational corporation.

Registered Importers. ''Registered Importers (RI)'' import motor vehicles that were not originally manufactured as conforming with the Federal motor vehicle safety standards. These are colloquially known as ''gray market'' vehicles. RIs bring gray market vehicles into conformity, certify their conformity, and sell them. Currently, 99% of the vehicles imported by RIs have been manufactured for the Canadian market. All have virtually identical counterparts in the United States. Such defects as may exist in these Canadian gray market vehicles are, in general, corrected by the manufacturer of the U.S. counterpart, which also honors warranty claims on these vehicles. The sole manufacturer that does not do so is Honda-Acura. Because RIs are not factory-authorized distributors and dealers, it appears unlikely that they will receive and possess warranty data and other information that would be meaningful under the early warning requirements. We seek comments on whether RIs should be included in the early warning reporting requirements.

Miscellaneous motor vehicle manufacturers. The scope of ''manufacturer'' also includes manufacturers of incomplete vehicles as defined by 49 CFR part 568, *Vehicles Manufactured in Two or More Stages*, who have contingent defect reporting responsibilities under 49 CFR 573.3(c). Because a person who alters a certified vehicle is required to affix its own certification under certain conditions, in the same manner as the vehicle's original manufacturer, the early warning reporting requirements could be viewed as applicable as well to alterers who certify.

Motor vehicle equipment manufacturers. There is a wide range of equipment manufacturers. We are considering whether periodic reporting by some manufacturers of motor vehicle equipment is necessary to fulfill the intent of the TREAD Act.

With respect to original equipment (see 49 U.S.C. 30102(a)(7)(A), 49 U.S.C. 30102(b)(1)(C)), there are approximately 14,000 individual items of original equipment in a contemporary passenger car. However, many of these items are not supplied directly to the vehicle manufacturer, but are incorporated into components assembled by a person other than the manufacturer of the part. There is a growing trend to packaging individual parts into a single unit, or module. For example, a steering wheel assembly may include an air bag, horn control, turn signal control, wiper control, ignition switch, cruise control, lighting controls, as well as associated wiring. These units are assembled by a supplier, often with components from various manufacturers. In many instances, a defect in a modular component installed as original equipment is far more likely to come to the direct attention of the vehicle manufacturer than the assembler of the component, or the manufacturers of the component's individual parts.

With respect to ''replacement/accessory equipment'' and ''off-vehicle equipment'' (see generally 49 U.S.C. 30102(a)(7)(B) and 30102(b)(1)(D)), the number of items cannot be estimated at this time. Some are very important from a safety perspective, such as tires and child seats, while others have less of a safety nexus. Although each manufacturer of each of these items of motor vehicle equipment is within the scope of the early warning reporting requirements, as defined by statute, we are considering whether it would be appropriate to have different requirements applicable to different types of equipment manufacturers.

Tires are motor vehicle equipment. With respect to the recall provisions of the Safety Act, 49 U.S.C. 30118–30121, tires are replacement equipment rather than original equipment (49 CFR 579.4(b)(2)). Therefore, tire manufacturers have the duty to conduct notification and remedy campaigns and to address defective or noncompliant tires, including tires installed on new vehicles. Tire brand name owners are also considered manufacturers (49 U.S.C. 30102(b)(1)(E)) and have the

same defect and noncompliance reporting requirements as tire manufacturers under 49 CFR 573.3(d) .

Importers of motor vehicle equipment for resale are also ''manufacturers of motor vehicle equipment.'' A large number of these may not be U.S. subsidiaries of the foreign manufacturer of the product they import (*e.g.*, importers of lighting equipment manufactured in Asia). A defect existing in the equipment they import could relate to safety. These importers could receive warranty or other claims. We see no reason not to apply the early warning reporting requirements to these importers. For example, we tentatively decided that importers of tires that are not affiliated with the actual tire manufacturers should be subject to the same early warning reporting requirements as domestic manufacturers of tires.

In some cases, the importer may be the most likely reporting entity. Although importers may lack engineering expertise, they may be most able to provide information related to returned parts, complaints, claims, and injuries.

Neither the TREAD Act nor its legislative history evidence a Congressional intent to exclude any manufacturer of motor vehicle equipment (or motor vehicles) from the early warning reporting requirements. Nevertheless, we recognize that some items of motor vehicle equipment rarely, if ever, develop a safety-related defect (*e.g.*, exterior and some interior trim, motorcycle rider vests). We recognize that, with respect to such items, only limited reporting may be required. Even though there may not be a safety need to require reporting of a full range of information by such equipment manufacturers, we tentatively believe that a manufacturer of any item of motor vehicle equipment should be required to report to us any claim it receives alleging that a death or serious injury was caused by a defect in its product.

There is a variety of alternative approaches that we might adopt with respect to reporting related to equipment. On one side, we might require reporting of limited kinds of information such as deaths, but not others, such as property damage. On the other side, we might require reporting with regard to only some classes of equipment items. Possible approaches are addressed below.

i. *Reporting initially limited to specific equipment items.* Given the vast number of motor vehicle parts, the questions at present of the types and quantity of data that are pertinent to the early warning reporting requirements, and the data storage and processing systems that may be required within NHTSA, it may be more effective to adopt an incremental approach, and initially to require reports from manufacturers of only a relatively small number of original or replacement equipment items. On the basis of safety-related defects reported in the past five years, we would include tentatively in this category tires, child restraint systems, fuel tanks, air bags and related components, and axle/suspension/brake components on heavy trucks and trailers. We would also include original and replacement equipment manufacturers of seat belt assemblies and air bags and related components such as sensors. Comments are requested on whether we initially should limit our reporting requirements to a subset of equipment manufacturers, and, if so, how that subset should be defined.

ii. *Reporting of equipment items directly covered by the FMVSS.* Initially, or after a period of time in which both industry and NHTSA have had experience with the reporting requirements, these requirements could include or be extended to require all manufacturers of original or replacement equipment that is directly covered by a Federal motor vehicle safety standard (FMVSS) to report on the same basis as vehicle manufacturers as defined by Section 30102(a)(5)(A). This would include, for example, all manufacturers of brake hoses (FMVSS No. 106), lighting equipment (FMVSS No. 108), tires (FMVSS No. 109 and 119), brake fluids (FMVSS No. 116), retreaded tires (FMVSS No. 117), rims for vehicles other than passenger cars (FMVSS No. 120), warning devices (FMVSS No. 125), non-pneumatic temporary spare tires (FMVSS No. 129), glazing (FMVSS No. 205), seat belt assemblies (FMVSS No. 209), child restraint systems (FMVSS No. 213), motorcycle helmets (FMVSS No. 218), rear impact guards (FMVSS No. 223), and compressed natural gas fuel containers (FMVSS No. 304).

iii. *Subsequent extension of reporting requirements to all manufacturers of components that a vehicle manufacturer uses in complying with Federal crash-avoidance and some crash-protection and post-crash standards.* The next tier of equipment manufacturers that might be required to report on the same basis as vehicle manufacturers could be manufacturers of original or replacement equipment which are parts of systems covered by the FMVSS ''100'' series, the ''crash-avoidance'' standards. For example, motor vehicles are required to comply with the braking performance standards (FMVSS Nos. 105, 121, 122, and 135), but the individual components of brake systems (other than brake hoses and brake fluid) are not covered by the FMVSS. Thus, we could apply the early warning requirements to the manufacturer of any component in a motor vehicle brake system (*e.g.*, discs, rotors, brake lining), or any other vehicle system that is covered by any of the Federal ''crash avoidance'' standards (FMVSS Nos. 101–135).

We have had a frequent number of recalls over the past five years because of safety problems with seats, seat backs, and their attachments. Therefore, we could include all components required to comply with FMVSS No. 207, *Seating Systems.* Given the national concern for child safety, we could also add manufacturers of components that a vehicle manufacturer uses to comply with FMVSS No. 225, *Child Restraint Anchorage Systems.*

This approach might also be extended to include components of fuel systems used in vehicles required to comply with FMVSS No. 301, *Fuel System Integrity,* and FMVSS No. 303, *Fuel System Integrity of Compressed Natural Gas Vehicles*, because fuel system parts, hoses, fuel lines, and connectors are frequently the subject of recall campaigns. Finally, it is important to post-crash safety that materials used in the interior of vehicles fully conform to FMVSS No. 302, *Flammability of Interior Materials.* We could apply the reporting requirements to manufacturers who provide interior materials to vehicle manufacturers, even though the vehicle manufacturers have the responsibility to certify compliance with FMVSS No. 302.

iv. *Exclusions.* There seems little safety need to require manufacturers of accessory equipment or articles of apparel (other than motorcycle helmets and jack stands) to report to us unless there is a death or serious injury allegedly involving a defect in their products. However, there may be accessories such as tire inflation pressure gauges or battery cables which, if not properly manufactured, could present a safety defect issue, and whose manufacturers should report.

Given the universe of motor vehicle equipment manufacturers, it may be that some will be excluded from the reporting requirements. For instance, the supplier of a part used in a subassembly, though a manufacturer of motor vehicle equipment by definition, might be excluded if there is a historically low recall rate on that subassembly. On the other hand, if the

manufacturer of a relatively insignificant part such as a fastener or bolt becomes aware that it has produced a defective part, that information ought to be reported to us, so that we can decide whether to open a defect investigation with respect to the vehicles in which that part has been used.

Questions to be answered. We seek answers to the following questions relating to who should be covered by the early warning reporting requirements.

A. Which of the manufacturers listed above should be covered by the final rule and why?

B. Are there other entities that should be covered by the reporting requirements and why?

C. Should any of the above manufacturers or other entities be covered by only some reporting requirements and not others?

D. With respect to manufacturers' international feedback mechanisms, to what extent is information provided in the English language? Are there delays in transmitting information such as narrative field reports due to the need to translate it into English? If so, what is the length of delays?

E. What accessories could develop safety-related defects?

IV. What Information and Data Should Be Reported?

Because Section 30166(m) authorizes regulations that will require manufacturers to report to NHTSA information and data which relate to possible defects, the agency anticipates that these regulations will take the form of amendments to 49 CFR part 573, *Defect and Noncompliance Reports.* This could result in renumbering some existing provisions.

The purpose of the early warning reporting requirements is to provide information to NHTSA that will assist in the early detection of possible safety-related defects. We believe that the following information and data are relevant to this purpose:

A. Relevant Information and Data

Warranty claim data. We believe that information about warranty claims can often provide relevant information that indicates the possible existence of a safety defect. ''Warranty data'' appears in the heading of Section 30166(m)(3)(A) as one type of ''reporting element.'' Thus, although it does not explicitly appear in the text of subparagraphs (i) and (ii) of that paragraph, we believe that warranty information is included within its ambit. In any event, warranty data would be included within the scope of ''other data'' whose reporting we can require under Section 30166(m)(30(B).

Vehicle manufacturers have complex systems of warranty coverage, which involve codes that are revised from time to time. There are large numbers of warranty claims. We understand that vehicle manufacturers review warranty information for various reasons including cost control, needed product improvement, billing of suppliers, emissions-related reporting, and safety. We have limited familiarity with original equipment manufacturer warranty systems. We do know that vehicle manufacturers have required original equipment manufacturers to provide reimbursement to manufacturers for warranty costs and for various campaigns. We also have some familiarity with warranty systems used by manufacturers of some types of replacement equipment, such as child seats.

The threshold question is what information about warranty claims may assist in the identification of defects related to motor vehicle safety. We are considering listing in the final rule systems, parts, and components that are particularly safety related. We have reviewed safety-related recalls during the 1995–2000 period and have identified the following parts/components as the most frequent subjects of recall campaigns: fuel systems (15% of all campaigns), brakes (13%), and suspensions (11%). We classify recalls related to restraint systems, seats, instrument panels, gauges, etc. as ''interior systems;'' these have accounted for 14% of the recall campaigns. Beyond this, there are miscellaneous other parts/components each of which comprises less than 10% of all campaigns but which together constitute the remaining 47% of recall campaigns. It seems to us that information on warranty data relating to parts/components that have been the subject of recall campaigns might be significant early warning indicators of possible safety-related defects. We appreciate that over the long run and in the future the current list may be underinclusive because it may not include new technologies. We may amend the final rule at some future time to accommodate new technologies because, historically, defects in newly-developed parts have given rise to a substantial number of safety recalls.

The agency does not want to require the submission of excessive warranty claim information. One mechanism may be to establish cumulative or periodic thresholds below which warranty information would not have to be reported. For example, a manufacturer might not be required to report warranty information on a passenger car component until the warranty claims rate reached x% of production.[3] We might apply a lower threshold if that same component were used on a school bus, *i.e.,* reporting would be required when warranty claims reached only y%. Similarly, there may be specific instances where we would employ much lower thresholds where critical safety components are involved, such as seat belt buckles.

The warranty information that we would find useful is that relating to make, model, model year, and the component or warranty code. The final rule would require each manufacturer to report to us a complete list of relevant warranty codes. However, in order for the agency to effectively use this information, it would be helpful for us to receive it in a standardized manner. Thus, we are considering whether to require some standardization of warranty codings among manufacturers.

Claims and Incidents Involving Serious Injury or Death: Section 30166(m)(3)(A)(i) requires manufacturers to provide information concerning data on claims submitted to a manufacturer for serious injury or death, to the extent that such information may assist in the identification of safety-related defects. Section 30166(m)(3)(C) also requires a manufacturer to report incidents of which it receives actual notice which involve deaths or serious injuries which are alleged or proven to have been caused by a defect, regardless of whether there is a ''claim.'' We believe that to achieve the goals of the TREAD Act, ''claim'' must be construed broadly. For example, we have tentatively concluded that it includes subrogation claims filed by an insurer against a manufacturer. It also includes lawsuits against a manufacturer, whether or not they are preceded by a separate ''claim.'' Some manufacturers may employ outside law firms to handle claims or lawsuits on a routine basis. Manufacturers would be required to report all covered claims against them whether they are being handled by house counsel or outside counsel.

While we do not have information related to foreign mechanisms paralleling domestic claims, we intend to obtain equivalent information from foreign sources. It is not necessary that

[3] We note that the California Air Resource Board (CARB) has implemented such a system with respect to air-quality-emissions components on vehicles sold or registered in California. We are considering whether a similar system might be effective in the early warning of safety defects.

the claim relate to a crash; the Vehicle Safety Act is concerned with non-operational safety as well.

We realize that claims and allegations may be presented against a manufacturer using a wide variety of terms. We also understand that claims may allege in various terms personal injury or death from alleged defects in various items. Sometimes the defect may not be clearly alleged. For example, assume that a person asserts that an air bag deployed in a low-speed parking lot fender bender and a vehicle occupant is seriously injured. Should this be viewed as including an implicit allegation that a safety defect contributed to the occupant's injury and constitute a claim?

At the outset, we are considering requiring that manufacturers only provide summary information, as opposed to a copy of the claim itself. We are considering requiring more information for a lawsuit than for a claim that has not become a suit. One approach would be to require a brief description of the alleged defect giving rise to the complaint, including an identification of the component or system at issue. Other identifying information would include: if a vehicle, the make, model, model year and VIN; if a child seat, the make, model, model number and date of manufacture; if other equipment, the date of manufacture, serial number, and a description of the product; and, if a tire, the brand name, model name, and size, the DOT identification number, and the make, model, and VIN of the vehicle on which it was installed. For lawsuits, we are considering also requiring the case name, case number, identification of court or tribunal where the action is pending (whether in the United States or elsewhere).

Claims for deaths. The statute requires manufacturers to provide data on claims ''for serious injuries (including death).'' Consistent with principles of common law, this would include all deaths that occur within one year of the incident in question.

Claims for serious injuries. The statute does not define ''serious injury'' nor is there any legislative history as to what Congress meant by this term. Injuries may be characterized in a variety of ways in claims. Some could allege simply that an ''injury'' has occurred. Others might allege that the injuries are ''serious'' or ''substantial'' with no further description. Some could specify a specific injury or injuries from which one might infer that an injury was serious.

We believe that it would be valuable to first identify what we believe is a serious injury and then deal with how to assess whether a claim presents a serious injury. A system of rating the severity of motor vehicle crash-related injuries has been developed which aids in establishing uniform data bases for crash injury statistics. This system is the Abbreviated Injury Scale (AIS), which has been in use in the United States for approximately 30 years. The first AIS was published in 1971 under the auspices of the joint Committee on Injury Scaling, comprised of representatives of the American Medical Association (AMA), American Association for Automotive Medicine (AAAM), and the Society of Automotive Engineers (SAE). Since 1976, the AIS has been accepted and used by crash researchers in many parts of the world. It ranks the severity of injuries numerically from 1 to 7: minor, moderate, serious, severe, critical, maximum, injured unknown severity. The injuries recorded are those that occur to the head (cranium and brain), face, neck, thorax, abdomen and pelvic contents, spine, upper extremity, lower extremity, external/skin, and burn injuries and other trauma. Each body area receives a separate report. One possible approach would be to define a ''serious injury'' as one with a level of AIS 3 or higher, which is consistent with the AIS scale. The AIS is explained more clearly in the 2000 NASS Injury Coding Manual, edited for us by Veridian Engineering of Buffalo, NY. We have placed a copy of the Manual in the docket.

Claims that are presented to manufacturers often will not have sufficient information to be classified using the AIS criteria. Some may allege only that the complainant was injured, without stating the nature of the injury or its severity. In these events, a manufacturer will not know initially whether the claim reflects a ''serious injury.'' There are a number of potential ways to address this. One is to require manufacturers to review claims as they are received and attempt to determine whether they involve serious injuries and, if there is insufficient information, to require reassessment after additional information is received (e.g., through follow-up communications or pre-trial discovery). Another is to require a manufacturer to report all claims of injury. Manufacturers may prefer this as relieving them of the need to make subjective determinations, even though the statute only requires them to submit data on claims for ''serious'' injuries.

We note that, notwithstanding this discussion of ''serious injury'' for purposes of the TREAD Act, motor vehicle safety encompasses all injuries, not just those which are above a specified AIS level. Therefore, even if the final rule limits the submission of injury-related information to that which is AIS 3 or above, this is not to be construed to mean that the agency will not conduct defect investigations or seek safety recalls when the AIS level of the injuries caused by a particular defect is likely to be only AIS 1 or 2.

Claims: property damages. Section 30166(m)(3)(A)(i) also requires manufacturers to provide us with ''aggregate statistical data on property damage.'' This provision appears to have been included to address situations similar to that which occurred with Firestone tires, when that company had extensive data on property damage incidents but did not share it with NHTSA. When a claim is submitted to a manufacturer solely for property damage, the manufacturer would not have to provide us with a copy of the claim or full summary information on each individual claim. Rather, we tentatively would require manufacturers to provide such information in an aggregate form at the end of each reporting period, clearly identifying the specific product, item, and/or components that allegedly cause the damage, and informing us of the number of additional property damage claims that were received since the last reporting period. This would be accompanied with a description of the condition leading to the property damage claims, using terms as they are commonly understood (for example, a manufacturer could not fail to report a fire to us if it characterized it as a ''thermal event'' in internal documents, in any instance where there is ignition resulting in an alleged flame). As with warranty claims, we could provide that such reports would only need to be submitted if the number of claims about a particular vehicle, equipment item, or component was above a specified threshold. We also could require these reports to include percentages. For example, a manufacturer might be required to report that ''15% of the total claims in the aggregate alleged property damage are due to fire.''

Field Reports. Manufacturers also receive ''field reports'' from employees and dealers indicating the possible existence of problems. These are often particularly valuable because they provide insights into problems by persons with considerable vehicle expertise. We expect to require ''field reports'' under the ''other data'' provisions of Section 30166(m)(3)(B). The threshold substantive question is what field reports may assist in the identification of defects related to motor

vehicle safety. The information management issues include identifying them and managing narrative field information.

Consumer complaints. Manufacturers often receive complaints from consumers where no injury has occurred. For purposes of this rulemaking proceeding, we intend to construe any communication requesting restitution for an injury or property damage as a ''claim,'' and not as a mere ''consumer complaint.'' Some consumer complaints may be related to safety and might help in an early detection of a possible safety-related defect. These may be particularly important after the expiration of warranties. We would appreciate comments on how they should be evaluated to identify those that are related to safety, and how and whether such complaints should be submitted to us under Section 301166(m)(3)(B).

Information on customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment. Section 30166(m)(3)(A)(ii) requires manufacturers to provide information which concerns ''customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment'' (In this case, we will use the term ''campaign'' to cover all these different types of actions). While the nexus requirement—''to the extent that such information may assist in the identification of defects related to motor vehicle safety''— must be met, Section 30166(m)(3)(A)(ii) applies regardless of whether a manufacturer has decided that a defect exists, whether or not the conditions or circumstances in question relate to motor vehicle safety. The new section is broader than the current regulation, 49 CFR 573.8 (based on Section 30166(f)), which requires a manufacturer to provide copies of communications regarding ''any defect'' including ''any failure or malfunction beyond normal deterioration in use, or any flaw or unintended deviation from design specifications, whether or not such defect is safety related.''

In our view, this category of information includes any communication to, or made available to, a dealer, distributor, other manufacturer, or more than one owner, whether in writing or by electronic means, relating to replacement or modification of a component, or modification of the way that a vehicle or equipment item is to be operated.[4] However, in addition to the communication itself, we tentatively plan to require the submission of information regarding the facts and analysis that led to the manufacturer's decision to issue the communication.

It should be relatively straightforward to identify whether a campaign has been conducted. With respect to the issue of whether the subject of a ''campaign'' may assist in the identification of defects, we do not believe that the description provided in the communication itself should be dispositive. Some communications may be phrased in a way to avoid any suggestion of a possible defect or a safety relationship. Thus, it may be in the interest of safety to err on the side of inclusiveness and to require a manufacturer to provide copies of all communications with its dealers or customers, written or electronic, when certain components or systems are involved. Of course, we are not interested in financial or marketing information provided to dealers or distributors.

We also note that, in lieu of providing notices in hard copies to their dealers, some manufacturers are posting information about ''campaigns'' and other service information on their internal websites. In order to keep appraised of these ''notices,'' we are considering proposing that manufacturers provide us periodically with a list (and possibly copies) of their electronic postings.

Internal investigations. After receiving field reports, consumer complaints, or other data indicating a potential problem in a vehicle component, manufacturers often initiate internal investigations into the issues which may or may not be concluded with the reporting to NHTSA that a safety-related defect has been determined to exist. In some instances, these investigations may parallel a related NHTSA investigation. We are considering whether to require manufacturers to provide us with information regarding such internal investigations pursuant to Section 30166(m)(3)(B). If we do so, we will need to identify precisely what sort of ''investigations'' are covered, what information we should require about these investigations, and when we would require the information to be submitted.

Changes to components and service parts. When a manufacturer decides to change a part (either as a running change or as a change to a service part), it could signal that the original was underdesigned or overloaded. An example would be an electrical switch that is made more robust or the inclusion of a new relay to reduce the electrical load to eliminate an overheating condition that could lead to a fire. Thus, we are considering requiring the submission of information regarding such changes. Manufacturer communications about changes in products and service procedures can also indicate potential defects. We are considering requiring manufacturers to provide NHTSA with a dealer password so that we can access their internal websites (This access would be limited so that we could not access financial or marketing information). However, some of these changes may bear little relevance to safety issues. If we require manufacturers to provide information regarding design and service parts changes, we will need to decide whether information about all such changes should be provided or only those relating to specified safety components of a vehicle, and the criteria that should be adopted to ensure that we receive the information mot likely to provide early warning of defects.

Remedy failures. We are also considering whether to require manufacturers to provide us with information regarding information concerning instances in which a vehicle or child seat has had to be remedied more than once in the course of a safety recall campaign.

Fuel leaks, fires, and rollovers. We are especially concerned with motor vehicle fuel leaks, fires, and rollovers. We may require manufacturers to provide information on fuel leaks, fires, and rollovers separate from other information.

B. *Vehicles and equipment covered: substantially similar vehicles and equipment in foreign countries.* Pursuant to Section 30166(m)(3)(C), manufacturers must report incidents involving fatalities or serious injuries that are alleged or proven to be caused by a product defect ''in a foreign country when the possible defect is in a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States.'' (This is in addition to the duty to report claims and other information covered by Section 30166(m)(3)(A) that are ''derived from foreign and domestic sources.'')

We interpret the word ''identical'' to mean ''the same as.'' As for ''substantially similar,'' we begin with a

[4] We do not plan to require the submission of information involving disputes with individual owners about possible problems with their vehicles.

recognition that in recent years there has been an increasing amount of commonality among basic platforms, body structure and engines of motor vehicles. If a vehicle is a model that is manufactured in the United States by a domestic manufacturer and certified as conforming to the FMVSS, and the manufacturer produces the same model for sale outside the United States, we would regard the exported model as a ''substantially similar'' motor vehicle for the life of both models, even if there were minor changes to the vehicles shipped abroad (e.g., if Company A produces a model for export for one model year longer than a certified model, that exported model would nevertheless be ''substantially similar'' to the certified models of previous model years). If a motor vehicle is manufactured outside the United States and certified for sale in the United States, and the foreign manufacturer produces the same model (i.e., same exterior body shell and family of engines), for sale in other countries, we would also consider that to be a ''substantially similar'' motor vehicle for the life of both models whether or not there were minor differences. We recognize, however, that there may be issues as to whether differences are ''minor,'' and we seek comments on that subject .

The phrase ''substantially similar'' also appears in Section 30141(a)(1)(A), added by the Imported Vehicle Safety Compliance Act of 1988. This section provides that a RI may import a motor vehicle not originally manufactured to comply with the FMVSS if the NHTSA Administrator decides that the vehicle is ''substantially similar'' to a motor vehicle of the same model year that was certified for sale in the United States.[5] Except for vehicles originally manufactured for sale in Canada, virtually all these decisions have been made pursuant to petitions by RIs. A list of eligible vehicles is published as an appendix following 49 CFR part 593, and periodically during the fiscal year as additional decisions are made. While the list contains a number of vehicles that would be ''substantially similar'' under both Sections 30141 and the early warning reporting requirements of Section 30166(m), it is not exclusive and does not constitute the entire universe of ''substantially similar'' motor vehicles subject to early warning requirements. (The part 593 list also includes some vehicles that are not ''substantially similar'' to vehicles certified for sale in the United States, but that are eligible for importation on the alternative statutory basis that they have safety features that comply or are capable of being altered to comply with the FMVSS).

There may be instances in which vehicles may not be identical or substantially similar but may have components that are identical to those used in a vehicle sold in the United States.

The simpler an item of equipment is, the more likely it is to be identical or substantially similar in the United States and in foreign markets. The phrase ''substantially similar'' applied to motor vehicle equipment raises a question of magnitude given the generic nature of many parts. Most tires can be viewed as substantially similar in a literal sense. One windshield wiper may be viewed as ''substantially similar'' to another. For instance, a windshield wiper installed on a Mercedes A Class car which is not sold in the United States could be considered substantially similar to a wiper on the Mercedes M Class vehicle which is manufactured and sold in the United States. If DaimlerChrysler AG receives information in Germany indicating a potential safety problem with the A Class wiper blades, how relevant would that be to identifying a possible safety problem with wiper blades on a M Class vehicle? The potential for relevance grows if the wiping systems themselves on the two vehicles are identical or substantially similar, or if they are replaceable by the same part.

C. *Cut off dates.* Although a manufacturer is required to notify NHTSA, owners, and dealers if it or the agency determines that a vehicle contains a safety-related defect, it need not provide a remedy without charge if the determination is made more than 10 years after its first sale. See 49 U.S.C. 30120(g), as amended by Section 4 of the TREAD Act. There may be types of information otherwise covered by this rule that, due to the passage of time or other occurrence, need not be provided for safety purposes. If any commenter believes that there should be exclusions based on time, the commenter should provide a detailed rationale for such a belief.

D. *Questions to be answered.* We seek answers to the following questions on the type of information to be reported.

General Questions

1. Which offices of manufacturers receive, classify, and evaluate warranty and claims data, and other data or information, related to deaths, serious injuries, and property damage involving a manufacturer's products that occur in the United States?

2. In what form is that data received and maintained? If it is maintained electronically, please describe the data base system in which it is kept.

3. Is the information referred to in question 1 otherwise classified (for example, warranty codes, lawsuits)? If so, how? By whom is such information evaluated?

4. Do manufacturers in the United States (defined to include importers of vehicles or equipment for resale), currently receive warranty and claims data, and other data or information, related to deaths, serious injuries, and property damage involving their products that occur outside the United States? If so, in what form are these data received?

5. If a manufacturer in the United States does not receive, maintain, and evaluate such data or information referred to in paragraph 3 above, what entity does (*e.g.,* foreign affiliate, factory-authorized importer, outside counsel, other third-party entity)? Do manufacturers require that entity to make periodic reports to it?

6. In what form is foreign the data or information received (*e.g.,* electronically, e-mail, inter-company memo)? Is it maintained separately or is it combined with data about events occurring in the United States?

7. What is the length of time that manufacturers maintain warranty data and claims data? is this period different for data related to events occurring outside the United States?

8. Are U.S. dealers currently collecting and/or maintaining information relevant to early warning reporting? If so, what is this information, and to what extent is it furnished to the manufacturer?

9. Should there be a cut off date for reporting (*e.g.,* not require it regarding vehicles or equipment that are older than some specified age)? If so, what age or ages?

10. Is there additional information or data beyond that mentioned in this notice that manufacturers should report to NHTSA that would assist in the identification of defects related to motor vehicle safety? For example, assembly plant quality reports, dealer feedback summaries, test fleet summary reports, fleet experience, and rental car company reports.

Questions Relating to Claims

1. What is the appropriate definition of ''claim?''

[5] The Administrator must also decide that the vehicle is capable of being readily altered to comply with all applicable FMVSS. The authority to decide extends only to motor vehicles and not to motor vehicle equipment.

2. What information should be submitted (*e.g.,* just the number of claims by make, model year and component or system, or more information, including summaries and names of complainants)?

3. Should NHTSA only require the submission if claims are about problems with certain components? If so, which ones?

4. Should information about all claims involving serious injuries or deaths be submitted, or should there be some threshold?

Questions Relating to Warranties

1. Should warranty data be reported? If so, are there specific categories which should be included or excluded ?

2. How do manufacturers maintain warranty data? How long is it kept? For what purposes is it kept? How do manufacturers review warranty data to identify possible safety concerns?

3. What thresholds, if any, would be appropriate with respect to specific vehicle components, systems, and equipment items, below which warranty information would not have to be reported to NHTSA? Should there be different thresholds for different components or systems?

4. Should thresholds be based solely on claims rates, or should there be some absolute number of claims that would trigger a reporting requirement?

5. What sorts of warranty information should be reported (*e.g.,* make, model, model year, component)?

6. Are there warranty codes common to the motor vehicle industry? Passenger car industry? Heavy truck industry? Motor home industry? Child seat industry? Etc.?

7. Should we require warranty data to be submitted using standardized codes? If so, what level of standardization would be appropriate?

8. In what form should we require warranty information to be submitted?

Questions Relating to Lawsuits

1. What information should be provided about lawsuits?

2. Should information be provided about each lawsuit involving an alleged defect?

3. If not, what threshold would be appropriate? Should there be different thresholds based on the component or system involved?

Questions Relating to Design Changes

1. Should information about design changes be provided? If so, should all changes be covered or just or only those relating to specified components or systems important to vehicle safety? If so, which components or systems?

2. Should different considerations apply to prospective-only running changes than to changes to service parts?

Questions Relating to Deaths and Serious Injuries

1. What systems for characterizing the seriousness of injuries are used in countries other than the United States? How do they relate to the AIS system?

2. Are the AIS3 ''serious'' criteria appropriate as indicia of ''serious injury''? If not, what criteria are appropriate?

3. How shall it be determined whether a claim pertaining to an injury pertains to a serious injury? What assumptions should be made? If an initial claim does not allege a ''serious'' injury, should the manufacturer be required to report the claim later if it learns that the injury was serious or alleged to be serious?

4. Would manufacturers find it less burdensome to report to NHTSA all allegations of injury caused by a product defect?

5. How and to which office of a manufacturer are deaths and serious injuries reported? Is the answer different with respect to incidents that occur in foreign countries?

Questions Relating to Property Damage

1. What data should manufacturers include as ''aggregate statistical data''?

2. What type of statistical data relating to property damage (including fire and corrosion) do manufacturers maintain? What corporate office is responsible for their maintenance? Is the answer different with respect to incidents and claims in foreign countries?

3. How is this data maintained by manufacturers? How is it used?

4. How should this data be submitted to NHTSA to best provide an early warning of potential safety defects?

Questions on Internal Investigations

1. Should a manufacturer be required to report information on active investigations that it has initiated with respect to potential defects in its vehicles or equipment? How, if at all, should it be determined that these are safety related? What is the extent to which this information should be reported?

2. What is an appropriate definition of an internal investigation that should be reported to NHTSA?

3. Should manufacturers be required to report such investigations as soon as they are commenced? If not, at what point should the investigation be reported to NHTSA?

Questions on Customer Satisfaction Campaigns, Etc.

1. Should ''customer satisfaction campaigns,'' ''consumer advisories,'' ''recalls'' or ''other activities involving the repair of motor vehicles or motor vehicle equipment'' be defined in NHTSA's regulation, and, if so, what would be an appropriate definition for each of these terms?

2. How many and what kind of customer satisfaction campaigns, consumer advisories, recalls, or other activity involving repairs have occurred since January 1, 1998, that were not required to be reported to NHTSA under 49 CFR 573.8? Indicate whether these occurred in the United States or foreign countries. Please submit a copy of all communications provided to consumers or dealers with respect to each such campaign, advisory, recall, or other activity.

Questions on Identical and ''Substantially Similar'' Motor Vehicles and Equipment

1. Is the word ''identical'' understood internationally, or do we need to define it? If so, how?

2. How should a manufacturer determine if a vehicle sold in a foreign country is ''substantially similar'' to vehicles sold in the United States? Is it enough that the vehicles share the same platform and/or engine family? If not, why not?

3. How should ''substantially similar'' motor vehicle equipment be defined? Would the definition be different with respect to individual parts, component parts, assemblies and systems? Other than tires and off-vehicle equipment (such as child seats), should the definition be restricted to replacement equipment for substantially similar motor vehicles?

Questions on Field Reports

1. What is an appropriate definition for ''field report''?

2. In the context of field reports for which information is to be provided, should there be a list of systems, parts, and components that are safety related? Should it be the same as the list for warranty claims and other claims?

3. Do manufacturers screen field reports for safety-related information? If so, what are their systems and how do they work?

4. How do manufacturers process and maintain field reports? Is all information entered into computers?

5. What information regarding field reports should be provided NHTSA? Should there be a numerical or rate threshold before field reports must be provided?

V. When should information be reported?

Section 30166(m)(3)(A) and (B) state that the information covered by those paragraphs shall be reported ''periodically or upon request'' by NHTSA. Section 30166(m)(3)(C) states that the information covered by that paragraph shall be reported ''in such manner as [NHTSA] establishes by regulation.''

A. *Periodically.* The statute authorizes us to require periodic reporting by manufacturers of information related to the early warning of defects. Some types of information may be more significant than other (*e.g.,* deaths allegedly caused by safety defects) and justify a more frequent period of reporting than other types.

1. *Upon receipt of information*—We are considering proposing that any manufacturer of motor vehicles or motor vehicle equipment report to us within two weeks of its receipt of information alleging or demonstrating that a fatality has occurred due to a defect in one of its products. This would be an episodic report providing certain information when the manufacturer receives it, rather than a report containing information that accumulates within a specific period of time.

2. *Monthly.* Problems arising in certain types of motor vehicles or equipment may require more frequent reporting than others, especially where an accumulation of claims or warranty data has reached whatever threshold for reporting that we eventually set. Defect-related information concerning school buses, emergency vehicles, child restraints, automatic restraint systems, seat belts, and fuel systems seems critical to us. We may require reporting of information in these categories on a monthly basis. This information would be due in our offices on a specified day (*e.g.,* the 15th day) following the end of each calendar month.

We might also require manufacturers of vehicles and equipment to report to us monthly if they learn of an incident in which it was alleged that the vehicle or equipment of the manufacturer caused or contributed to an injury that required the hospitalization of any person for more than observation.

Although the consequences may vary, it is also important for us to be aware promptly of failures of remedies that have been implemented to address safety-related defects and noncompliances, since the components or systems involved have already been determined to create a safety problem. Therefore, reports of such problems might also be required on a monthly basis.

3. *Quarterly.* Reporting other types of safety-related data might be on a quarterly basis. These data might include aggregate statistical data, warranty claims related to other components, and claims/lawsuits alleging fires. These reports would cover the calendar quarters of a year and be submitted by a specified day following the end of the reporting quarter (*i.e.,* a report for information received from January 1 through March 31 would be due sometime in April). This is the same schedule of reporting that we have established under 49 CFR 573.7 for the reporting of information about safety recalls.

B. *Upon NHTSA's request.* The TREAD Act requires all manufacturers to provide information and data relevant to early warning when NHTSA requests. Such a requirement complements NHTSA's pre-TREAD authorities to request safety-related information as part of our investigations.

C. *Questions to be answered.* We seek answers to the following questions relating to when information should be reported. In responding to each of the following questions, please provide specific recommendations, and the rationale for each recommendation.

1. Should reporting frequency vary depending on the type of information (*e.g.,* deaths, injuries, warranty rates, complaints, etc.)? If so, what is an appropriate frequency for each type?

2. Should reporting frequency vary depending on the type of vehicle or equipment (*e.g.,* passenger car, bus, child seats or other equipment)? If so, what is an appropriate frequency for each type?

3. Should reporting frequency vary depending upon the component or system involved (*e.g.,* air bag, child restraint, seat belt assemblies, brakes)? If so, what is an appropriate frequency for each?

4. Should manufacturers of particular equipment, such as off-vehicle and accessory equipment, be required to report data on a periodic basis, or only if they receive certain information such as claims alleging deaths or serious injuries involving their products?

VI. How Should Information Be Reported?

At the present time, we have limited knowledge about early warning information that manufacturers, particularly equipment manufacturers, receive, in what form it is received, and how, if at all, they route, code, maintain, and review the information. We believe that it is likely that the types of information to be reported under Section 30166(m)(3) are kept in a variety of manufacturer computer systems and formats. Some manufacturers probably use different computer systems for different types of information, and some may not be computerized at all. To be able to use this information efficiently, NHTSA will have to maintain it in computer systems that can read and incorporate the information into a standardized set of data fields, definitions, and codes. We seek comments on the best ways to assure that NHTSA can do this.

In our view, the early warning provisions contemplate that manufacturers must do more than merely provide raw information and data. Section 30166(m)(3) states that the information reportable to NHTSA is ''information which is received by the manufacturer derived from foreign and domestic sources.'' One meaning of ''derive'' is ''to reach or obtain by reasoning; deduce; infer'' (Random House Compact Unabridged Dictionary, Second Special Edition (1996), p. 536). The aspects of reasoning, deduction, and inference in the definition of ''derive,'' in our view, authorize a rule that requires a manufacturer to process, organize, and to some degree analyze the raw data and information it has, so that meaningful information is provided. Moreover, it is evident that we may specify the form in which information is reported in order to ensure that it can be efficiently used for its intended purpose of identifying defects related to motor vehicle safety.

NHTSA would expect manufacturers to provide collated and aggregated information by vehicle make, model, model year, and component system, broken down by failure or fault codes. Since it is absolutely essential that NHTSA be able to obtain information in a standardized form, we anticipate identifying relevant codes for reporting purposes.

A possible alternative on which we would appreciate comments would be to have each manufacturer of vehicles or equipment submit a spreadsheet in a specified format with the aggregate number of claims and other information (such as production volumes) by make, model, model year, and component (we would specify which components). The reports would be individually categorized according to the topics discussed above (e.g., injury claims, death claims, lawsuits, incidents). We would then be able to run a computer program to identify spikes or unusual trends in each of these categories.

To assure that manufacturers understand their reporting

responsibilities, we are considering developing a matrix of information with the reporting periods specified from left to right across the top (on bi-weekly, monthly, quarterly) and the type of information to be provided listed in a left-hand column from top to bottom. Thus, under ''Deaths,'' we would place ''X'' in the column whose heading reads ''On Receipt.'' We could develop a separate matrix for each type of manufacturer so that it would know exactly what to submit and when.

Questions to be answered. We seek answers to the following questions relating to the manner in which information should be reported.

1. How would manufacturers prefer to report information to us (e.g., hard copy, electronically)? If both, what would be in hard copy? What would be in electronic format? Which electronic format(s) would be preferable?

2. Should information regarding deaths and serious injuries be submitted in the form in which it is received by the manufacturer, the form in which it is entered into a database by the manufacturer, or in some other way?

The following five questions relate to the possible use of a spreadsheet for reporting aggregate information.

1. What do manufacturers understand the term ''aggregate statistical information'' to mean?

2. Is aggregate statistical information regarding claims, deaths and injuries likely to be useful in identifying potential safety-related defects? Would it be too general to be useful?

3. Would this type of aggregate statistical information tend to result in a large number of investigations into issues that are not related to potential safety-related defects?

4. Would the submission of supplemental information beyond the aggregate statistical information be necessary or appropriate to provide NHTSA with sufficient information upon which to decide to open an investigation? What types of such information?

5. If NHTSA needs to submit requests for supplemental information, should the requests be made as part of an investigation? If not, why not? If not, how should NHTSA characterize these requests, and should the requests and responses be made available to the public?

VII. How NHTSA Might Handle and Utilize Early Warning Information Reported To It

A. *Specifications for use of information.* Section 30166(m)(4)(A)(i) and (ii) require that our early warning rule specify how the information reported to us will be used. Those paragraphs provide:

> (A) [NHTSA's] specifications. In requiring the reporting of any information requested by [NHTSA] under this subsection, [NHTSA] shall specify in the final rule * * * (i) how [early warning] information will be reviewed and utilized to assist in the identification of defects related to motor vehicle safety; [and] (ii) the systems and processes [that NHTSA] will employ or establish to review and utilize such information.

These provisions relate to internal NHTSA matters and are not ordinarily required by the Administrative Procedure Act to be adopted pursuant to notice and comment. Nevertheless, we are seeking public comment on ways to improve our collection, review, and analysis of information and data with the new reporting tools which Congress has given us.

At this point, in the immediate aftermath of the enactment of the TREAD Act, we have only just begun to consider how we might best implement the early warning information and data received, but have formulated no procedures. In part, these procedures will depend upon the form of the rule as we will propose it later this year. They will also depend on the result of the ongoing study of the ''standards, criteria, procedures and methods'' used by NHTSA in determining whether to open a defect or noncompliance investigation that is being conducted pursuant to Section 15 of the TREAD Act. In the NPRM, we will specifically address the matters covered by subparagraphs (i) and (ii) above, and indicate how we propose to amend 49 CFR part 554, *Standards Enforcement and Defects Investigation* (one purpose of which is to inform the public of the procedures we follow in investigating possible safety-related defects).

Questions to be answered.

1. How should NHTSA review and utilize the information to be submitted under the early warning rule?

2. What system or processes should NHTSA utilize in reviewing this information?

B. *Information in possession of manufacturer.* Section 30166(m)(4)(B), Information in possession of manufacturer, states that our early warning regulations ''may not require a manufacturer of a motor vehicle or motor vehicle equipment to maintain or submit records respecting information not in the possession of the manufacturer.'' There is nothing in the legislative history that amplifies the statutory language. We interpret ''possession'' as meaning not only information in the actual possession of a manufacturer, but also constructive possession and ultimate control of information, such as information in foreign countries, or information possessed by outside counsel or consultants. We interpret Section 30166(m)(4)(B) as prohibiting us from imposing a requirement that a manufacturer collect data that it does not possess.

A colloquy on the floor of the House does not explain the provision but addressed the need to preserve relevant records:

> Mr. Markey: Concern has been expressed that this provision not become a loophole for unscrupulous manufacturers who might be willing to destroy a record in order to demonstrate that it is no longer in its possession. Would [Mr. Tauzin] agree that it is in [NHTSA's] discretion to require a manufacturer to maintain records that are in fact in the manufacturer's possession and that it would be a violation of such a requirement to destroy such a record?
>
> Mr. Tauzin: The gentleman is again correct.

We regard this as encouraging, if not mandating, us to amend our record keeping regulations in 49 CFR part 576 to assure that records covered by the early warning regulation are kept for an appropriate length of time. We note that part 576 currently applies only to vehicle manufacturers. Consistent with the above colloquy, we intend to expand its applicability to manufacturers of at least certain types of equipment.

Further, we intend to adopt a requirement to assure that manufacturers that are currently collecting information that would be reportable under the early warning requirements do not cease collecting it.

C. Disclosure. Section 30166(m)(4)(C), Disclosure, states that:

> None of the information collected pursuant to the final rule . . . shall be disclosed pursuant to section 30167(b) unless the Secretary determines the disclosure of such information will assist in carrying out sections 30117(b) and 30118 through 30121.

We believe that section 30166(m)(4)(C) will have almost no impact. Historically, requests by the public for information that have submitted to us have been addressed under the Freedom of Information Act (FOIA), 5 U.S.C. 552. Section 30167(b), Defect and noncompliance information, provides for disclosure of information related to a defect or noncompliance that we decide will assist us in carrying out Sections 30117(b), Maintaining purchaser records and procedures; Section 30118, Notification of defects and noncompliance; Section 30119, Notification procedures; Section 30120, Remedies for defects and noncompliance; and Section 30121, Provisional notification and civil

actions to enforce. Historically, NHTSA has not invoked Section 30167(b) in deciding to release information to the public.

In signing H.R. 5164 on November 1, 2000, the President stated that he was directing us ''to implement the information disclosure requirements of the [TREAD] Act in a manner that assures maximum public availability of information.'' As a practical matter, we do not interpret Section 30166(m)(4)(C) as affecting the current policies and practices applicable to the disclosure of information to the public.

The primary differences between pre-TREAD Act and post-TREAD Act reporting are likely to be in the mechanisms for reporting and amount of information reported. Before the TREAD Act, other than material submitted pursuant to 49 CFR 573.8, information in NHTSA's possession relating to a possible defect that was not the subject of an ongoing investigation was primarily in the form of consumer complaints. Under the TREAD Act, information will also be generated through periodic reports to NHTSA of information that a manufacturer might not otherwise have disclosed unless specifically asked by NHTSA to provide it. However, most of this information is likely to be similar to the types of information that NHTSA regularly obtained during its investigations pursuant to information requests or special orders.

The TREAD Act does not affect the right of a manufacturer to ask for a determination that information it may report to NHTSA is confidential.

D. *Burdensome requirements.*

Section 30166(m)(4)(D), Burdensome requirements, requires that the final rule:

> shall not impose requirements unduly burdensome to a manufacturer or a motor vehicle or motor vehicle equipment, taking into account the manufacturer's cost of complying with such requirements and [NHTSA's] ability to use the information sought in a meaningful manner to assist in the identification of defects related to motor vehicle safety.

On the basis of this ANPRM, manufacturers should have a general idea of the types of data and information that they may be required to submit under a final rule. This should allow them to make a tentative assessment of the burdens that compliance may entail and to provide comments.

Some burdens may be relatively infrequent, such as identifying and reviewing relevant warranty codes. Some burdens may be mostly one-time events, such as programming computer programs. Other burdens may be periodic, such as reporting warranty information, claims, deaths and serious injuries, and lawsuits.

In light of recent developments, some manufacturers may already be refining existing internal procedures, or developing new procedures, intended to provide them with an earlier warning of potential safety problems. To the extent that these procedures are being developed and implemented as part of a corporate policy and the procedures parallel those that are adopted in the final rule, the burden imposed by a final rule would appear to be lessened.

Questions To Be Answered

While we recognize that we have not proposed specific requirements, we would appreciate comments providing us with cost and burden estimates to the extent possible.

1. What are the estimated startup and ongoing costs (including financial as well as manpower costs) of complying with the early warning reporting requirements discussed in this notice? What is the basis for the estimate?

2. How should NHTSA decide whether particular requirements are ''unduly'' burdensome? Should we balance the burdens against the anticipated benefits of receiving the information in question? If so, how should we perform that balancing?

3. What is the most effective early warning information and least burdensome ways of providing it?

4. Have manufacturers developed or are manufacturers beginning to develop and implement their own early warning reporting procedures in advance of NHTSA's rulemaking? If so, what are these procedures. How do these procedures differ from those discussed in the ANPRM? How are they similar?

VIII. Periodic Review

Under section 30166(m)(5), NHTSA must specify in the final rule ''procedures for the periodic review and update of such rule.'' Once a final rule amending Part 573 is developed and issued, we anticipate that experience will indicate areas where the regulation ought to be amended, to add or delete information required, and to modify our information-gathering procedures. We would then implement rulemaking to make these adjustments. Accordingly, we plan to amend Part 554 to state that we will review our defect information-gathering procedures at least once every four years. It is likely that the initial review will be sooner than that period.

IX. Rulemaking Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures; Unfunded Mandates Reform Act of 1995. This advance notice was not reviewed under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. Due to the preliminary nature of this document, NHTSA has identified few specific changes that it might propose to its regulations. Further, it has limited current cost information that might be relevant to any potential changes. Accordingly, NHTSA is unable now to evaluate the economic impacts that this rulemaking might ultimately have. At this time, it does not appear that the rule resulting from this rulemaking will be significant. However, NHTSA will reassess this rulemaking in relation to the Executive Order, the DOT Regulatory Policies and Procedures, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) and other requirements for analyzing rulemaking impacts after using the information received in response to this advance notice to select specific proposed changes. To that end, the agency solicits comments, information, and data useful in assessing the impacts of making changes as specified in Section 3(b) of the TREAD Act as discussed in this document.

Regulatory Flexibility Act. NHTSA has considered the impact of this rulemaking action in relation to the Regulatory Flexibility Act (5 U.S.C. Sec. 601 *et seq.*). Most manufacturers of motor vehicles and motor vehicle equipment are not small entities. We have asked manufacturers of motor vehicles and motor vehicle equipment to specifically comment on the burdens that might be imposed upon them by compliance with Section 3(b) of the TREAD Act. The final rule will not impose new substantive requirements, but will require new reporting. However, the requirements have not been delineated. Accordingly, no regulatory flexibility analysis has been prepared at this time.

Executive Order 13132 (Federalism). Executive Order 13132 on ''Federalism'' requires us to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of ''regulatory policies that have federalism implications.'' The E.O. defines this phrase to include regulations ''that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' A final rule based upon this ANPRM, would regulate the manufacturers of motor vehicles and motor vehicle equipment,

would not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in E.O. 13132.

Civil Justice Reform. A rule based on this ANPRM would not have a retroactive or preemptive effect, and judicial review of it may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

Paperwork Reduction Act

The final rule will require manufacturers of motor vehicles and motor vehicle equipment to report information and data to NHTSA periodically and upon request. We may also adopt a standardized form for reporting this information, so as to ensure consistency of responses. These provisions are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1329. Accordingly, if requirements are proposed, they will be submitted to OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Request for Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the beginning of this document, under **ADDRESSES**.

How Can I be Sure That my Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA (NCC–30), at the address given at the beginning of this document under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at the address given at the beginning of this document under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation, 49 CFR Part 512.

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated at the beginning of this notice under **DATES**. Because we must issue a final rule not later than June 30, 2002, and a proposed rule in the interim, we are unlikely to extend the comment closing dates for this notice or for the proposed rule. However, in accordance with our policies, to the extent possible, we will also consider comments that Docket Management receives after the specified comment closing date. If Docket Management receives a comment too late for us to consider in developing the proposed rule, we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address and times given near the beginning of this document under **ADDRESSES**.

You may also see the comments on the internet. To read the comments on the internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on ''search.''

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the heading of this document. Example: if the docket number were ''NHTSA–2001–1234,'' you would type ''1234.''

(4) After typing the docket number, click on ''search.''

(5) The next page contains docket summary information for the docket you selected. Click on the comments you wish to see.

You may download the comments. The comments are imaged documents, in either TIFF or pdf format. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

Authority: Sec. 3(b), Pub. L. 106–414; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: January 12, 2001.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 01–1502 Filed 1–12–01; 3:48 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 010103003-1003-01, I.D. 083000B]

RIN 0648-AN92

List of Fisheries for 2001

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Marine Fisheries Service (NMFS) proposes changes for 2001 to the List of Fisheries (LOF) as required by the Marine Mammal Protection Act (MMPA). The proposed LOF for 2001 reflects new information on interactions between commercial fisheries and marine mammals. Under the MMPA, NMFS must place a commercial fishery on the LOF into one of three categories based upon the level of serious injury and mortality of marine mammals that occurs incidental to that fishery. The categorization of a fishery in the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements.

DATES: Comments must be received by March 8, 2001.