DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 574, 576, 579

[Docket No. NHTSA 2001–8677; Notice 2]

RIN 2127–AI25

Reporting of Information and Documents About Potential Defects Retention of Records That Could Indicate Defects

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

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This document proposes a regulation that would implement the ''early warning reporting requirements'' of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. Under this proposal, motor vehicle and motor vehicle equipment manufacturers would be required to report information and to submit documents on customer satisfaction campaigns and other activities that may assist in identifying defects related to motor vehicle safety.

We are also proposing amendments to NHTSA's general and tire recordkeeping regulations (Parts 576 and 574) to assure that manufacturers retain the information that must be reported to NHTSA under the early warning rule.

DATES: *Comment Closing Date:* Comments must be received on or before February 4, 2002.

ADDRESSES: All comments on this NPRM 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 Jonathan White, Office of Defects Investigation, NHTSA (phone: 202–366–5226). For legal issues, contact Taylor Vinson, Office of Chief Counsel, NHTSA (phone: 202–366–5263).

SUPPLEMENTARY INFORMATION:

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I. Summary of the Proposed Rule

The proposed rule—the first phase of early warning reporting rulemaking—would in effect divide manufacturers of motor vehicles and motor vehicle equipment into two groups with different responsibilities for reporting information that could indicate the existence of potential safety related defects.

The first group would consist of larger manufacturers of motor vehicles, and all manufacturers of child restraint systems and tires. In general, vehicle manufacturers would report separately on five categories of vehicles (if they produced, imported, or sold 500 or more of a category annually in the United States): light vehicles, medium-heavy vehicles, buses, trailers, and motorcycles. These manufacturers would report certain specified information about each incident involving a death that occurred in the United States that is identified in a claim against the manufacturer or in a notice to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's product together with each death occurring in foreign countries that is identified in a claim against the manufacturer involving the manufacturer's product, or one that is identical or substantially similar to a product that the manufacturer has offered for sale in the United States. These manufacturers would also report the following:

- *Injuries.* Certain specified information about each incident that occurred in the United States in which a person was injured that is identified in a claim against the manufacturer or in a notice to the manufacturer alleging or proving that the injury was caused by a possible defect in the manufacturer's product.
- *Property damage.* Manufacturers other than child seat manufacturers would report the numbers of claims for $1,000 or more in property damage that occurred in the United States that are related to alleged problems with certain specified components and systems (there would be no minimum amount of property damage for claims received by tire manufacturers).
- *Consumer complaints.* Manufacturers (other than tire manufacturers) would report the numbers of consumer complaints they receive that are related to problems with certain specified components and systems that occurred in the United States.
- *Warranty claims information.* Manufacturers would report the number of warranty claims they receive that are related to problems with certain specified components and systems that occurred in the United States.
- *Field reports.* Manufacturers would report the total number of field reports they

receive from the manufacturer's employees and dealers, and from fleets, that are related to problems with certain specified components and systems and potential defects that occurred in the United States. In addition, manufacturers would provide copies of reports received from their employees and fleets, but would not need to provide copies of reports received from dealers.

These manufacturers would report the numbers identified above for each model and model or production year.

A tire manufacturer or brand name owner would not have to report any information other than information relating to incidents involving deaths for tires of the same size and design for which the cumulative annual production and importation does not exceed 15,000 (readers should note this exclusion in reviewing the proposed reporting requirements of this document, as we may not repeat it in all instances in which it may apply).

The second group would consist of all other manufacturers of motor vehicles and motor vehicle equipment, i.e., vehicle manufacturers insofar as they produced, imported, or sold in the United States fewer than 500 light vehicles, medium-heavy vehicles, buses, motorcycles, or trailers annually, manufacturers of original motor vehicle equipment and manufacturers of replacement motor vehicle equipment other than child restraint systems and tires. These manufacturers would report the same information about incidents involving deaths as the first category, but would not be required to report any other information.

In addition, all vehicle and equipment manufacturers in both groups would be required to provide copies of all documents sent or made available to more than one dealer, distributor, or owner, in the United States with respect to consumer advisories, recalls, or activities involving the repair or replacement of vehicles or equipment.

Reports would be submitted electronically, in specified formats. The components and systems on which reporting would be required would vary, depending on the type of product involved.

There would be four reporting periods each calendar year of three months each. All reports would be due not later than 30 days after the end of a calendar quarter. For submission of documents, the documents would be due not later than 30 days after the end of the month in which they are received or generated by the manufacturer. To help NHTSA identify trends that could indicate potential safety problems, manufacturers would be required, on a one-time basis, to report historical information by quarter for each of the reportable items covering the three-year period from January 1, 2000 through December 31, 2002, the date preceding the beginning of the first reporting period that would be established by the final rule, January 1, 2003.

The early warning reporting requirements would comprise subpart C of a new 49 CFR Part 579. The foreign defect reporting requirements proposed on October 11, 2001 (66 FR 51907) would comprise Subpart B of Part 579. This NPRM proposes a Subpart A containing general requirements that will apply to both subparts.

We also propose to expand recordkeeping requirements:

- For vehicles, records now required to be maintained under 49 CFR Part 576 for eight years would have to be maintained for 10 years.
- For the first time, manufacturers of tires and child restraint systems would be required to maintain the same types of records that manufacturers of vehicles have been required to keep under 49 CFR Part 576.
- Manufacturers of tires would be required to retain for five years records of purchasers of tires they manufacture. Manufacturers of motor vehicles would be required to retain for five years records of tires on each vehicle manufactured and the purchaser of each vehicle. Currently, 49 CFR Part 574 requires that these records be retained for three years.

The early warning final rule, the final rule pertaining to foreign defect campaigns, and current 49 CFR 573.8 would become 49 CFR Part 579. The provisions of current Part 579 would be moved to Part 573. Proposed effective dates: for amendments to Parts 574 and 576, 30 days after publication of the final rule; for revised Part 579, January 1, 2003.

II. Background: The TREAD Act (Public Law 106–414)

The Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act was enacted on November 1, 2000, Public Law 106–414.

The TREAD Act provides for NHTSA to require manufacturers of motor vehicles and motor vehicle equipment to submit information, periodically or upon NHTSA's request, that includes claims for deaths and serious injuries, property damage data, communications to customers and others, information on incidents resulting in fatalities or serious injuries from possible defects in vehicles or equipment in the United States or in identical or substantially similar vehicles or equipment in a foreign country, and other information that would assist NHTSA in identifying potential safety-related defects.

The TREAD Act amends 49 U.S.C. 30166 to add a new subsection (m), Early warning reporting requirements. Sections 30166(m)(3), (4), and (5) address, respectively, the elements to be reported, the handling and utilization of reported information, 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 Secretary has delegated to the NHTSA Administrator the authority to carry out 49 U.S.C. Chapter 301 (49 CFR 1.50(a)).

On January 22, 2001, we issued an advance notice of proposed rulemaking (ANPRM) to discuss and to solicit comments on the ways in which NHTSA may best implement these statutory provisions (66 FR 6532). The reader is referred to that document for a discussion of the background of the TREAD Act and a manufacturer's reporting obligations prior to the TREAD Act. On October 11, 2001, we issued a notice of proposed rulemaking (NPRM) that would implement another provision of the TREAD Act, adding Section 30166(l) to Title 49 (66 FR 51907). Subsection (l) also applies to manufacturers of motor vehicles and motor vehicle equipment; it requires them to notify us of defect campaigns that they conduct outside the United States, or are ordered by a foreign government to conduct abroad, on vehicles and equipment identical or substantially similar to those sold in the United States. Readers are requested to review that NPRM in parallel with the early warning NPRM to ensure consistency between application and definitions as we intend for each final rule to become a subchapter of Part 579.

In response to the ANPRM, we received comments from a variety of sources. Motor vehicle manufacturers and associated trade organizations who commented were Ford Motor Company (Ford), Volvo Trucks North America (Volvo), the Truck Manufacturers Association (TMA), Blue Bird Body Co. (Blue Bird), International Truck and Engine Corporation (International Truck), Mack Trucks, Inc. (Mack), DaimlerChrysler

Corporation (DaimlerChrysler), the Association of International Automobile Manufacturers, Inc. (AIAM), the Recreational Vehicle Industry Association (RVIA), Harley-Davidson Motor Company (Harley-Davidson), Nissan North America, Inc. (Nissan), Volkswagen of America, Inc. (for itself, Volkswagen, AG and Audi AG) (Volkswagen), the Truck Trailer Manufacturers Association (TTMA), American Honda Motor Company (Honda), the Motorcycle Industry Council (MIC), the National Automobile Dealers Association (NADA), Fontaine Modification Company (Fontaine), and the Alliance of Automobile Manufacturers (the Alliance). The tire industry was represented by the Rubber Manufacturers Association (RMA) and the Bridgestone Corporation. Other motor vehicle equipment manufacturers and associated trade organizations who commented were the Automotive Occupants Restraint Council (AORC), TRW, Inc. (TRW), Atwood Mobile Products (Atwood), the Battery Council International, ArvinMeritor, Peterson Manufacturing Company, the Motor and Equipment Manufacturers Association (MEMA) and the Original Equipment Suppliers Association (OESA), both supported by Eagle-Picher Industries, Breed Technologies (Breed), Dana Corporation (Dana), Pilkington North America, Inc. (PNA), the Transportation Safety Equipment Institute (TSEI), the Automotive Aftermarket Industry Association (AAIA), Johnson Controls, the Torrington Company, the Specialty Equipment Manufacturers Association (SEMA), the National Truck Equipment Association (NTEA), Delphi Automotive Systems, LLC (Delphi), Webb Wheel Products, Inc. (Webb), Hella North America, Inc. (Hella), Osram Sylvania, Shepherd Hardware Products, LLC (Shepherd), Valeo, Inc., Am-Safe Commercial Products, Inc., and Harbour Industries. We also received comments from Consumer Union, Public Citizen, and Advocates for Highway and Auto Safety (Advocates).

These comments have provided us with numerous insights in developing this NPRM. We plan to issue a final rule by the statutory deadline, June 30, 2002, which will incorporate the early warning reporting elements specifically set forth in the TREAD Act. In addition to these elements, under Section 30166(m)(3)(B) we propose to require the submission of additional information that may assist in the identification of defects in vehicles in the United States. This will complete the first phase of our early warning rulemaking. Consistent with Section 30166(m)(5), we will periodically review the final rule; such review could result in amendments after June 30, 2002.

III. Manufacturers That Would Be Covered by the New Reporting Requirements

A. Manufacturers of Motor Vehicles

The TREAD Act provides for the agency to require manufacturers of motor vehicles [1] to submit information that may assist in the identification of safety-related defects. We must decide which manufacturers of motor vehicles would be required to submit reports under this rule, and whether different reporting requirements should apply to various categories of manufacturers. Section 30166(m)(3) does not exempt any manufacturer of motor vehicles from its coverage. On the other hand, it provides substantial discretion to the agency. The word ''may'' is used at several points in the statute. In addition, the agency's ability to use the information submitted is a statutory concern.

One of the threshold questions in this rulemaking is whether the agency should exercise its discretion to defer the imposition of some or all potential early warning reporting requirements on some classes of manufacturers. The early warning regulation would be a new regulation, and inevitably the agency and regulated entities will face some issues in implementing it. It would be counterproductive to require the submission of more information than we could beneficially review or to impose impracticable requirements, particularly on small manufacturers. We have concluded that we should phase in the early warning reporting requirements and that, for the most part, it would be appropriate to focus first on larger volume manufacturers and on information regarding incidents and activities in the United States, as contrasted to those occurring in foreign countries.

Vehicles produced in small quantities have a smaller overall impact upon safety than large production vehicles, as we have frequently noted in providing temporary exemptions from one of more of the Federal motor vehicle safety standards under 49 U.S.C. 30113. Although we would not expect the volume of reports from any individual small volume manufacturer to be overwhelming if we were to require comprehensive reporting by smaller manufacturers, there would be some burden on them. More important, our interactions with, and review of submissions by, the large number of small manufacturers would divert the agency's resources from reports submitted by high volume manufacturers involving potential safety defects that could affect a far greater number of vehicles and thus have a greater impact on safety.

For the present time, we propose to exclude from most of the reporting requirements any vehicle manufacturer that manufactures for sale, offers for sale, imports, or sells, in the United States, fewer than 500 vehicles in the year of the reporting period, or which has done so in the two calendar years preceding the reporting period. We are also proposing to exclude registered importers (RIs) of vehicles not originally manufactured to comply with Federal motor vehicle safety standards from most of the reporting requirements. RIs would not have information that would be useful because most are small, and those that are not import vehicles on which we would generally receive reports from assembling or importing manufacturers. This exclusion would also apply to many manufacturers of multistage vehicles and alterers since most manufacture or sell fewer than 500 vehicles annually. However, these smaller volume manufacturers would not be exempt from the requirements, addressed below, to report to us certain specified information regarding all deaths occurring in the United States that are identified in claims against the manufacturer or in notices to in which it is alleged or proven that a death was caused by a possible defect in the manufacturer's vehicle, together with information on deaths occurring in foreign countries that are identified in claims against the manufacturer involving a vehicle that is identical or substantially similar to a vehicle that the manufacturer has offered for sale in the United States. With respect to all such reported deaths, manufacturers would have to provide certain information regarding the underlying incident, as described in greater detail below. These manufacturers would also have to provide copies of documents related to customer satisfaction campaigns, consumer advisories, recalls, and other safety activities under proposed section 579.5.

For those motor vehicle manufacturers that are not excluded from full reporting based on low levels of sales in the United States, we are proposing to establish separate reporting requirements based on the category of vehicle produced. We are proposing five categories of vehicles: Light vehicles, medium-heavy vehicles, buses, motorcycles and trailers. Each category has components and systems that distinguish it from the other four categories, and which may develop safety-related problems unique to that category. Therefore, we would require different information regarding each category of vehicle, which will help to reduce the complexity and burdensomeness of the rule.

Under our proposal, light vehicles would comprise any motor vehicle, except a bus, trailer, or motorcycle, with a GVWR of 10,000 lbs. or less. Medium-heavy vehicles would include trucks and multipurpose passenger vehicles with a GVWR over 10,000 lbs. Buses (including school buses) and trailers would be separately categorized regardless of GVWR. Motorcycles would include any two- or three-wheeled vehicle meeting the definition of motorcycle in 49 CFR 571.3(b).

We ask for comments on whether an annual aggregate production, importation, or sales of 500 vehicles in the United States is an appropriate figure upon which to base this distinction, whether a manufacturer's eligibility for these lesser reporting requirements should be determined based upon its production in the two calendar years preceding this report or whether a shorter, longer, or different period would be appropriate, and whether small volume vehicle manufacturers should be required to provide other data and information in addition to that relating to deaths. Finally, we are interested in having comments on our proposed five categories of vehicles. For instance, we are not proposing a separate category of ''medium vehicle'' because it seems to us that the components and systems of such vehicles would be those for which reporting would be required are those with which either light or medium-heavy vehicles are equipped.

[1] The term ''motor vehicle'' is a broad one. The statutory definition of ''motor vehicle'' (49 U.S.C. 30102(a)(6)) has been the subject of numerous interpretations since 1966.

B. Manufacturers of Motor Vehicle Equipment

The TREAD Act also provides for the agency to require manufacturers of motor vehicle equipment to submit early warning reporting information that may assist in the identification of safety-related defects. ''Motor vehicle equipment'' is defined in 49 U.S.C. 30102(a)(7), and consists of ''original equipment'' (OE) and ''replacement equipment.'' These two terms are currently defined in 49 CFR 579.4. We are not changing the definitions, but we are revising the language in new section 579.4(c) to make it more understandable.

1. Original Equipment

There are approximately 10,000 to 14,000 individual items of OE in a contemporary passenger car. Some are fabricated by the vehicle manufacturer, some by parts manufacturers, and some parts are incorporated into systems or modules assembled by various suppliers. 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. Many of these units are assembled by a supplier, often with components from various manufacturers. Each of these fabricators or assemblers is also a manufacturer of motor vehicle equipment.

When a component or module installed as OE on a vehicle fails, generally vehicle owners will complain or file a claim with the entity that has manufactured and warranted the vehicle, rather than the assembler of the module or the manufacturers of the individual parts, who in most instances are unknown to the vehicle owner. In view of this, the Alliance, Ford, and AIAM specifically supported exclusion of OE manufacturers (OEMs) from early warning reporting requirements in their comments on the ANPRM.

OEMs, however, are not currently exempt from defect reporting requirements. Pursuant to 49 CFR 573.3(f), if an OEM sells an item of OE to more than one vehicle manufacturer and a defect or noncompliance is decided to exist in that OE, the OEM is required to notify us (as are the manufacturers of the vehicles in which the OE is installed). If the defective OE is used in the vehicles of only one vehicle manufacturer, the OEM may notify us on behalf of both itself and the vehicle manufacturer (Section 573.3(e))(in either case, the OEM may also be the party remedying the safety defect or the noncompliance). Thus, OEMs can and do make determinations that OE contains safety-related defects, and they will have some information of the type that the TREAD Act authorizes us to require, such as claims alleging failures of their products. Thus, we do not propose to totally exempt OEMs from early warning reporting.

We have tentatively decided that most meaningful information about possible defects is more likely to come to the attention of the vehicle manufacturer earlier than it would to the OEM. However, we want to be certain that we obtain information regarding deaths attributed to defects in OE. Accordingly, at this time, we are proposing that OEMs be exempt from all reporting requirements regarding OE they manufacture, except for reporting to us regarding deaths in the same manner as small volume vehicle manufacturers, discussed above. Of course, the vehicle manufacturer would be required to report fully in its capacity as a vehicle manufacturer, even if the vehicle manufacturer believed that the problem was the responsibility of the OEM.

2. Replacement Equipment, Including Tires

Replacement equipment comprises an even broader universe of parts than OE. Under both current 49 CFR 579.4(b) and proposed 579.4(c), it includes all motor vehicle equipment other than OE. Not only does the term have the literal meaning of equipment that is intended to replace OE, it also includes accessory equipment and ''off-vehicle equipment'' that is not part of a motor vehicle, such as retroreflective motorcycle rider apparel and child restraints. Manufacturers of replacement equipment are within the scope of the early warning reporting provisions of the statute.

Some replacement equipment items are critically important from a safety perspective, while others have less of a safety nexus. Tires, of course, are essential items of motor vehicle equipment, and tire manufacturers have the duty to conduct notification and remedy campaigns and to address defective or noncompliant tires, whether sold in the aftermarket or installed on new vehicles (see current 49 CFR 579.5(b)). Tire brand name owners (e.g., house brands) are also considered manufacturers (49 U.S.C. 30102(b)(1)(E)) and have the same defect and noncompliance reporting requirements as the actual fabricators of the tires (49 CFR 573.3(d)). Child restraints are also critical safety items. Therefore, we are proposing that all tire manufacturers, tire brand name owners, and manufacturers of child restraints would be required to provide the full range of information and documents proposed. There are relatively few manufacturers of child restraints and tires, and most are large businesses.

There is a large number of manufacturers of other types of replacement equipment. Much of this equipment is imported by or for auto parts houses such as J.C. Whitney, or general merchandisers such as K–Mart. An importer for resale is considered a manufacturer under the statute. See 49 U.S.C. 30102(a)(5)(B). A large universe of entities would be subject to multiple requirements if we were to fully apply early warning reporting requirements to all fabricators and importers of replacement equipment.

Therefore, at least for purposes of this initial rulemaking, we are proposing that, as with lower volume vehicle manufacturers and original equipment manufacturers, manufacturers of other types of replacement equipment would only be required to report to us claims and notices regarding deaths allegedly due to defects in their products. However, we may revisit these limitations under our periodic review of the rule.

C. Foreign Manufacturers of Motor Vehicles and Equipment

As defined before the enactment of the TREAD Act, a manufacturer is defined as ''a person manufacturing or assembling motor vehicles or motor vehicle equipment, or importing motor vehicles or motor vehicle equipment for resale'' (49 U.S.C. 30102(a)(5)). Foreign manufacturers offering vehicles or vehicle equipment for import must designate an agent on whom service may be made (49 U.S.C. 30164).

In its defect and noncompliance reporting regulations, the agency has addressed the question of who may file a defect or noncompliance report related to an imported item. Under 49 CFR 573.3(b), in the case of vehicles or equipment imported into the United States, a defect or noncompliance report may be filed by either the fabricating manufacturer or the importer of the vehicle or equipment. Defect and noncompliance reports covering vehicles manufactured outside of the United States have generally been submitted by the importer of the vehicles, which is usually a subsidiary of a foreign parent corporation (e.g., defects in vehicles made in Japan by Honda Motor Co. Ltd. are reported by American Honda Motor Co., Inc., even if the vehicle was certified by Honda Motor Co. Ltd.).

The TREAD Act expanded manufacturers' responsibilities with respect to foreign events and activities. See 49 U.S.C. 30166(l) and (m). It is evident that the TREAD Act has extraterritorial effect. In its comments on the ANPRM, the Alliance recognized that the TREAD Act was clearly written by Congress to apply to persons and activities outside of the United States and it is therefore a clear assertion of extraterritorial jurisdiction by the United States (Alliance comment, Attachment 10, p. 9). The Alliance went on to state that the early warning rule could reasonably require reports from foreign companies manufacturing vehicles for sale in the United States as long as the required reports relate to issues that could arise in those vehicles (p. 11). Today's proposal is consistent with that conclusion. Foreign entities would be required to provide the same information as we would require for domestic manufacturers, but as explained in further detail below, only with respect to vehicles and equipment that they sell in the United States, and to incidents involving death outside the United States that involve identical or substantially similar vehicles or equipment. To assure that we receive information initially provided to various foreign entities, including affiliates of foreign parent corporations, we propose to apply Part 579 to all vehicle and equipment manufacturers ''with respect to all vehicles and equipment that have been offered for sale, sold, or leased by the manufacturer, any parent corporation of the manufacturer, any subsidiary or affiliate of the manufacturer, or any subsidiary or affiliate of any parent corporation of the manufacturer.''

This leaves the question of who must and who may report. In view of the definition of manufacturer and in further view of the specific provisions of Section 30166(m), we believe that the agency has authority to require a report from the foreign entity that

maintains the information, from the fabricating manufacturer, and from the importer of the vehicle or equipment. However, we are proposing to apply the reporting requirements for early warning in the same manner as we currently utilize for reporting noncompliance and defect determinations to NHTSA under Part 573, and that we have proposed for reporting of safety recalls and other safety campaigns in foreign countries pursuant to Section 3(a) of the TREAD Act, 49 U.S.C. 30166(l). See 66 FR 51905 et seq., October 11, 2001. Thus, under today's proposal, the report must be filed by either the fabricating manufacturer or by the importer of the vehicle or equipment. This is consistent with current reporting of safety defects and noncompliances. See 49 CFR 573.3(b).

A multinational corporation must ensure that all relevant information on matters for which reports are required throughout the world are made available to whatever entity makes those reports so that its designated entity timely provides the information to NHTSA. Thus, it would be a violation of law for a foreign fabricating manufacturer to designate its U.S. importer as its reporting entity, and then fail to assure that it is provided with the information that must be reported under this rule. Such manufacturers will have to adopt and implement practices to assure the proper flow of relevant information.

D. Other Representatives of Manufacturers

Most of the information covered by this rule would be provided directly to the entity (usually a corporation) that assembles or imports vehicles or equipment. However, some information, such as claims-related documents or field reports, might be initially received by affiliates or other representatives of manufacturers, such as their registered agents and outside counsel. Consistent with the thrust of the early warning statutory provisions, we are proposing to deem information received by these entities to be in the possession of the manufacturer, and thus to require each manufacturer to ensure that entities that it has the ability to control furnish it with relevant early warning information so that the manufacturer may make a full and timely report to NHTSA. However, we are not proposing to require such an affiliate or representative to report directly to NHTSA. We also ask for comments on our proposed applicability of this regulation to parents, affiliates, and subsidiaries of vehicle manufacturers.

In general, motor vehicle dealers are independent businesses (this is not the case with respect to some tire dealers). To the extent that they are independent, claims and other information received by dealers would not automatically be considered in the possession of the manufacturer. However, if the dealer were to convey such information to any employee or other representative of a manufacturer, the manufacturer would be deemed to have possession of it upon receipt.

IV. Information That Would Be Reported

Section 30166(m)(3)(A) directs NHTSA to require manufacturers to report information which concerns 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,'' and 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)(B) authorizes us to require manufacturers to report other ''such information'' that may assist in the identification of safety defects. Finally, Section 30166(m)(3)(C) requires reporting of incidents, of which the manufacturer receives actual notice, involving deaths or serious injuries which are alleged or proven to have been caused by a possible defect in the manufacturer's vehicle or equipment in the United States, or in a foreign country when the possible defect is in a vehicle or equipment identical or substantially similar to that sold in the United States.

A. Production Information

For each reporting period, we would require manufacturers of vehicles whose sales, production, or importation for sale in the United States is 500 or more, and manufacturers of child restraint systems and tires, to provide information on the volume of production of their products. Production numbers are needed because the agency's trend analyses frequently are normalized to the number of claims, complaints, etc. per unit of production. These manufacturers would submit the following information with respect to each model and model year of vehicle manufactured in the calendar year of the reporting period and the nine model years prior to the model year of the reporting period, including models no longer in production: the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period, and the total model year production for all model years for which production has ceased. For all models of vehicles that are manufactured with more than one type of fuel system, the information required by this subsection would be reported separately for gasoline-powered vehicles and for non-gasoline-powered vehicles. For medium-heavy vehicles, there would be further subcategorization by service brake system (e.g., hydraulic, air).

We recognize that manufacturers of child restraint systems and tires generally do not specify ''model years'' for their products. For purposes of this rule, to avoid confusion, we are defining the term ''model year'' as the year that the item of equipment was manufactured.

Figure 1, below, represents a pro-forma example of how production information would be reported by a manufacturer of medium-heavy trucks, using an electronic spreadsheet. For each model/model year, there would be multiple rows if the medium-heavy truck model was produced with different types of fuel or brake systems.

Production Information

MEDIUM-HEAVY TRUCKS
Reporting Period:
Manufacturer:

Make	Model	Model year	Production	Fuel system type (see below)	Brake system type (see below)
		2003	#		
		2002	#		
		2001	#		
		2000	#		
		1999	#		
		1998	#		
		1997	#		
		1996	#		
		1995	#		

Make	Model	Model year	Production	Fuel system type (see below)	Brake system type (see below)
		1994	#		

Fuel System Type:
a. Gasoline
b. Diesel
c. Other
Brake System Type:
a. Hydraulic
b. Air
c. Other than hydraulic or air

Figure 1

We ask for comments on this suggested format for providing production information by electronic means.

B. Claim: A Proposed Definition

Section 30166(m)(3)(A) refers to claims data. The ANPRM stated that, in order to achieve the goals of the TREAD Act, the term ''claim'' must be construed broadly and provided some examples.

We have researched the definition of claim, considered comments received in response to the ANPRM, and considered our investigatory experience with requests for claims information.

Case law provides interpretations of the word ''claim'' in various contexts. In a Federal law context, '' 'claim' is something more than mere notice of an accident and an injury. The term 'claim' contemplates, in general usage, a demand for payment or relief.'' *Avril* v. *U.S.*, 461 F.2d 1090, 1091 (9th Cir. 1972). See also, *Conoco, Inc.* v. *United States*, 39 Env't. Rep. Cas. (BNA) 1541 (N.D. La. 1994)(written request for compensation for damages or costs); 31 U.S.C. 3729(c) (claim involves request for demand for money or property).

State case law also provides a definition of the word ''claim.'' For example, *Fireman's Fund Insurance Co.* v. *The Superior Court of Los Angeles County*, 65 Cal. App. 4th 1205, 1216 (1997), noted that a claim encompasses more than a suit:

> ''claim'' can be any number of things, none of which rise to the formal level of a suit—it may be a demand for payment communicated in a letter, or a document filed to protect an injured party's right to sue a governmental entity, or the document used to initiate a wide variety of administrative proceedings.

Other state law cases have further addressed the meaning of ''claim.'' *Safeco Surplus Lines Co.* v. *Employer's Reinsurance Corp.*, 11 Cal. App. 4th 1403, 1407 (1992), held that a ''claim'' is ''the assertion, demand or challenge of something as a right; the assertion of a liability to the party making it do some service or pay a sum of money.'' *Phoenix Ins. Co.* v. *Sukut Construction Co.*, 136 Cal. App. 3d 673, 677 (1982), stated that ''a claim both in its ordinary meaning and as interpreted by the courts, is a demand for something as a right, or as due and a formal lawsuit is not required before a claim is made.''

Commenters provided a variety of views on a possible definition of a claim. The Alliance offered this definition to which Ford and Delphi agreed:

> A claim or incident involving serious injury or death is any written demand, complaint, subrogation request or lawsuit received by a manufacturer from or on behalf of the person seriously or fatally injured that (a) involves ''serious injury,'' as further defined, or death, (b) alleges that a product defect was, at least in part, a contributing cause of the serious or fatal injury, and (c) contains sufficient information to identify the motor vehicle or item of motor vehicle equipment involved.

DaimlerChrysler would add that a ''claim'' includes a formal request for compensation. International Truck stated that the term should exclude warranty claims, which International considers to be dealer or customer submissions for reimbursement on parts and labor. TRW also pointed out the difference between claims for deaths and injuries and those submitted under warranties. TRW offered a definition for claims in the personal injury context as

> a written demand for compensation against the manufacturer or written notice to the manufacturer of litigation where compensation is sought from the manufacturer and it is expressly alleged that death or serious personal injury has been caused by a defect in a specified vehicle and/or in specified motor vehicle equipment of the manufacturer.

Mack Truck stated that claims should be defined as verified written communications transmitted to the manufacturer, requesting compensation for property damage, death or personal injury allegedly caused by safety-related defects in a specified product of the manufacturer. Volvo Trucks would restrict ''claim'' to ''any lawsuit filed requesting compensation for personal injuries or property damage that is the result of an alleged safety-related defect in a motor vehicle'' and did not include subrogation claims. It would also exclude ''any request for consequential damages that are the result of a warrantable repair or an alleged defect that does not relate to safety.''

We have considered the case law and the comments. We believe that the definition of claim should be broad, and meet our needs under the TREAD Act. We propose the following definition for claim:

> A written request or demand for relief, including money or other compensation, assumption of expenditures, or equitable relief, related to a motor vehicle crash, accident, the failure of a component or system of a vehicle or an item of motor vehicle equipment, or a fire. Claim includes but is not limited to a demand in the absence of a lawsuit, a complaint initiating a lawsuit, an assertion or notice of litigation, a settlement, covenant not to sue or release of liability in the absence of a written demand, and a subrogation request. A claim exists regardless of any denial or refusal to pay it, and regardless of whether it has been settled or resolved in the manufacturer's favor. The existence of a claim may not be conditioned on the receipt of anything beyond the document stating a claim.

The proposed definition includes many of the elements addressed above by commenters. We do not address, as did the Alliance and others, what the claim must involve, allege or contain, as those matters are not parts of a definition of a claim. They are addressed below. However, we do refer to a motor vehicle crash, accident, component or system failure, and a fire, as these are the events that have safety implications. The definition would exclude, for example, events with which the rule is not concerned, such as injuries in manufacturers' factories. Warranties are addressed separately below. The last two sentences of our proposal are designed to assure that all relevant claims are provided to us. This would preclude attempts, similar to those that have been made by some manufacturers in our investigations, to evade reporting claims by conditioning them on receipt of parts, or their own assessments of the merits of claims.

C. Notice: A Proposed Definition

Section 30166(m)(3)(C) requires that the rule include the reporting of ''all incidents of which the manufacturer receives actual notice,'' involving fatalities or serious injuries that are alleged or proven to have been caused by a possible defect in its products. The term ''actual notice'' is extremely broad. Nonetheless, to avoid impractical requirements, we are proposing only to require reporting of incidents of which a manufacturer receives or obtains documentation (e.g., in written or electronic formats). Therefore, in this context, we would define ''notice'' of an applicable incident to mean ''a document received by or prepared by a manufacturer that does not include a demand for relief.'' This would include, for example, a letter advising a manufacturer of a crash in which there was a death or injury and an allegation of a defect in the vehicle where there was no claim for monetary or other relief. It would also include police accident reports transmitted to a manufacturer regarding deaths or injuries in which a causative factor was stated to be a performance failure of the vehicle or equipment, but would not include reports where no defect in, or failure of, the vehicle or equipment was indicated (e.g., a crash due to the driver losing control, with no system or equipment failure reported). Newspaper articles or other media reports would not, in themselves, constitute ''notice,'' unless either they were provided to the manufacturer, such as by an owner, or actions taken by the manufacturer reflect that it had received notice of the incidents in question.

D. Identification of the Product in Claims and Notices

To be covered by these early warning requirements, a claim or notice, as well as other matters addressed below, would have to identify the vehicle or equipment item involved in at least a minimal way. Otherwise, it would not be possible to identify what vehicle or equipment was involved, and the information would not help us to identify potential defects. In the context of identification, we propose to use the term ''minimal specificity'' and define it to mean ''(a) for a vehicle, the make, model and model year, (b) for a child seat, the model (either the model name or model number), (c) for a tire, the model and size, and (d) for other motor vehicle equipment, if there is a model or family of models, the model name or model number.''

With regard to claims, notices, and other reporting obligations discussed below, for vehicles, we would define ''model'' to mean ''a name that a manufacturer applies to a family of vehicles within a make which have a degree of commonality in construction, such as body, chassis or cab type.'' ''Make,'' in turn, would mean ''a name that a manufacturer applies to a group of vehicles.'' The proposed definition of ''make'' is the identical definition of ''make'' used in 49 CFR Part 565, *Vehicle Identification Number Requirements* (see section 565.3(g)). The proposed definition of ''model'' is the definition the VIN regulation uses for ''[vehicle] line'' (see section 565.3(f)). Our objective is to obtain reports by commonly-understood designations. For example, with regard to the General Motors S–10 platform, we would expect to receive separate reports for pickup trucks and sport-utility vehicles, but the total for each would include both Chevrolet and GMC nameplates. But we would expect C and K platform pickup trucks to be reported together (the total including both Chevrolet and GMC nameplates) as they are both pickup trucks and the relevant difference (2- vs. 4-wheel drive) appears to be insignificant for early warning reporting. As another example, with regard to Ford pickup trucks, we expect separate reports for the F–150 and F–250, but, within each designation, do not want separate reports for two-door and four-door versions, or versions with different engines or transmissions. We request comments on this approach and how our definition may achieve it.

We would define ''model year'' for this and all other early warning reporting purposes to include the year that a vehicle was manufactured if the manufacturer has not assigned a model year to the vehicle covered by the report.

For equipment, ''model'' would mean the name that its manufacturer uses to designate it. ''Model year'' would mean the calendar year in which the equipment was manufactured.

We ask for comments on the clarity and inclusiveness of these proposed definitions.

If an otherwise covered claim or notice as initially received by the manufacturer does not identify the allegedly defective product with minimal specificity but a subsequent communication does, it would become a covered claim or notice at the time of the subsequent communication, and the manufacturer would be required to report it in its next report to NHTSA.

E. Claims and Notices Involving Death

1. Whether to Define Death

We are not proposing to define death or fatality because we do not believe that it is necessary or appropriate to do so. Our reason is simple: the subject matter of this category of information is claims involving deaths and notices of incidents involving fatalities. Proof of death is not necessary, nor does it matter when death occurred.

2. Claims Involving Death

We propose that every manufacturer be required to report certain information about each incident involving a death identified in claims it has received during each reporting period, if the claim identifies the product with minimal specificity. This would apply to claims regarding fatal incidents in foreign countries as well as the United States. Reports of claims involving death would be in electronic form, as we discuss later.

3. Notices Involving Death

We are also proposing that manufacturers be required to report similar information about each incident involving a death that occurred in the United States that is identified in a notice (as defined above) in which it is alleged or proven that the fatality was caused in whole or in part by a possible defect in such manufacturer's vehicle or equipment, received during each reporting period, if the product is identified with minimal specificity. Information about such deaths would be combined with information about claims of death on the same report.

4. Information About Deaths

The information about deaths to be reported would contain, for each incident, model and model year of the vehicle or equipment, the date of the incident, the number of deaths that occurred in the incident, the name of the State in the United States or the specific foreign country in which the incident occurred, and the identification of each component or system that allegedly contributed to the incident or the death reported.

We are proposing that manufacturers who sell 500 or more vehicles annually in the United States and manufacturers of tires (except as to low production tires) and child restraint systems identify systems or components involved in the same manner as those used for their other reporting obligations. These are discussed below. Vehicle manufacturers who sell fewer than 500 vehicles annually in the United States would also identify

systems or components involved in the same manner. However, given the large and varying universe of motor vehicle equipment, manufacturers of original equipment and of replacement equipment other than tires and child restraint systems would describe the systems or components involved in their own words, based on the claim or notice. We are proposing this approach to make reporting by these manufacturers simpler than it would otherwise be if they had to use designations with which they are not familiar.

For claims and notices, if the component or system is not identified, the manufacturer would enter ''unknown.'' If the manufacturer was not aware of one or more of the required items of information at the time the report was submitted, it would have to provide the information in a further report covering the reporting period in which it was received.

F. Claims and Notices Involving Injuries

1. The Difficulties of Defining ''Serious Injury''

The issue of whether to define ''serious injury,'' and if so, how, has proven to be one of the more challenging tasks in the development of this NPRM.

We have considered several approaches. Originally, it seemed to us that it might be appropriate to use the Abbreviated Injury Scale (AIS) system. The AIS system was developed by a joint Committee on Injury Scaling, comprised of representatives from the American Medical Association, Association for the Advancement of Automotive Medicine, and the Society of Automotive Engineers (SAE). The AIS system ranks the severity of injuries numerically from 1 to 7. The injuries that are recorded are those that occur to the head, face, neck, thorax, abdomen, spine, upper and lower extremities, external/skin, burns and other trauma. In the ANPRM, the agency sought input on the potential use of the AIS system. The commenters had many disparate views.

In its comments, the Alliance labeled the AIS system unworkable for this purpose due to the highly sophisticated coding and complex nature of identifying claims. The Alliance noted that each manufacturer would need to have a staff of thoroughly trained personnel who understand the entire system. The manufacturer would have to train its responsible personnel to understand basic medicine and medical terms and to use the AIS coding system, which is not a simple task. There is a lengthy manual, and the Association for the Advancement of Automotive Medicine offers a two-day course for injury scaling according to the AIS. The course is designed for trauma nurses, registrars, physicians, hospital records personnel, and researchers who are responsible for injury databases. A general knowledge of anatomy is required before taking the class.

Another issue with using the AIS system is the amount of information required to determine the actual injury level. A manufacturer may never have enough information to properly code an injury according to the AIS system. Many claims and notices received by a manufacturer will allege an injury but contain insufficient information for AIS coding. In the absence of information demonstrating that the injury in question reached whatever threshold AIS level might be selected, a manufacturer would be justified in not reporting the incident, which could result in substantial under-reporting.

In addition, the AIS system necessarily involves subjective judgments. This could introduce error and inconsistency. Moreover, the manufacturers have stated that they are reluctant to interpret medical records.

Another concern is universal administration. The AIS system is prevalent in some professional circles in the United States, but many manufacturers indicated that the AIS system is not utilized outside the U.S. This may cause confusion when translating or reviewing foreign claims, especially if there is a different reporting system for injuries in foreign countries. Similarly, while most major vehicle manufacturers probably have employees who are familiar with it, the AIS system may not be utilized by many smaller manufacturers. Many smaller manufacturers commented that they were unaware of the AIS or believed that using it as a determinant of serious injury would be unworkable. We do not believe that it would be appropriate to specify different reporting criteria for different industry segments.

Nissan diverged from most manufacturers and supported a system similar to the AIS system for defining serious injuries, but sought a simplified, flexible system. Nissan suggested that the government and the industry create a joint task force to develop a table based upon the AIS system that would allow the ranking of injuries to define serious injury. Similar to Nissan, AIAM suggested that the AIS system needed to be simplified to allow manufacturers to easily classify an injury as serious or not serious. We do not know whether this approach would be workable. However, even if it were, there is insufficient time to develop such a system within the statutory deadline for the early warning rule.

CU and Advocates both supported the use of the AIS system as a triggering device. However, both commenters stated that if a claim alleges an injury and it cannot be determined if it involves a serious injury, the claim should be reported to the agency.

We also considered basing the definition of serious injury for purposes of the early warning rule on certain statutory and regulatory definitions. RMA suggested the definition from 18 U.S.C. 1365(g)(3). In that section, serious injury is defined as: ''a bodily injury which involves (a) a substantial risk of death; (b) extreme physical pain; (c) protracted and obvious disfigurement; or (d) protracted loss or impairment of the function of a bodily member, organ or mental faculty.'' The MIC suggested that we define serious injury similarly to the Consumer Product Safety Commission's (CPSC) definition of ''grievous bodily injury'' (16 CFR 1116.2 (b)). That section states, in pertinent part:

(b) Grievous bodily injury includes, but is not limited to, any of the following categories of injury:
(1) Mutilation or disfigurement. Disfigurement includes permanent facial disfigurement or non-facial scarring that results in permanent restriction of motion;
(2) Dismemberment or amputation, including the removal of a limb or other appendage of the body;
(3) The loss of important bodily functions or debilitating internal disorder. These terms include:
(i) Permanent injury to a vital organ, in any degree;
(ii) The total loss or loss of use of any internal organ,
(iii) Injury, temporary or permanent, to more than one internal organ;
(iv) Permanent brain injury to any degree or with any residual disorder (e.g. epilepsy), and brain or brain stem injury including coma and spinal cord injuries;
(v) Paraplegia, quadriplegia, or permanent paralysis or paresis, to any degree;
(vi) Blindness or permanent loss, to any degree, of vision, hearing, or sense of smell, touch, or taste;
(vii) Any back or neck injury requiring surgery, or any injury requiring joint replacement or any form of prosthesis, or;
(viii) Compound fracture of any long bone, or multiple fractures that result in permanent or significant temporary loss of the function of an important part of the body;
(4) Injuries likely to require extended hospitalization, including any injury requiring 30 or more consecutive days of in-patient care in an acute care facility, or 60 or more consecutive days of in-patient care in a rehabilitation facility;
(5) Severe burns, including any third degree burn over ten percent of the body or more,

or any second degree burn over thirty percent of the body or more;
(6) Severe electric shock, including ventricular fibrillation, neurological damage, or thermal damage to internal tissue caused by electric shock.
(7) Other grievous injuries, including any allegation of traumatically induced disease.

In the context of early warning reporting, these definitions suffer from many of the same deficiencies as identified above regarding the AIS system. Reporting would ultimately depend on highly subjective determinations, including the assessment of terms like ''substantial,'' ''extreme,'' and ''protracted.'' This could lead to inconsistencies, under-reporting, and unwarranted delays. In addition, many categories, such as ''substantial risk of death'' and ''extreme physical pain,'' would need to be further defined.

We also considered using a surrogate for serious injury, such as hospitalization. The Alliance, which, as noted above, opposed technical assessments of injuries under the AIS system, took this approach. The Alliance would define serious injury as any non-fatal injury resulting in an overnight hospital admission (but not including emergency room treatment if the person was treated and released). The Alliance asserts that it is simple and is easier to administer than the AIS system. This is true; the Alliance's definition is simple and does not require sophisticated training of reporting personnel. Also, the definition provides an objective criterion. The reporting trigger, the hospitalization, would not need to be interpreted by the manufacturer to determine if it meets another standard.

On the other hand, the Alliance's definition is not broad enough. The definition only includes injuries that result in an overnight admission into a hospital, but excludes significant emergency room treatment. For the purposes of early warning, in our view, this is not sufficient. Due to various factors, such as health care management practices and evolving medical approaches, individuals with injuries that most people would view as serious are often treated in an emergency room but not actually admitted to a hospital. For example, under the Alliance's definition, a person who fractured a leg might not be considered to have incurred a serious injury, since he or she might not be admitted into the hospital for an overnight stay. Yet we believe that most people would agree that a fractured leg would be considered a serious injury. In addition, for various reasons, some seriously injured people, such as the poor and people in various religious groups, might not be admitted into a ''hospital.'' Most important, it is likely that most claims, and possibly even lawsuits, will not specifically state whether or not there was a hospital stay. Thus, many serious injuries that involved hospitalization would not be reported under this definition.

A difficulty that would exist under any definition of serious injury is the effort that would be needed to monitor the progress of claims to see if a claim that initially did not allege an injury that satisfied the definition was amended or supplemented such that the injury was serious. The Alliance asserted that constant monitoring of claims is not feasible and would not further the goals of the early warning provisions. The Alliance further commented that the burden should not be on the manufacturer to determine if a claim involves a serious injury. We disagree with the Alliance's assertion that follow up review under such a scenario would not further the goals of early warning. Nonetheless, we recognize that such efforts would impose significant additional burdens on manufacturers.

2. Reporting of Incidents in Which Persons Were Injured, Based on Claims and Notices

In view of the substantial problems associated with defining ''serious injury,'' for purposes of early warning reporting we are proposing to require certain categories of manufacturers to report each incident in which persons are injured in the United States that is identified in a claim or notice alleging or proving that the injury was caused by a possible defect in the manufacturer's product, if the claim or notice identifies the product with minimal specificity. For these manufacturers, the report would be combined with the reporting of incidents involving fatalities. This would limit the number of reports and avoid duplication that could be associated with separate reports of deaths and injuries stemming from the same incident.

We recognize that Sections 30166(m)(3)(A) and (C) refer to ''serious injuries.'' Nevertheless, we are authorized to require reporting of claims about, and notices of, all injuries by Section 30166(m)(3)(B) which provides:

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 * * * to report, periodically or upon request of the Secretary, such information as the Secretary may request.

It is evident that information about injuries caused by defects in vehicles and equipment will ''assist in the identification of defects related to safety.'' Often, the gravity of an injury does not help determine whether a vehicle or equipment is defective, since the fact that a possible defect led to a crash is generally more relevant than the degree of injury experienced by a vehicle occupant in the crash. Thus, limiting reporting to serious injuries would not better lead to the discovery of defect trends. By requiring all claims and notices of injury to be reported, we would increase the robustness of the data base on which we could analyze whether a possible defect trend existed. Thus, such a requirement is authorized by Section 30166(m)(3)(B), and satisfies the agency's obligations under Sections 30166(m)(3)(A) and (C).

This proposed requirement avoids the operational difficulties described above associated with any attempt to develop a universal, objective definition of ''serious'' injuries. The decision about whether an incident involving an injury must be reported could be made on the basis of the limited information that would be expected in a claim or a notice of a covered incident, without requiring complicated coding efforts, or awaiting detailed information about the specifics of the injury or the extent of hospitalization. Thus, it would reduce delays that could turn ''early warning'' into ''late warning.''

There are other benefits to this approach. Because manufacturers would not have to determine if the alleged injury met one or more potentially complex criteria for seriousness of an injury as provided under some proposals, this approach would eliminate the need for subjective determinations, and thus address the concern of manufacturers that their decisions could be second-guessed.

Although the incidents that would be reported in which persons were injured would be greater than under a more limited definition of ''serious injury,'' this approach would actually reduce the burden on manufacturers. They would not need specialized or highly trained staffs to make decisions about ''seriousness.'' As importantly, the need to monitor and repeatedly review incoming information to reassess whether an injury was ''serious'' would be minimized, if not eliminated. Also, most manufacturers would not have to significantly restructure their existing database systems to comply with this reporting requirement, since most, if not all, manufacturers keep a record of claims.

We have considered the consequence upon NHTSA of receiving, organizing, and analyzing this information. The Alliance has raised the specter that agency would be flooded with a tremendous amount of data, even if it was submitted in electronic form, stating that there are over 3.2 million injuries per year as a result of 6.3 million police-reported crashes. The Alliance has overstated the burden on NHTSA. The vast majority of those crashes and injuries do not result in claims against manufacturers, and do not involve alleged defects. In fact, the Alliance's supplemental comments noted that only 9,200 claims alleging death or injury were filed against their manufacturer members and two other manufacturers in the United States in 2000. Also, NHTSA would not be overwhelmed because, as discussed below, only a limited amount of information involving injury-producing incidents would be reported, as opposed to copies of the underlying claims or notices themselves.

We would require those manufacturers that must report information about injuries to provide the same information as required with respect to incidents involving deaths. If an incident involved both deaths and injuries, it would only be reported once, with both the number of deaths and the number of injuries specified.

G. Other Possible Conditions on Reporting of Deaths and Injuries

Some commenters suggested that, to be covered under the reporting provisions, a claim or notice must also specifically allege that the fatality or injury was caused by a possible defect. The allegation of a defect is not statutorily required under Section 30166(m)(3)(A) or (B). Moreover, such a limitation would lead to under-reporting. In a lawsuit, which is one type of a claim, a defect need not be alleged if the pleading requirements of the relevant jurisdiction do not require such an averment. For example, in some states such as California, the claim/pleading requirements for complaints do not require the plaintiff to allege the existence of a defect. Moreover, with respect to claims, the assertion of a defect is implicit, since ordinarily there would otherwise be no reason to make the claim. Therefore, we are proposing that, for early warning reporting purposes, a claim need not specifically allege or describe a defect. It is enough if the claim contains information indicating that a death or injury has allegedly occurred, and it is alleged or proven that the manufacturer's product is responsible.

Different considerations apply to those incidents of which the manufacturer receives notice that does not amount to a claim, since only incidents in which a defect is alleged or proven are to be reported under Section 30166(m)(3)(C). Thus, for such incidents, we would require an allegation of a defect. Otherwise, the manufacturer would be required to report incidents that came to its attention when no one believes that the manufacturer's product contributed to the death or injury; e.g., a fatal crash due to high speed or drunk driving. However, the specific component or system that allegedly led to the incident would not have to be identified in the claim or notice.

Some manufacturers suggested that the allegation that a vehicle component is involved would have to be confirmed before an incident would have to be reported. We reject this suggestion, since the litigation process is lengthy, and it may be months or years before the involvement of a component is confirmed, if at all. The vast majority of cases settle without findings and of those that do not, many may not identify the defective component in jury resolutions. Also, the earlier that information arrives at the agency, the earlier our investigators will have information to determine whether an investigation needs to be opened.

Some manufacturers also suggested that the reportable incidents be limited to failures of or problems with certain vehicle systems. As discussed below, we believe that this approach is appropriate for certain types of information. However, while deaths and injuries due to alleged defects are relatively rare, they are so significant that we want our information to be as complete as possible. Therefore, we propose to require reporting of all deaths and injuries in the United States based on claims and notices, regardless of the implicated components.

Section 30166(m)(3)(A) refers to claims ''derived from foreign and domestic sources.'' In the same vein, Section 30166(m)(3)(C) refers to the reporting of certain incidents of which the manufacturer receives actual notice that occur in a foreign country, when the vehicle or equipment is identical or substantially similar to products offered for sale in the United States. In an effort to minimize the burdens associated with gathering information about incidents in foreign countries, in this phase of rulemaking we are proposing to require only reporting of such claims involving fatalities occurring in a foreign country but not to require reports about incidents in foreign countries that resulted in non-fatal injuries. Relatively few claims are filed outside the United States, and, in light of the anticipated robustness of the domestic data, we do not believe that our early warning capabilities would be adversely affected. We recognize that this proposal would require manufacturers and their affiliates to review foreign information bases, but believe the seriousness of fatalities associated with potential defects warrants this requirement.

H. Identical or Substantially Similar Motor Vehicles or Equipment.

Under Section 30166(m)(3)(C), manufacturers of vehicles or equipment must report:

* * * 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 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.* (emphasis added)

In response to the ANPRM, we received comments on the meaning and scope of this phrase. These comments helped us in preparing the NPRM (''Foreign Defect NPRM'') published on October 11, 2001 which would implement Section 30166(l), Reporting of defects in motor vehicles and products in foreign countries (66 FR 51907), which contains the underlined phrase.

1. The Meaning of ''Identical''

The ANPRM asked:

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

We discussed this issue extensively in the Foreign Defect NPRM (see 66 FR 51907 at 10–11) and incorporate that discussion by reference. We concluded that a definition of ''identical'' was not needed. The same applies to this notice.

2. Substantially Similar Motor Vehicles

The Foreign Defect NPRM discussed extensively the comments received in response to the ANPRM on the meaning of ''substantially similar motor vehicles'' (see 66 FR 51907 at 11–13), and that discussion is also incorporated by reference. On the basis of these comments, we proposed that motor vehicles would be substantially similar to each other for foreign defect reporting if one or more of five criteria was met, at proposed 49 CFR 579.12:

(a) A motor vehicle sold or in use outside the United States is identical or substantially

similar to a motor vehicle sold or offered for sale in the United States if:

(1) Such a vehicle has been sold in Canada or has been certified as complying with the Canadian Motor Vehicle Safety Standards;

(2) Such a vehicle is listed in Appendix A to part 593 of this chapter or determined to be eligible for importation into the United States in any agency decision issued between amendments to Appendix A to part 593;

(3) Such a vehicle is manufactured in the United States for sale in a foreign country;

(4) Such a vehicle is a counterpart of a vehicle sold or offered for sale in the United States or

(5) Such a vehicle and a vehicle sold or offered for sale in the United States both contain the component or system that gave rise or contributed to a safety recall or other safety campaign in a foreign country, without regard to the vehicle platform on which the components or systems is installed and regardless of whether the part numbers are identical.

We believe that the first four proposed criteria are equally appropriate for the purposes of early warning reporting, and are proposing them in this notice. With respect to the fourth criterion, or alternative test, the preamble of the Foreign Defect NPRM did not directly explain what we meant by a ''counterpart'' vehicle. However, by example, a discussion appearing on page 51912 provides an explanation of what, in our view, would be counterpart vehicles: ''An example would be Ford Explorers assembled outside the United States, such as those assembled in Venezuela.'' We added that ''We would appreciate comments on whether this latter class of vehicles needs to be defined with greater specificity,'' warning that that ''in our view the term substantially similar sweeps with a broad brush and is not to be defeated by persons bent on finding or inventing distinctions to evade reporting.'' We have now decided to propose a definition of ''counterpart vehicle'' for early warning which we believe should also apply for foreign defect reporting. A ''counterpart vehicle'' would be ''a vehicle made in a foreign country that is equivalent to one made in the United States except that it may have a different name, labeling, driver side restraints, lighting or wheels/tires, or metric system measurements.'' This would apply to both foreign defect reporting and early warning reporting.

The fifth alternative test, while appropriate for foreign defect reporting, is not relevant for purposes of early warning. Under the Foreign Defect NPRM, vehicles would be substantially similar if ''both contain the component or system that gave rise or contributed to a safety recall or other safety campaign in a foreign country, without regard to the vehicle platform on which the component or systems is installed and regardless of whether the part numbers are identical.'' Under Section 30166(l), a potential safety defect has already been identified in a specific component or system of a motor vehicle, usually by the manufacturer. In that context, the relative precision of a component-or system-based determination is workable. However, under Section 30166(m), a defect has not yet been identified by the manufacturer, and often a component-or system-based analysis will not be possible based on the information contained in a claim received by the manufacturer. Accordingly, we believe that a less precise focus is warranted. More particularly, we believe that platform-based reporting is consistent with the breadth of early warning reporting, yet specific enough to provide focus. We would consider foreign and U.S. vehicles as substantially similar if they use the same vehicle platform. An example would be the Cadillac Catera which uses the same vehicle platform as the Opel Omega, or the Jaguar S-Class, which shares a platform with the Lincoln LS. We specifically request comment on our view that foreign and U.S. vehicles would be substantially similar for reporting under Section 30166(m) if they shared a platform. We have not proposed a definition for ''platform.'' If a commenter believes that a definition of this term is necessary, we invite the commenter to suggest a definition that the commenter believes is appropriate.

3. Substantially Similar Motor Vehicle Equipment and Tires

Both Sections 30166(l) and (m) require reports pertaining to substantially similar motor vehicle equipment and tires, and the preamble to the Foreign Defect NPRM contains a pertinent discussion of this issue (see p. 51913–14).

For purposes of foreign defect reporting, we proposed to deem foreign and U.S. motor vehicle equipment as identical or substantially similar ''if such equipment and the equipment sold or offered for sale in the United States are the same component or system, or both contain the component or system that gave rise or contributed to a safety recall or other safety campaign in a foreign country, regardless of whether the part numbers are identical.'' The reference to a safety recall is inapposite for purposes of early warning, but we believe that the remainder of the proposed definition is valid. Accordingly, we are proposing that an item of motor vehicle equipment sold or in use outside the United States would be identical or substantially similar to equipment sold or offered for sale in the United States ''if such equipment and the equipment sold or offered for sale in the United States have one or more components or systems that are the same, regardless of whether the part numbers are identical.'' We believe that the breadth provided by this definition is necessary given the nature of claims, which often do not identify particular problematic components. In this light, we would regard foreign child restraint systems as substantially similar (if not identical) to U.S. counterparts if they incorporate one or more parts that are used in models of child restraints offered for sale in the U.S., regardless of whether the restraints are designed for children of different sizes than those sold in the U.S. and regardless of whether they share the same model number or name. For example, if buckles, tether hooks, anchorages, or straps are common throughout a manufacturer's range of models, the child restraints would be substantially similar even though the buckles, hooks, anchorages, or straps might be used on a variety of add-on, backless, belt positioning, rear-facing or booster seats produced by the manufacturer.

In light of the foregoing discussion, we request comments on the appropriate formulation of test(s) for determining whether foreign motor vehicle equipment is substantially similar to U.S. equipment.

Finally, the Foreign Defect NPRM contained a relevant discussion on identical or substantially similar tires (see p. 51914). We proposed that tires would be identical or substantially similar ''if they have the same model name and size designation, or if they are identical except for the model name.'' The wording of today's proposal differs slightly; tires would be identical or substantially similar if they have ''the same model and size designation, or if [they are] identical in design except for the model name.'' We see no real substantive difference in the two proposals and will adopt a common interpretation of this phrase that will be identical in both final rules.

I. Claims and Notices Involving Property Damage

Section 30166(m)(3)(A)(i) provides for reporting of ''aggregate statistical data on property damage'' from alleged defects in the manufacturer's products.

1. Definition of ''Property Damage,'' and Whether to Define ''Aggregate Statistical Data''

In response to the ANPRM, manufacturers proposed definitions of

property damage to be reported. Nissan would limit it

> to those claims received from vehicle owners, owner representatives, or insurance companies, which involve a crash, tire failure or fire where there is an allegation of defect which may have caused the crash, tire failure or fire. Specifically excluded would be communications requesting restitution for mechanical breakdown or improper operation such as the example of the engine that fails due to lack of maintenance.

AIAM would ''include only claims received by the manufacturer in writing * * * limited to incidents in which a defect is alleged in one of the critical safety systems (brakes, steering, occupant restraint, fuel).'' AIAM also suggested that a ''dollar value threshold should be set (perhaps $2500)'' to reduce the reporting of minor claims.

In our view, this portion of Section 30166(m)(3)(A)(i) is not limited to ''claims'' for property damage. Subparagraph (i) refers to ''data on claims * * * for serious injuries (including death) and aggregate statistical data on property damage.'' The words ''claims for'' do not pertain to property damage. Nevertheless, we recognize in most cases that manufacturers will only be aware of property damage that may be related to potential defects if they receive a claim seeking payment for the damage. Accordingly, with respect to property damage, we are proposing to require only reporting of claims information and not incidents of which a manufacturer receives actual notice.

We believe that the term ''property damage'' needs to be defined, and the comments have been helpful in formulating a proposed definition. We would include damage to the vehicle or other tangible property, but exclude equipment failure and matters solely involving warranty repairs. For example, if the brakes failed and there were no physical consequences other than the need to repair the brake system, there would be no property damage. If there was a brake failure and the vehicle hit an object, there could be property damage to the vehicle or object. Accordingly, for purposes of this rule, we propose that property damage means ''physical injury to tangible property.'' A property damage claim would mean:

> A claim for property damage, excluding that part of a claim, if any, pertaining solely to damage to a component or system of a vehicle or an item of equipment itself based on the alleged failure or malfunction of the component, system, or item, and further excluding matters addressed under warranty.

We also asked for comments on how to define ''aggregate statistical data on property damage.'' We learned that there is no generally understood meaning of the term. For example, Fontaine believes ''aggregate statistical data'' means ''the compilation of quantitative data without specific information on individual events.'' For Delphi, ''aggregate statistical data'' means ''summaries of property damage information organized by category (e.g. model year, product type, damage type) and tabulated as to total cost or number of incidents.''

AIAM would define aggregate statistical data ''to exclude allegations of simple failure or breakage of a component'' and limit it ''to the number of incidents involving a collision, tire failure or fire and occurring in the U.S.'' DaimlerChrysler would restrict ''aggregate statistical data'' to warranty information.

The Alliance stated that non-injury claims data should be normalized on the basis of total production or total sales. Trailer manufacturers, according to TTMA, ''propose to report statistical data related to warranty claims, claims and lawsuits involving property damage resulting from an alleged safety-related defect involving the following components or systems: tires, axles/suspension/brake components, rear impact guards, lighting and related components, king pins and fifth-wheel couplers, pintle hooks and drawbar eyes.''

The property damage information that we are proposing to require manufacturers to submit is limited to the number of claims involving a limited number of systems, components, and fires (to be discussed later). Thus, the information to be submitted will be ''aggregate statistical data.'' Therefore, we do not see a need for a separate regulatory definition of this term.

2. Reports Involving Property Damage

Unlike reporting of claims and notices of incidents involving deaths and injuries, we would only require reporting of property damage claims when one or more specified vehicle components or systems has been identified as causing or contributing to the incident or damage. These components and systems were selected based upon their connection to safety recalls in the past, as described in Section IV below. They vary depending on the type of vehicle or equipment that is the subject of the report.

If the incident that allegedly led to the property damage also resulted in a death or injury, the manufacturer would only report the incident as one involving a death or injury, and it would not be required to report the incident under the property damage requirement. Otherwise, there could be a misleading ''double count.''

Reports of property damage claims would be submitted in the same manner as the number of consumer complaints, warranty claims, and field reports, discussed later. The information would be reported separately for each model and model year and would be submitted in electronic form, as discussed in Section VII below. The manufacturer would not be required to submit documents reflecting the extent of the property damage or the details of the incident that allegedly led to the damage.

With respect to manufacturers of motor vehicle equipment, we are proposing to require only manufacturers of tires to report property damage information. We note that it is extremely unlikely that a child restraint would cause significant property damage.

We also propose that a vehicle manufacturer need not include in its report property damage claims that are for $1,000 or less, on the ground that this would exclude minor matters and reduce reporting burdens. We request comments on whether it is appropriate to establish such an exclusion, and, if so, what the level should be.

Tire manufacturers have historically kept records of all property damage claims, without regard for the amount of the claim, and this information has proven to be very valuable in identifying potential tire defects. For these reasons, we are proposing to require tire manufacturers to report all property damage claims, regardless of the amount of the claim.

J. Consumer Complaints

We are proposing to require submission of information about certain ''consumer complaints'' as ''other data'' under Section 30166(m)(3)(B).

1. Definition of ''Consumer Complaint''

The ANPRM addressed consumer complaints but did not suggest a definition of ''consumer complaint.'' Nissan commented that the meaning of ''consumer complaints'' in the ANPRM was not clear, and that a definition was needed. DaimlerChrysler proposed the following definition: ''Reports of incidents causing some dissatisfaction with the product, not necessarily accompanied by any demand for compensation or reimbursement.'' Both DaimlerChrysler and Nissan noted that there was overlap between ''consumer complaints'' and ''claims,'' and that it would be difficult to completely separate the two. DaimlerChrysler also stated that about half of the over 100,000 ''customer contacts'' it receives

monthly represent consumer complaints and half involve questions or comments about the product.

NTEA argued that only safety-related complaints should be reported, and that non-safety-related complaints should not be reported.

Notwithstanding DaimlerChrysler's and Nissan's assertions, we believe that we can formulate a definition for ''consumer complaint'' that would not overlap with our proposed definition of ''claim.'' The primary distinction is that a ''consumer complaint'' would not seek monetary or other relief. It would be defined as:

> a communication of any kind made by a consumer (or other person) to a manufacturer expressing dissatisfaction with a product, or relating the unsatisfactory performance of a product, or any actual or potential defect in a product, or any event that allegedly was caused by any actual or potential defect in a product, but not including a claim of any kind or a notice involving a fatality or injury.

The term ''a communication of any kind'' would primarily include communications that are written but it would also include oral complaints, such as made through a telephone call, that a manufacturer memorializes in a document, including an electronic information system. The definition we propose would also include communications in which the owner of a vehicle or item of equipment that is subject to a defect or noncompliance recall asserted that the remedy failed to correct the defect or noncompliance.

We recognize that this definition would include complaints about problems that do not involve safety. Based on our past experience during defect investigations, we do not believe that it would be appropriate to simply require reporting of ''safety-related'' problems, since manufacturers often have a much more narrow view of what constitutes a safety-related problem than we do. As explained below, we will assure that manufacturers only need to report consumer complaints about safety-related problems by itemizing the specific safety-related components and systems with respect to which complaints must be reported.

2. The Rationale for Requiring Reports of Consumer Complaints

Over the years, NHTSA's Office of Defects Investigation (ODI) has made productive use of consumer complaints to manufacturers in its investigations of alleged defects. The problem experience of owners or operators in the real-world use of their vehicles and equipment, as reflected in their communications to manufacturers, has indicated failures of components and systems that can have an impact on safety. While a given level of complaints regarding some components or systems may not indicate the existence of a defect, a higher level might. (This level would vary, depending on the component or system involved.) Because we have no way to measure directly, or to count, all failures in the field, the frequency of consumer complaints (which complement warranty claims and field reports) can provide valuable indications of possible safety problems warranting further investigation. Consumer complaints were discussed in the Congressional hearings that led to the TREAD Act. See, e.g. Firestone Tire Recall: Hearing before the Subcomm. on Telecomm. Trade & Consumer Prot. and the Subcomm. on Oversight & Investigations of the House Comm. on Commerce. 106th Congress (as yet unpublished) (September 6, 2000) (Statement of Dr. Susan Bailey, Administrator, NHTSA).

We stated in the ANPRM that consumer complaints might help in the early detection of possible safety-related defects, and might be ''particularly important after the expiration of warranties.'' During the warranty period, consumer complaint data would complement warranty data. We sought comments on how, whether, and to what extent we should require manufacturers to submit information about consumer complaints to us under Section 30166(m)(3)(B).

The responses from advocacy groups and the manufacturers differed significantly. Advocates and Public Citizen supported requiring the submission of consumer complaint information. One manufacturers' group, AORC, which represents a segment of equipment manufacturers, agreed with us that consumer complaints can provide a means to help NHTSA identify potential safety defects.

Most manufacturers and trade associations that commented on this issue opposed requiring the submission of consumer complaint information. Essentially, they argued that consumer complaint data would not be of any real value as early warning information. With respect to light vehicles, Ford and the Alliance noted that owner and consumer correspondence is less technically rich or timely than other sources of information. Three equipment manufacturers (ArvinMeritor, Atwood and TRW) argued that consumer complaints were of only marginal value. RMA, representing tire manufacturers, stated that reporting of all informal complaints would generate information that is misleading because it might be misinterpreted as fact, and that verbal complaints did not usually provide sufficient information to verify the legitimacy of the complaint. MIC also argued that the majority of consumer complaints are unreliable.

The ANPRM did not specifically state whether we expected to require manufacturers to submit complete copies of consumer complaints or simply ''counts'' of those complaints. MIC stated that ''reporting of consumer complaints should not be required due to the large volume and the need to evaluate them as material to the purpose of the rule unless the Agency contemplates receiving all such communications.'' Johnson Controls commented that even a count of customer complaints would overwhelm the agency ''by data that has questionable relevance to safety.''

With respect to data other than consumer complaints, Public Citizen stated that, in most cases, summary information would be adequate until evidence of a potential defect surfaces. However, it would make an exception for consumer complaints. It would require submission of complete consumer complaints, because NHTSA ''already has in place a well-developed system for categorizing those complaints by scanning them into a searchable format.'' Advocates argued that consumer complaint information ''is an important resource,'' but suggested only that it ''should be reported in aggregate form in conjunction with other reported information.'' It would have a manufacturer search its database for relevant consumer reports for entries about the same or similar type of occurrence, vehicle system, part, or component when the manufacturer had information about a death, injury, or property damage.

After reviewing the comments received and assessing the value of consumer complaints to an early warning system, we have decided to propose requiring manufacturers of 500 or more vehicles as well as all child seat manufacturers to provide aggregated consumer complaint information to us on a periodic basis, but not to require copies of such complaints periodically. NHTSA relies heavily on consumer complaint information in initiating and conducting defect investigations. We often open investigations on the basis of consumer complaints that we receive and screen. More than 75 percent of the investigations conducted by ODI are opened on the basis of complaints that we receive from individual consumers, or that are furnished to us by interested third parties, such as consumer groups, police departments, State vehicle

inspectors, and school bus and other fleets.

After it opens investigations, ODI routinely asks manufacturers to provide information and copies of consumer complaints on the ''subject defect;'' also, ODI often asks manufacturers to update complaint information during the course of the investigation. This sort of information is very valuable in evaluating whether a defect related to motor vehicle safety exists in a given vehicle or equipment item. Since our first litigated defects enforcement case, *United States* v. *General Motors Corp.* (*''Wheels''*), 518 F.2d 420, 438 (D.C. Cir. 1975), which held that a *prima facie* case of defect can be made by showing a significant, ''non de minimis number'' of failures of a critical part that is expected to last for the life of the vehicle, the federal courts have recognized that consumer complaints can be a valuable source of evidence of the existence of a safety-related defect in motor vehicles.

ODI's experience has shown that consumers are more likely to report a problem to the manufacturer than to NHTSA. Historically, the number of consumer complaints to the manufacturer (either directly or through dealers) that NHTSA obtains after opening a defect investigation usually exceeds by a substantial amount the number of complaints that NHTSA had received directly from consumers prior to opening the investigation. Also, many consumers do not complain to NHTSA until after they have complained (unsuccessfully) to the manufacturer. Although there is no single threshold of consumer complaints about a particular component or system that will automatically trigger a defect investigation, it is likely that if it were aware of a relatively large number of consumer complaints to a manufacturer, ODI might well open investigations earlier. To the extent that such an investigation led to a recall, opening it earlier would likely have led to corrective action at an earlier date and the avoidance of some additional incidents.

Consumer complaints to child seat manufacturers have also consistently far outnumbered those to NHTSA about particular problems. For example, in November 1996, ODI opened an investigation of harness release button breaks in certain infant car seats. ODI had received four consumer complaints when it opened the investigation. After writing to the manufacturer and requesting complaint information, ODI learned that the company had received 328 complaints about the harness release button in those seats. Similarly, in May 1998, ODI opened an investigation of harness buckle failure in infant car seats on the basis of two consumer complaints. After writing to the manufacturer, ODI learned in July 1998, only two months later, that the company had received 92 complaints. Both of these investigations led to corrective action by the manufacturers.

We believe that NHTSA's ability to identify potential defects in a timely manner, and to identify and understand emerging defect trends, would be greatly strengthened if the agency were to receive information about consumer complaints relatively shortly after the manufacturer does. At present, ODI's decisions as to which products should be investigated are often based on limited information from consumers.

We are not proposing to require tire manufacturers to report the number of consumer complaints. We have concluded, from our experience with conducting tire investigations, that consumer complaints to tire manufacturers generally do not contain useful information for analysis of the alleged problem. For example, tire complaints do not consistently have full information describing the tire model, size, and date of manufacture. Without this identification, an analysis of failure rates and trends is not possible. Far more useful for analysis of potential defect trends is the tire manufacturer's adjustment (warranty) and claims data. The adjustment and claims data contain complete identification of the tire make, model, build plant type, and date of production. We have received such data in response to information requests issued during our defect investigations and find that these data are far superior than that contained in complaints.

We are proposing to require larger motor vehicle manufacturers, and all child restraint system manufacturers, to report the number of consumer complaints that the manufacturers have received about designated components and systems of their vehicles or equipment during each reporting period. Vehicle manufacturers would also report complaints about fire. The designated components and systems would be the same as those on which property damage claims are reported.

We are not proposing at this time to require reporting of consumer complaints from outside the United States. There are a number of issues related to foreign complaints, such as manufacturer review of potentially large numbers of complaints in foreign languages and NHTSA follow-up use, that dictate against requiring reporting, at least for the present.

NTEA, representing final stage manufacturers, said that manufacturers should be required to report only about components for which they are responsible, rather than about all components in a vehicle about which they may have received complaints. In view of our proposal to only require reporting from manufacturers of 500 or more vehicles per year (other than incidents involving fatalities), it is likely that few NTEA members will have to submit consumer complaint information. However, for these that are covered, we note that the issue of which manufacturer's product is ''responsible'' often is disputed and is not determinative for early warning purposes. Moreover, the final stage manufacturer is often the only entity with which an owner deals. For example, a consumer who experiences a fuel leak in a vehicle is more likely to complain to that manufacturer than the chassis manufacturer. To assure that important information is submitted, we are proposing to require that each covered vehicle manufacturer report on all consumer complaints (and other specified information) that it receives.

Under this proposal, manufacturers would be required to review, maintain, and compile consumer complaints made in any form, including those made by telephone to their customer relations representatives (employees or contractors) and those made to dealers that are transmitted to the manufacturer, as well as written communications directly to the manufacturer. The manufacturers have the capability to do this, as they presently submit relevant complaints in response to ODI information requests during defect investigations.

K. Warranty Claims Information

We are proposing to require submission of information about certain ''warranty claims'' as ''other data'' under Section 30166(m)(3)(B).

1. Definitions of ''Warranty'' and ''Warranty Claim''

In the ANPRM, we sought input related to reporting of warranty claims but did not define them. We have decided to propose definitions of warranty and warranty claim. After reviewing various definitions of ''warranty,'' and comments on the issue, we have decided to propose a definition of warranty based on the definition of written warranty in the Moss-Magnuson Act, 15 U.S.C. 2301(6), to which manufacturers are subject. Under that Act, a ''written warranty'' means:

(A) any written affirmation of fact or written promise made in connection with the sale of

a consumer product by a supplier to a buyer which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time, or

(B) any undertaking in writing in connection with the sale by a supplier of a consumer product to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking, which written affirmation, promise, or undertaking becomes part of the basis of the bargain between a supplier and a buyer for purposes other than resale of such product.

We propose to tailor that definition to the subject matter at issue and to define ''warranty'' as:

Any written affirmation of fact or written promise made in connection with the sale or lease of a motor vehicle or motor vehicle equipment by a manufacturer, distributor, or dealer to a buyer or lessee that relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time (including any extensions of such specified period of time), or any undertaking in writing in connection with the sale or lease by a manufacturer, distributor, or dealer of a motor vehicle or item of motor vehicle equipment to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking.

As explained below, we propose to require reporting of the number of repairs and/or replacements free of charge under warranties, as well as those under formal or informal extended warranties and good will. Good will includes the repair or replacement of a motor vehicle or item of motor vehicle equipment, including labor, paid for by the manufacturer, at least in part, when the repair or replacement is not covered under warranty. This can occur because the terms of the warranty have expired, or the issue is outside the terms of the warranty, for example, when the manufacturer pays or participates in voluntary Buy-Backs and Lemon Law Buy-Backs of vehicles or motor vehicle equipment.

The normal practice is for dealers to perform the repair or to provide the replacement and then to submit a claim for reimbursement to the manufacturer. Accordingly, we propose that warranty claim means ''any claim presented to a manufacturer for payment pursuant to a warranty program, extended warranty program, or good will.''

2. Reports Involving Warranty Claims

In the ANPRM, we indicated that we believed that information about warranty claims can often provide relevant information that indicates the possible existence of a safety defect. Manufacturers, however, questioned this. The Alliance and Ford indicated that the data could be used to provide a dimension for a problem, but would be unlikely to be accurate as an early warning indicator. The primary problem, as seen by light duty vehicle manufacturers, is that there is a range of reasons for warranty claims that do not necessarily imply a safety defect. As Honda put it, ''Warranty rates may be more reflective of Honda's customer satisfaction policy than an indication of product quality or failure rate.''

Most heavy duty vehicle manufacturers expressed concerns similar to those of light duty vehicle manufacturers. International Truck noted that ''a manufacturer usually identifies safety issues long before there is any indication of such problems in the warranty system.'' Several others commented on what they believed to be a lack of relationship between warranty claims and safety defects. Heavy duty vehicle purchasers, these commenters related, can choose from standard or premium warranty coverage terms, and some fleets negotiate individual coverage plans that are different from those applicable to light duty vehicles. The particular warranty terms vary from one to eight years, 100,000 miles to 1,000,000 miles, and 3250 operating hours to 18,000 operating hours.

These commenters asserted that, without knowing the warranty terms for the vehicles on which manufacturers report claim data, it would not be possible for NHTSA to interpret the data validly. Additionally, these commenters stated, because purchasers can choose their warranty coverage, they can tailor it to their expected use of the vehicle. As a result, some warranty coverage categories could show particularly high occurrences of claims as a result of use patterns rather than safety defects. While this would suggest that comparisons might not be valid in determinations whether there is a defect, it does not demonstrate that the information would have little or no use. For example, high rates or substantially increasing trends might warrant further inquiry by the agency. Without this information, the agency might not have a basis to look into the matter.

If some reporting of warranty data is required, light duty vehicle manufacturers argued that claims from foreign countries should be excluded. The reasons given by Nissan for exclusion include significantly greater complexity of reporting, the existence of a rich statistical sample due to volume and diverse operating conditions in the U.S. without additional foreign reports, different warranty periods in overseas markets, and different cultures and environments overseas. RVIA also opposed providing foreign warranty data. PACCAR suggested reporting foreign warranty information only if the components are substantially similar.

MIC suggested including warranty claims information related to major systems or components, but excluding foreign warranty data. Harley Davidson would like to exclude claims unrelated to safety or performance, such as fit, finish, or top speed.

Most equipment manufacturers opposed the reporting of warranty data; some asserted that they did not have such data and others asserted any they did have was of too poor quality to use. AAIA believes that historic data involving safety-related items that suggest potential for defects and/or recalls should be included in reporting. The major issue underlying the opposition of most equipment manufacturers appears to be that, in most cases, manufacturers of the vehicles receive warranty claims rather than the equipment manufacturers. As a result, the equipment manufacturers have limited information, much of which is considered proprietary by the vehicle manufacturers. Equipment manufacturers also repeated the data quality concerns asserted by both light and heavy duty vehicle manufacturers.

Tire manufacturers, represented by RMA, cautioned against assuming that warranty adjustments reflect tire defects. It noted that ''many dealers, as well as tire manufacturers, sometimes use warranty adjustments as a means to ''keep the customer happy,'' and therefore the adjustment is ''not necessarily a statement about product performance or an indication of product deficiency.'' It also suggested that no foreign data or data prior to the effective date of the rule should be reported. It believes that foreign data is not comparable because of differences in coverage and road conditions and would be a burden to collect because of possible availability or integration problems between foreign and U.S. data.

Advocacy groups wanted warranty claims data to be reported as part of the early warning system.

Assuming that domestic warranty claims reporting is required, there was a common view among light duty vehicle manufacturers on what categories to include or exclude. Restraint systems, brake systems, steering systems and fuel systems would be included, as well as tires. However, this does not cover numerous

components whose failure has led to safety recalls.

There was no consensus among heavy duty vehicle manufacturers on what warranty claims information should be reported. In part, the variance is a reflection of the different products the commenters manufacture. RVIA and PACCAR both named restraint systems, fuel tanks, steering systems, and axle/suspension/brake components as the most important systems on which to report (PACCAR suggested that build date of vehicles should be used in place of model year because model year is not identified in their warranty data and varies by manufacturer). TTMA focused on the components relevant to its members: axle/suspension/brake components, rear impact guards, tires, lighting and related components, king-pins and fifth wheel couplers, and pintle hooks and drawbar eyes. Fontaine suggested that only components most frequently associated with recalls, including equipment to which a FMVSS applies and defined safety-related items, should be subject to reporting.

After reviewing the comments received and assessing the value of warranty claims data to the early identification of possible safety defects, we have decided to propose to require manufacturers of 500 or more vehicles annually and all child seat and tire manufacturers to report aggregated warranty claims data from the U.S. on certain specified components and systems (as described below).

Although we agree that the evidence of even a relatively high rate of warranty claims does not necessarily indicate the existence of a defect, our experience in conducting defect investigations has demonstrated that warranty claims information often reveals a potential problem that could be related to safety. As noted above, we are limiting our proposal to require information regarding only some systems. Moreover, we would not require actual copies of warranty claims, but rather a listing of the number of such claims regarding each specified component or system in each vehicle or equipment model received by the manufacturer in each reporting period.

As with consumer complaints, manufacturers would have to maintain warranty claims, group the numbers of claims by reporting categories, and report them. Most, if not all, manufacturers maintain warranty information in computerized databases, and they have the ability to provide problem-specific warranty information under this rule, since they already do so in response to ODI's information requests during defect investigations.

L. Field Reports

As part of its defect investigations, ODI regularly requires manufacturers to provide ''field reports'' about alleged defects. These include communications received by a manufacturer from the manufacturer's technical staff, a dealer, an authorized service center, or others, regarding an alleged problem in or dissatisfaction with a product in use. They are usually prepared by someone with technical expertise. There are far fewer field reports than consumer complaints, although practices resulting in the generation of field reports vary widely among manufacturers. Field reports are not specifically mentioned in the TREAD Act, but were addressed in the ANPRM. We sought input on the appropriate definition of field report, the components or systems on which field reports would be valuable in an early warning context, information in them that should be reported to NHTSA, and manufacturers' use of them. We are proposing to require submission of information and documents about certain ''field reports'' as ''other data'' under Section 30166(m)(3)(B).

1. Definition of ''Field Report''

The ANPRM asked for comments on an appropriate definition of ''field report.'' Two broad themes cut across industry responses. First, respondents stressed the importance of clearly and precisely defining the term ''field report.'' The term has a variety of meanings, both within and across industry segments. The Alliance requested that the term be defined as technical reports by technical staff involving one or more incidents in the field involving a covered vehicle system on a vehicle that had been sold. According to other respondents, the term has numerous meanings within the medium and heavy-duty truck industry as well as among equipment manufacturers and is not well defined across the tire industry. We were told that the trailer industry, for example, does not use the term ''field reports.''

The second broad theme in the comments by manufacturers was a recommendation to limit the number and types of field reports to be reported to us. As reflected in the definition suggested above, the Alliance would limit it to certain technical reports about an incident (or several similar incidents) that are prepared by technical representatives. The Alliance would exclude unverified reports regarding customer complaints that are passed through to the manufacturer without any technical analysis. They would also exclude research reports or accident reconstruction reports prepared for local police departments or litigation. Commenters in the tire industry and the heavy trucking industry indicated that many of the communications they refer to as field reports deal with sales, marketing and customer satisfaction programs, which they would exclude.

We have concluded that the Alliance's proposed restriction of the definition to ''technical reports'' that are prepared by ''technical'' employees is not feasible. It would require a definition of ''technical'' and ''technical report'' and assessments of whether the author was a technical employee and whether the content amounted to a technical report, which could result in delays, under-reporting, and unnecessary burdens. Nonetheless, we agree that sales and marketing literature should not be included.

There was considerable discussion about whether we should require the reporting of field reports prepared by a dealer's technicians. The Alliance recommended including both types of reports in an early warning system. Some manufacturers as well as MIC, however, felt that submission of dealer reports should not be required. We believe that it is important for us to receive information about such dealer reports received by manufacturers regarding potential defects because they are a valuable source of relevant information. Indeed, they are one of the bases upon which manufacturers become aware of potential defects in their products. We therefore are proposing to require reporting of the cumulative number of field reports prepared both by manufacturers' employees or representatives and by dealers, including their employees. However, manufacturers would not have to submit copies of reports prepared by dealers or dealer employees.

We also propose to include in our definition of ''field report'' any document received by a manufacturer that was prepared by a person owning or representing one or more fleets of vehicles. For these purposes, a fleet would be defined as more than ten vehicles of the same model and model year. Such reports often contain data on multiple incidents involving vehicles used by delivery companies (e.g., FedEx, UPS), rental companies, trucking companies, police departments, and school districts. Fleet vehicles generally accumulate greater miles over a given period of time than non-commercial vehicles and therefore can serve as a valuable source of predictive information for early warning purposes.

Other definitional issues raised by commenters were whether field reports should be limited to written communication and to ''non-privileged'' documents. Reporting would be required with regard to documented communications (e.g., those in writing, entered electronically, or otherwise converted into a document in the broadest sense of the word). With respect to the issue of privilege, we recognize that a field report truly prepared in anticipation of litigation could be considered as work product, and thus ordinarily be exempt from production in litigation. We believe that the existence of any such reports should be indicated to us, even though privileged and work product documents would not have to be submitted.

Accordingly, we propose the following definition for ''field report:''

A communication in writing, including communications in electronic form, from an employee or representative of a manufacturer of motor vehicles or motor vehicle equipment, a dealer or authorized service facility of such manufacturer, or by an entity that owns or operates a fleet, to a manufacturer, regarding the failure, malfunction, lack of durability, or other performance problem of a motor vehicle or motor vehicle equipment, or any part thereof, produced by that manufacturer, regardless of whether the problem is verified or assessed to be lacking in merit.

2. Reporting of Field Reports

The ANPRM asked whether reporting of field reports should be limited to reports on systems and components that are safety-related, and whether the same systems and components should be covered as for warranty claims. The ANPRM did not identify the specific systems and components with respect to which the submission of field reports might be required.

TTMA supplied a list that included some equipment: rear impact guards, lighting and related components, king pins and fifth wheel couplers, pintle hooks and drawbar eyes. On the opposing side, ArvinMeritor felt that each manufacturer is best able to determine what components and environmental and loading factors constitute a possible risk of product failure and whether those failures are likely to pose a risk to safety. Public Citizen opposed limiting early warning programs to certain components or special lists of parts. It argued that an incremental approach is ''dangerously under-inclusive and thus out of conformance with Congressional intent under the TREAD Act.''

We do not agree that each manufacturer should be allowed to determine possible risks of product failure and whether they are likely to pose a risk to safety before reporting field report information. On the other hand, we do not agree with Public Citizen that an incremental approach under which only certain reports would have to be submitted would be ''dangerously under-inclusive,'' particularly if we require the submission of field reports on systems and components that historically have been most represented in safety defect recall campaigns.

We have tentatively decided, therefore, that manufacturers of 500 or more motor vehicles and all manufacturers of child restraint systems and tires must report the number of field reports originating in the United States regarding the same components and systems as for property damage claims, consumer complaints, and warranty claims. As with these categories of information, reporting would be done separately for each model and model year.

Consumer complaints that were merely forwarded to the manufacturer by the dealer without any comment or assessment would not have to be reported as field reports, but they would have to be reported as consumer complaints.

In addition to requiring the number of field reports by category that are prepared or received during each reporting period, we would require copies of the field reports themselves that are generated by employees or representatives of the manufacturer or by representatives of fleets of the manufacturers' vehicles. We would not require copies of reports that are prepared by dealers or their employees.

M. Customer Satisfaction Campaigns, Consumer Advisories, Recalls, or Other Activities Involving the Repair or Replacement of Motor Vehicles or Motor Vehicle Equipment

Section 30166(m)(3)(A)(ii) provides for submission of information (derived from foreign and domestic sources) that concerns ''customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment'' (we will use the term ''campaign'' at times hereafter collectively to refer to all such actions by the manufacturer). As we stated in the ANPRM, this new section is broader than 49 CFR 573.8 (2001) (which implements Section 30166(f)), which requires a manufacturer to provide copies of communications to more than one manufacturer, distributor, dealer, lessor, lessee, or purchaser 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.'' We further stated in the ANPRM that this category of information would encompass any communication to, or made available to, more than one dealer, distributor, other manufacturer, or more than one owner, whether in writing or by electronic means, relating to replacement or repair of a component, or modification of the way that a vehicle or equipment item is to be operated.

The ANPRM requested comments on whether the various campaign activities identified in the TREAD Act should be defined, and, if so, what would be appropriate definitions. Most of the comments from the light and heavy vehicle manufacturers generally argued that campaigns should be defined because the term has different meanings across industry segments. Nevertheless, only the Alliance suggested a definition (also endorsed by Ford and Nissan), which reads as follows:

Customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment shall mean those actions, other than foreign recalls or other safety campaigns as further defined [by the Alliance], undertaken or authorized by a manufacturer in which a class of affected owners of motor vehicles or items of motor vehicle equipment are notified of an offer to repair or replace the vehicle or equipment or to extend any applicable vehicle or equipment warranty.

The proposed Alliance definition does not address one of the categories of action identified in the statute: ''other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment.'' It is also too limited with respect to some of the other categories. For instance, ''customer satisfaction campaigns'' and ''consumer advisories'' need not involve repair, replacement, or extended warranties. Also, a ''consumer advisory'' could include a warning relating to the way that a vehicle is to be driven or maintained. Accordingly, it would not necessarily involve repair or replacement.

We agree with the Alliance's suggestion that foreign recall and safety campaigns, which are covered under Section 30166(l), and a new Subpart B to 49 CFR Part 579 (see the Foreign Defect NPRM at 66 FR 51907 *et seq.*), need not be separately reported under the early warning provisions.

We propose to define the phrase ''customer satisfaction campaign, consumer advisory, recall, or other activity involving the repair or replacement of motor vehicles or motor vehicle equipment,'' to mean:

> Any communication by a manufacturer to, or made available to, more than one dealer, distributor, lessor, lessee, other manufacturer, or owner, whether in writing or by electronic means, relating to (1) repair, replacement, or modification of a vehicle, component of a vehicle or item of equipment, or a component thereof (2) the manner in which a vehicle or equipment is to be maintained or operated, or (3) or advice or direction to a dealer or distributor to cease the delivery or sale of specified models of vehicles or equipment.

We have included communications related to operation and maintenance because they may relate to a potential defect. For example, a warning not to turn on the wipers when the windshield has snow on it may indicate a wiper defect.

The proposed definition would not include routine marketing documents or documents relating to surveys of owner satisfaction. It would include all notifications, product improvement or technical service bulletins, advisories, and other communications regarding the subject matter that are issued to, or made available to, more than one vehicle or equipment dealer, distributor, lessor, lessee, other manufacturer or owner involving any systems or components in the vehicle or equipment, not merely the specified components for which reports must be submitted regarding property damage claims, consumer complaints, warranty claims, or field reports. This would include any category of information relating to the replacement or repair of a vehicle or vehicle component, or the way a vehicle or vehicle equipment item is to be maintained or operated, whether or not there has been any determination by the manufacturer that these actions pertain to or are being undertaken because of a defect or a safety-related concern.

In our view, this requirement is similar to although somewhat broader than the notices, bulletins, and other communications that for years have been required to be submitted by 49 CFR 573.8 (2001). Under Section 573.8, a manufacturer might argue that a condition that was the subject of a communication to dealers or others did not rise to the level of a ''defect'' or ''malfunction,'' and that it therefore did not have to provide copies of such a communication to NHTSA. Under early warning reporting, it would have to provide these related notices regardless of whether a ''defect'' existed.

Nevertheless, because of these similarities, we are proposing to implement this aspect of early warning reporting by including it in the same section as current Section 573.8, which would be moved to a new Section 579.5(a). This new Section 579.5(b) would also apply to all manufacturers of vehicles and equipment, which are currently required to submit copies of similar communications to NHTSA on a monthly basis. We anticipate that there will be relatively few documents covered by this proposal that would not have been covered under Section 573.8.

In our administration of existing Section 573.8, we have noted several problems, such as the failure of a manufacturer to make monthly submissions of covered documents and disputes over what had actually been sent to us. These problems could have been avoided if the manufacturer had issued a cover letter identifying the submitted documents. Therefore, we are proposing to require a cover letter for each monthly submission of documents required to be submitted under proposed Section 579.5 that identifies each communication in the submission by name or subject matter and date.

If a communication falls within the category described in both Section 579.5(a) and Section 579.5(b), it would only have to be submitted once.

Finally, the ANPRM sought comments on whether we should require manufacturers to provide additional information regarding the facts and analysis that led to the decision to conduct the campaigns. Many of the commenters opposed a requirement of this nature, feeling that requiring the routine submission of background information regarding the facts and analysis that led to campaigns would be extremely burdensome. On the other hand, both CU and Advocates contended that NHTSA should receive information regarding the facts and analysis that led to the manufacturer's decision to initiate the campaign.

The general consensus of manufacturers was that NHTSA should review all covered communications, including service bulletins that the agency currently receives under Section 573.8, and then decide whether to request additional facts and analysis on a case-by-case basis. This is what we currently do with respect to communications received under Section 573.8. Certain communications suggest a potential safety issue which requires clarification. ODI then contacts the manufacturer to obtain additional information, as appropriate. We plan to proceed in the same manner with respect to these submissions, except that we would require each submission to be accompanied by a cover letter identifying each communication that is part of the submission and the date of the communication.

N. Components, Systems and Fires To Be Included in Reports

We considered requiring manufacturers to provide us with the number of property damage claims, consumer complaints, warranty claims and field reports that are associated with all systems and components of a vehicle or item of equipment. We decided against doing so, because this approach could generate large volumes of information that, we believe, would not be particularly useful. Instead, NHTSA has attempted to identify, for each category of vehicle, for child restraint systems, and for tires, those systems and components whose failures are most likely to lead to safety recalls. These are the systems and components on which it is most important that we obtain timely information regarding failures, as compared to failures that are not related to safety or those that rarely, if ever, lead to safety recalls. Our goal was to select those systems and components which capture the vast majority of safety recalls. In identifying these vehicle systems and components, we requested the Volpe National Transportation Systems Center (Volpe) to conduct an analysis of past defect recalls. For each category of vehicle, Volpe looked at, among others, the total number of defect recalls associated with various specific systems and components, the number of vehicles covered by those recalls, the number of recalls influenced by ODI investigations, and the number of recalled vehicles influenced by ODI investigations.

The study provided information on different components and systems implicated in recalls for light vehicles, medium-heavy vehicles, buses, motorcycles, and trailers. A copy of the study, which includes a description of the methodology, is in the docket. The underlying data are in NHTSA's DIMS II data base which can be searched by the public through the NHTSA website. The components and systems are identified below as part of the discussion on reporting requirements.

For light vehicles, we propose to require manufacturers to separately report the number of problems/incidents related to steering, suspension, service brakes, parking brakes, engine and engine cooling system, fuel system integrity, power train, electrical system, lighting, visual

systems, climate control system including defroster, airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), seat belts (including anchorages and other related components), structure (other than latches), seats, engine speed control including throttle and cruise control, integrated child restraint systems, latches (door, hood, hatch), tires, wheels, trailer hitches and related attachments, and the number of incidents in which there was a fire. For incidents of death and injury only, if another system or component is allegedly involved or if the system or component is not specified in the claim or notice, the incident would be included, and ''other'' would be specified. Figures 2 and 3, below, represent pro-forma examples of how a manufacturer of light vehicles would report incidents involving deaths and injuries and warranty claims, using electronic spreadsheets.

Incidents Involving Deaths and/or Injuries Based on Claims and Notices

LIGHT VEHICLES
Reporting Period:
Manufacturer:

Make	Model	Model year	Incident date	Number of deaths	Number of injuries (U.S. only)	State or foreign country	Involved systems or components (see below)

Involved Systems or Components:
01 Steering
02 Suspension
03 Service Brakes
04 Parking Brakes
05 Engine Speed Control Including Throttle and Cruise Control
06 Air Bags
07 Seat Belts
08 Integrated Child Restraint Systems
09 Latches—Doors, Hoods, Hatches
10 Tires
11 Fuel System Integrity
12 Power Train
13 Electrical System
14 Engine and Engine Cooling System
15 Structure (other than Latches)
16 Visual Systems
17 Seats
18 Lighting
19 Wheels
20 Climate Control System Including Defroster
21 Trailer Hitches and Related Attachments
22 Fire
99 Other

Fig. 2

Warranty Claims

Light Vehicles
Manufacturer:
Reporting Period:

Make	Model	Model year	Number of reports																					
			Steering	Suspension	Service brakes	Parking brakes	Engine	Fuel system	Power train	Electrical	Lighting	Visual	Climate control	Seat belts	Air bags	Structure	Seats	Engine speed controls	Integrated child restraints	Latches	Tires	Wheels	Hitches	Fires
		2003																						
		2002																						
		2001																						
		2000																						
		1999																						
		1998																						
		1997																						

Note: Make, model, and model year data will be coded in a way to relate it to data in the products table shown in Figure 1. Reports must be broken out for each subgroup, by fuel system type and brake system type for each subgroup where more than one brake or fuel system was produced in a given make, model, and model year product line.

Figure 3

We have placed in the docket copies of pro-forma spreadsheets for other types of numerical reporting, such as property damage claims, and request comments on the appropriateness and utility of this format. We have also proposed definitions for many of the systems and components for which reporting would be required, such as suspension, vehicle speed control, and latches. While we believe that these definitions are straight forward and self-explanatory, we request comments on their accuracy and completeness.

For medium-heavy vehicles, we propose to require manufacturers to separately report the number of problems/incidents relating to steering, suspension, service brakes, parking brake, engine and engine cooling system, fuel system integrity, power train, electrical system, lighting, visual systems, climate control system including defroster, airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), seat belts including anchorages and other related components, structure (other than latches), seats, engine speed control including cruise control, latches (door, hood, hatch), tires, wheels, trailer hitches and related attachments, engine exhaust system, the number of incidents in which there was a fire, and, for incidents of death only, if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

For buses/school buses, we propose to require manufacturers to separately report the number of problems/incidents relating to steering, suspension, service brakes, parking brake, engine and engine cooling system, fuel system integrity, power train, electrical system, lighting/horn/alarms, visual systems, climate control system including defroster, airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), seat belts including anchorages and other related components, structure (other than latches), seats, engine speed control including throttle and cruise control, latches (door, hood, hatch), tires, wheels, trailer hitches and related attachments, engine exhaust systems, the number of incidents in which there was a fire, and, for incidents of death only, if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

For trailers, we propose to require manufacturers to separately report the number of problems/incidents relating to suspension, service brakes, parking brakes, electrical system, lighting/horns/alarms, climate control systems (including fuel systems in camping/travel trailers), structure (other than latches), latches, tires, wheels, trailer hitches and related attachments, the number of incidents in which there was a fire, and, for incidents of death only, if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

For motorcycles, we propose to require manufacturers to separately report the number of problems/incidents relating to steering, suspension, service brakes, engine and engine cooling system, fuel system integrity, powertrain, electrical system, lighting, structure, engine speed control (including throttle and cruise control), wheels, tires, the number of incidents in which there was a fire, and, for incidents of death only, if another system or component is allegedly involved or if the system or component is not specified in the claim or notice

ODI did not ask Volpe to analyze recalls of child restraint systems. Rather, ODI separately reviewed those recalls to identify the components whose failures have led to most of the recalls. Based on this review, which has been placed in the docket, we propose to require manufacturers to separately report the number of problems/incidents relating to the buckle and restraint harness, handle, shell, and base.

With respect to tires, we are proposing to follow the suggestions of the Rubber Manufacturers Association (RMA) in its comments. Fatality and injury reporting would include the information required of manufacturers of other products, and would also include the damage claimed, the vehicle manufacturer, the vehicle make, model and model year, the tire size, ''the tire line,'' and the DOT identification code for the tire. In addition, under RMA's suggestions shown in Attachment B to Comment NHTSA 2001–8677–15, warranty and property damage claim data would be provided for each applicable ''tire size, tire line, SKU, serial code, Mfg. Plant, OE/Repl, OE Vehicle & Year.'' (We specifically request RMA to provide their comments on appropriate definitions of the terms ''bead,'' ''common green,'' ''tire line,'' ''sidewall,'' ''SKU,'' and ''serial code''.) For each year of production, the manufacturer would provide the number of tires produced under warranty and the total number of tires produced, the number of adjustments, the warranty adjustment rate, the number of property damage claims, and the property damage claims rate.

For property damage and warranty adjustments, we propose to require manufacturers to separately report the number of problems/incidents relating to tread, sidewall, and bead. For incidents involving death, if another component is allegedly involved, or if the component is not specified in the claim, the incident would still have to be reported.

Each tire manufacturer would also have to include information regarding ''common green tires'' with respect to each applicable tire model.

Consistent with the approach taken in connection with the Uniform Tire Quality Grading Standard, 49 CFR 575.104, we are not proposing to require reporting of warranty adjustment, property damage claims, and field reports with respect to tires for which total annual production of the same design and size is 15,000 or less. This would include retreaded tires as well, and may have the practical effect of excluding most, if not all, retreaded tire manufacturers from all reporting requirements except for reports of incidents involving death.

O. One-time Reporting of Information on Certain Information Received From January 1, 2000 to December 31, 2002, on 1994–2003 Model Year Vehicles, and on Child Restraints and Tires Manufactured on or After January 1, 1998

As early warning reporting begins, receipt by NHTSA of information from the first several reporting periods would not provide sufficient information to allow us to identify potential safety defects unless we could compare it to similar information about earlier periods. Without this historical information, we would not be able to identify potential defect trends or make comparisons. For example, data indicating that a particular component in a particular model/model year vehicle was the subject of six property damage claims in the third year after the model was introduced would be more relevant if we knew the claims history of similar models in recent years. To assure that the data are useful from the onset of reporting, we must ''seed'' our data base with historical data rather than merely letting it accumulate from the effective date of the final rule. Therefore, we are proposing that, no later than the date that a manufacturer must submit its first reports under the final rule, expected to be April 30, 2003, each manufacturer would also submit, on a one-time basis, corresponding reports reflecting the same information required by paragraphs (a) and (c) in each of proposed Sections 579.21

through 579.27, as applicable, providing information on the numbers of property damage claims, consumer complaints, warranty claims, and field reports that it received in each calendar quarter from January 1, 2000, to December 31, 2002, for each model and model year vehicle manufactured in model years 1994 through 2003, for child restraint systems manufactured on or after January 1, 1998, and for tires manufactured on or after January 1, 1998. Each report would identify the alleged system or component related to the claim, incident, etc., as would the reports for the current reporting period. We would not require such historical information on claims for deaths and injuries because we do not expect information of this type to indicate trends in potential defects to the same extent as warranty claims or property damage claims may.

We request comment on whether the time frame for the proposal is appropriate, and whether we should exclude historical data for deaths and injuries.

V. Information That We Would Not Require at This Time

The ANPRM requested comments on whether we should require reporting on a number of additional types of information that could help us to promptly identify possible defects. However, given the fact that a final rule must be published in less than eight months from the publication date of this notice, and in recognition of the potential burdens on manufacturers to develop information systems capable of retaining and reporting information to us, we have attempted to minimize these burdens to the extent possible. Moreover, we have concentrated our efforts on identifying the types of information noted in the statute or for which most manufacturers currently maintain records, such as customer complaints and warranty claim data.

A. Internal Investigations and Design Changes in Parts and Components

We received a number of comments on the questions we asked regarding manufacturers' internal investigations of possible safety-related defects. Manufacturers generally called attention to the semantic difficulties in determining when an investigation had been commenced and the alleged chilling effect a reporting requirement might have on such investigations. For the present, we have decided not to seek this type of information, but we may give further consideration to this issue in future rulemaking relating to early warning reporting.

We also asked for comments on requiring reporting of changes in the design or construction of parts. Many commenters felt that this would be burdensome due to the sheer number of changes, few of which relate to safety. We are deferring any consideration of requiring reports of parts changes.

B. Most Activities and Events in Foreign Countries

As noted above, at this time we are proposing to require manufacturers to report to us information on claims regarding foreign deaths (and on foreign campaigns under Section 30166(l)), involving substantially similar motor vehicles and equipment. We may decide to propose reporting of additional information regarding foreign activities and incidents in a future rulemaking.

VI. When Information Would 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.'' The ANPRM discussed several possibilities.

A. Periodically

The statute authorizes us to require periodic reporting of information related to the early warning of defects. In the ANPRM, we posited reporting on bases of ''information-as-received,'' monthly, and quarterly, depending upon our perception of the gravity of the information involved (e.g., we suggested the possibility that information about deaths allegedly caused by safety defects might justify a more frequent period of reporting than other types of information).

Commenters generally objected to reporting information ''as received.'' There was no objection to reporting on a quarterly basis, the same as is required for defect campaign reporting under 49 CFR 573.6.

On balance, we have concluded that, with respect to statistical reports, an ''as received'' or even monthly basis would impose too great a burden and would be unlikely to provide significant timeliness benefits. A quarterly reporting period would appear to be more appropriate. However, we request comments on whether we should require reporting six times per year. Finally, the burden upon manufacturers would be lessened if a common reporting date were adopted for the submission of all statistical early warning information that we will require ''periodically.''

We are proposing that all information, as well as copies of relevant field reports, be submitted to us not later than the 30th day of the calendar month following the end of the reporting period. We believe that 30 days will be sufficient to compile this information, but we request comments on whether a shorter or longer period would be appropriate. We also propose that all communications that would be required by Section 579.5 (those presently required by 49 CFR 573.8 and those that would be covered by the early warning rule, i.e., communications relating to a customer satisfaction campaign, consumer advisory, recall, or other safety activity involving the repair or replacement of motor vehicles or equipment) be submitted to us monthly, within 5 working days of the end of the month, as is presently required for submissions under Section 573.8.

B. Upon NHTSA's Request

The TREAD Act also requires all manufacturers to provide information within the scope of the early warning provision when we request it. Such a requirement complements our pre-TREAD authority to request safety-related information as part of our investigations. Under this new authority, the information need not relate to an investigation; it need only be of such a nature that it may assist us in the identification of safety-related defects. Thus, we plan to follow up with manufacturers to obtain additional information if the information in the periodic reports suggests that there may be a possible problem. Such inquiries need not be characterized as formal defect investigations. Rather, they would be part of the agency's screening process under which it decides whether to open a defect investigation into particular matters.

VII. The Manner and Form in Which Information Would Be Reported

Section 30166(m)(4)(A) (iii) requires us to specify ''the manner and form of reporting [early warning] information including in electronic form.''

Before the ANPRM, we had a limited amount of knowledge about information that manufacturers receive regarding certain types of incidents and activities in the United States, in what form it is received, and how, if at all, they route, code, maintain, and review the information. It seemed likely to us that the types of information to be reported would be kept in a variety of manufacturer computer systems and formats, at least for major and mid-sized

manufacturers. Some manufacturers might use different computer systems for different types of information, and some might not be computerized at all. We noted that to be able to use most of the early warning information efficiently, we would have to maintain it in computer systems that can read and incorporate the information into a standardized set of data fields, definitions, and codes.

In the ANPRM, we discussed the possibility of establishing levels below which manufacturers would not be required to report to us, citing the practice of the California Air Resources Board in establishing a ''trigger'' of a percentage of returned emissions system components. Upon reflection, we have concluded that determining appropriate triggers is not possible at this time. We lack a basis for establishing triggers, and it would be unduly complicated to determine a dividing line. Companies have different practices with respect to warranty programs, field reports, and other information items. The comments did not give us sufficient information to establish appropriate dividing lines. We believe that the solution we propose, the submission of the numbers of activities or incidents, will provide us with more usable information and obviate the need for a manufacturer to calculate rates based upon production figures that change from one reporting period to the next.

In the ANPRM, we discussed the possibility of using spreadsheets in a specified format with separate reports of the numbers of various categories of information (e.g., claims/notices of deaths and injuries, consumer complaints, warranty claims, field reports) along with other information (such as production volumes) by make, model, model year, and by component (we would specify which components). We would then be able to utilize a computer to identify aggregate numbers, rates (using production data which would be submitted), or unusual trends in each of these categories. This would obviate the need for manufacturers to provide us with their warranty or claims codes or to make significant revisions to their current coding procedures.

NHTSA is considering several alternative methods for manufacturers' to submit their periodic reports. As described elsewhere, aggregate data would be required from some manufacturers. These data would be formatted in either a Microsoft Excel spreadsheet, or in a form readily importable into an Excel spreadsheet, using the then-current version of Excel. NHTSA would establish a link on its web site to a data repository suitable for containing these data. Manufacturers would be able to use that link to ''push'' their file to the NHTSA site. Upon receipt of the data, an acknowledgement would be returned to the submitter, noting the date and time of the submission.

For data files smaller than the size limit of the DOT Internet e-mail server, currently set at 5 MB [megabyte], manufacturers could submit their data as an attachment to an e-mail message. NHTSA would establish an e-mail address to receive these submissions. The e-mail system would provide a return receipt. There is, however, increased risk that this method would not result in the data actually arriving at the appropriate office in NHTSA, since e-mail servers are often unreliable in handling of large attachments, both within DOT and, possibly, within the manufacturers' own systems. We believe that the preferred method, based on ease of use and reliability, would be the web site link described above.

NHTSA would also accept the data on a CD-ROM, mailed to the Office of Defects Investigation via certified mail with the postal service return receipt.

For small manufacturers, which only need to submit minimal amounts of data, we are considering establishing an interactive form on our web site that could be filled out by manual data entry by the submitter. It is anticipated that this method will require completing a form for each make, model, and model year of a product that was involved in a fatal incident.

Paper documents, computer printouts, or similar non-electronic submissions of the required aggregate data would not be acceptable.

With respect to copies of communications submitted under proposed Section 579.5 and copies of manufacturer and fleet field reports, we would prefer receiving the documents in electronic form using any state of the art graphic compression protocol available, through any of the first three methods described above. However, we would also accept paper copies of those documents mailed to ODI.

Submitting manufacturers would have to provide ODI with the name and contact information (phone number, address, e-mail address, etc.) of a technical IT (information technology) point-of-contact person who will be responsible for resolving issues with data submissions as they come up from time to time.

We are willing to consider other methods for delivery of the data, and we invite comment on the feasibility of these suggestions, and any other proposed methods.

After the final rule is published but before the first reporting period, NHTSA will conduct a public meeting at the DOT headquarters in Washington to discuss implementation of the data transmission methods. Interested persons, particularly the manufacturers' IT staff members, will be invited to discuss technical issues in an open forum to resolve any issues regarding the technical issues related to the submission of data.

There would be six reports for manufacturers of 500 and more vehicles, representing: (1) production information, (2) incidents involving deaths and injuries identified in claims and notices, (3) property damage claims, (4) consumer complaints, (5) warranty claims data, and (6) field reports. We have previously discussed the information content for Category (2) in Section IV.D.4 above, and for the other categories in Section IV.N above.

We would not require manufacturers to submit the actual documents constituting claims and notices involving death or injuries, property damage claims, warranty claims, consumer complaints, or dealer field reports. Manufacturers would have to retain each such claim, report, etc., for a period of five calendar years from the date the manufacturer acquires it, but would not have to retain it after the calendar year is or becomes ten years greater than the model year of the motor vehicle that is the subject of the document. For example, if on July 1, 2002, a manufacturer were to receive two consumer complaints relating to 1996 and 1999 model year automobiles, the manufacturer would have to retain the complaint on the MY1999 automobile until July 1, 2007. However, it would only have to keep the complaint about the MY1996 automobile until the beginning of the 2006 model year, even though less than five years had passed. (For purposes of this provision only, and to avoid any uncertainty, we will construe the model year as beginning on September 1 of the preceding year).

While this proposal would not require manufacturers to maintain records in electronic recordkeeping systems, we believe that the burdens associated with the proposed reporting requirements would be significantly reduced if manufacturers maintained data and records in searchable electronic systems. We again seek comments on the nature of manufacturers' recordkeeping systems for data and documents related to early warning reporting and as to the feasibility of various ways of searching their systems for relevant information.

VIII. How NHTSA Plans To Handle and Utilize Early Warning Information

A. Review and 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.

In the Alliance's view, under Section 30166(m), NHTSA ''cannot compel the reporting of information unless it will 'assist in the identification of defects related to motor vehicle safety.''' This provision ''is a substantive limitation on NHTSA's new information gathering powers, and therefore one that cannot be made absent notice and an opportunity for public comment on the agency's tentative conclusions.'' For this reason, the Alliance believes that NHTSA should explain as part of this NPRM ''how it will review and use any information it proposes to require 'to assist in the identification of effects related to motor vehicle safety,' and allow public comment on that explanation.''

We do not agree with the Alliance's assertion, since 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 rulemaking procedures. Nevertheless, we sought, and continue to seek, public comment on ways to improve our collection, review, and analysis of information and data with the new reporting tools that Congress has given us.

We stated in the ANPRM that we would specifically address the matters covered by subparagraphs (i) and (ii) above. We originally thought that we would do this through amendments to 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). Upon review, however, we have concluded that Part 554 covers agency enforcement investigations and actions, and does not relate to material of the nature that would be reported to the agency under early warning reporting (we shall refer to this as ''pre-investigation'' information or materials). Therefore, we are not proposing amendments to that regulation.

Rather, we will comply with the statutory provision by explaining in this document that we intend to consider pre-investigation information received under Section 30166(m) in the same manner as we currently treat other information that is now available to us about possible safety defects, such as consumer complaints to NHTSA and documents received from manufacturers under 49 CFR 573.8. That is to say, we will review the available data and information to determine whether potentially problematic trends are developing in the vehicles, equipment items, components, and systems for which information has been provided. As noted earlier, if we identify matters that might possibly suggest the existence of a safety defect, we plan to seek additional clarifying information from the manufacturer in question, and from other sources, to help us to decide whether to open a formal defect investigation. If we decide to change this approach, we will discuss any such changes in the final rule to be issued in 2002.

We are in the process of developing an enhanced data warehouse and data processing system called ARTEMIS—Advanced Retrieval (Tire, Equipment, Motor vehicles) Information System. ARTEMIS will provide for centralized storage of information, include a document management system, use data analysis tools, allow access to electronic information such as NASS and FARS, and facilitate the provision of appropriate information to the public. We expect to have a fully functional system by the summer of 2002, although modifications may be made throughout the remainder of 2002 in preparation for the receipt of early warning information beginning in early 2003.

B. Information in the Possession of the Manufacturer

Section 30166(m)(4)(B) provides as follows:

> (B) Information in possession of manufacturer.—The [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.

The information that we are proposing to require manufacturers to submit to us is in their possession, or will be under the recordkeeping requirements that we plan to adopt. For example, if a manufacturer does not have ''possession'' of a claim or a complaint or a field report, it obviously cannot (and would not have to) report to us about such a document. However, we want to emphasize that we will not tolerate any attempts by manufacturers to utilize this provision to avoid reporting by improperly failing to obtain, maintain, and retain relevant records.

For many years, pursuant to 49 CFR Part 576, *Record Retention*, we have required manufacturers of motor vehicles to retain for a period of five years from the date of generation or acquisition ''complaints, reports, and other records concerning motor vehicle malfunctions that may be related to motor vehicle safety'' (49 CFR 576.1). These are described with great specificity in 49 CFR 576.6:

> Records to be maintained by manufacturers * * * include all documentary materials, films, tapes, and other information-storing media that contain information concerning malfunctions that may be related to motor vehicle safety. Such records include, but are not limited to, communications from vehicle users and memoranda of user complaints; reports and other documents, including material generated or communicated by computer, telefax or other electronic means, that are related to work performed under or claims made under warranties; service reports or similar documents, including electronic transmissions; from dealers or manufacturer's field personnel; and any lists, compilations, analyses, or discussions of such malfunctions contained in internal or external correspondence of the manufacturer, including communications transmitted electronically.

Section 576.8 sets forth the meaning of ''malfunctions that may be related to motor vehicle safety,'' which include with respect to a motor vehicle:

> * * * any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications, that could in any reasonably foreseeable manner be a causative factor in, or aggravate, an accident or an injury to a person.

Thus, manufacturers of motor vehicles, by virtue of complying with Part 576, already have in their possession the types of information that would have to be reported under this rule.[2]

As we stated in the ANPRM, we interpret ''possession'' as meaning not only information in the actual possession of a manufacturer's employees or in its proprietary databases, but also constructive possession and ultimate control of information, such as information in the possession of affiliates or subsidiaries in

[2] NHTSA is proposing in this document to require similar retention of records by manufacturers of motor vehicle equipment, as well as a longer period for retention. See discussion below.

foreign countries, or information possessed by outside counsel or consultants. Thus, manufacturers would have to report claims to us that may be in the form of lawsuits filed with attorneys outside the company who are representing the manufacturer. This may require a manufacturer to periodically consult with its counsel and foreign affiliates to ensure that reports are accurate.

C. Disclosure

The TREAD Act does not affect the right of a manufacturer to request confidential treatment for information that it submits to NHTSA. The rules that pertain to such requests can be found in 49 CFR Part 512, *Confidential Business Information*.

Specifically, as provided in Part 512, manufacturers that submit information claimed to be confidential should identify the particular portions of their submission for which they claim confidentiality and they should stamp or mark the word ''confidential'' or some other term that clearly indicates the presence of information claimed to be confidential, on the top of each page that contains information claimed to be confidential.

In addition, submitters of information claimed to be confidential should include with their submissions a certification stating that the manufacturer (or its agents) have made a diligent inquiry to ascertain that the submitted information has not been disclosed or otherwise been made public and should also include information supporting their claim for confidential treatment. The supporting information should, among other things, inform the agency of the period of time for which confidential treatment is being requested and describe the particular harm that would result from disclosure.

In accordance with Part 512, requests for confidential treatment should be submitted in a separate enclosure marked confidential to the Office of Chief Counsel, NCC–30, 400 Seventh Street SW., Washington, DC 20590. In addition, at least one complete copy of the submission (including the portions that contain information claimed to be confidential) and also at least one copy of a public version of the submission (from which portions claimed to be confidential have been redacted) should be submitted directly to the office that requested that information. Information submitted to the agency by a manufacturer pursuant to its obligations under the TREAD Act and the agency's implementing regulations will be entitled to confidential treatment if its disclosure would be likely to result in competitive harm to the submitter of the information, in accordance with 5 U.S.C. 552(b)(4) and *National Parks & Conservation Ass'n* v. *Morton*, 498 F.2d 765 (D.C. Cir. 1974). (Since the submission of the information is compelled by the agency, the alternative criteria for voluntarily submitted information described in *Critical Mass Energy Project* v. *NRC*, 975 F.2d 871 (D.C. Cir. 1992), (*en banc*), *cert denied*, 507 U.S. 984 (1994), would not apply.)

It is expected that the types of information that manufacturers would be required to submit to the agency under this NPRM would include information about claims and notices that allege death or injury; numbers of property damage claims, consumer complaints, warranty claims, and field reports. They would also have to submit documents related to customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or equipment, as well as certain field reports. Historically, these types of information generally have not been considered by the agency to be entitled to confidential treatment, unless the disclosure of the information would reveal other proprietary business information, such as confidential production figures, product plans, designs, specifications, or costs. See 49 CFR Part 512, Appendix B. Light vehicle production information is generally not confidential, unlike production data on child restraint systems and tires.

Accordingly, the agency does not expect to receive many requests for confidential treatment for submissions under the early warning reporting requirements of the TREAD Act. However, if a manufacturer believes that any portion of materials submitted to the agency should be treated confidentially, the manufacturer should request confidential treatment for the information, in accordance with Part 512.

Some of the materials that manufacturers would be required to submit to the agency under this NPRM, such as field reports and supplemental reports about claims and notices of deaths, may contain personal information regarding individuals. Such personal information might include names, addresses, telephone numbers, driver license, credit card or social security numbers; or medical information. One issue presented by this rulemaking is how will the privacy of individuals be protected. In particular, the agency seeks comment on whether the manufacturer should submit only redacted versions of required field reports, or some alternative.

D. The Proposed Requirements Are Not Unduly Burdensome

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.

The ANPRM gave manufacturers a general idea of the types of data and information that they may be required to submit under a final rule. This allowed them to make a tentative assessment of the burdens that an early warning reporting rule may entail. Some manufacturers and other commenters addressed these issues. There is a fuller discussion in the agency's Preliminary Regulatory Evaluation (PRE) of estimated costs to manufacturers which has been placed in the docket. We have taken these comments into consideration in formulating a proposed rule. This will allow manufacturers to make a more accurate assessment of potential compliance burdens and to identify them with specificity. The agency has tried to reduce the burden to the extent possible while still fulfilling the intent of the TREAD Act.

In our view, there is unlikely to be a significant burden associated with the actual *reporting* of information. Rather, the burden on each manufacturer will depend on the extent to which that manufacturer must revise and/or supplement its current information management and retention systems. Most major manufacturers already have a log or database of information about each of the categories for which early warning reporting would be required that is comprehensive and regularly updated. In this case, the burden associated with the rule would not be substantial. At most, such manufacturers would have to add several data elements, such as the identification of components involved in claims and a process for dealing with foreign claims related to deaths.

If a manufacturer does not already have logs or databases that include relevant categories of information, it would have to develop one or more systems to review, retrieve, organize and log the information it receives. It may also have to utilize manual systems and retrieve information from files.

The PRE estimates the number of claims, warranty claims, customer complaints, field reports, etc. for each of the following groups of manufacturers: light vehicles, medium and heavy trucks, buses, trailers, motorcycles, tires, and child restraint systems. It estimates the costs of setting up computer systems to handle the reporting requirements and the types of skills and labor hours needed to provide the proposed information. For example, for light vehicle manufacturers, the PRE estimates the first year start-up costs will be over $1.6 million and that recurring annual costs will be over $1 million. Similar estimates are made for each of the other groups of manufacturers. Cumulative costs for the other groups are significantly higher, since they include many more manufacturers, and many of those manufacturers are not as computerized today as the light vehicle manufacturers. The total start-up costs for all affected industries is estimated to be about $18 million, while recurring annual costs will be about $6 million.

We eliminated reporting requirements that could potentially create significant burdens when we thought that the information that would have been provided would not substantially improve our ability to detect potential defects in a timely manner. We have significantly reduced the burden on manufacturers of vehicles and equipment from the levels that could have been required under the TREAD Act, at least for this phase of rulemaking. First, other than requiring reports about incidents involving deaths based on claims and notices, which do not need to be maintained in a complex computer system, and campaign documents, we have decided not to require small vehicle manufacturers, original equipment manufacturers and replacement equipment manufacturers (other than manufacturers of child restraint systems and tires), to submit periodic early warning reports. Second, we have decided not to require at this time any information about incidents that occur in foreign countries except for those based on claims involving deaths. We believe there would be problems in collecting data, categorizing it by component or system, translating it, and deciding if it related to vehicles or equipment that were similar to vehicles and equipment in the United States. We believe the costs of doing so might be up to ten times the cost of supplying similar information from the United States.

We also considered requiring information for all systems and components of a vehicle, instead of those specified in Section IV.N above. We believe that the reduced number of components on which reporting is required will reduce reporting costs.

With respect to field reports, we also considered whether to require a hard copy of all reports by fleets, manufacturers, and dealers. After the Alliance estimated that there are about two million dealer field reports per year (on all subjects), we decided not to require copies of dealer reports.

E. 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 early warning rule is developed and issued, we anticipate that our 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 make internal adjustments where called for, or propose appropriate modifications to the final rule. This would be an on-going process of evaluation. We plan to commence the initial review of the rule within one year after the initial reports are received. Subsequently, we plan to review our defect information-gathering procedures at least once every four years.

IX. Proposed Extension of Recordkeeping Requirements To Include Manufacturers of Child Restraint Systems and Tires

Our principal record keeping regulation is 49 CFR Part 576, *Record Retention.* The current regulation applies only to motor vehicle manufacturers and requires them to keep certain records for a period of five years.

A colloquy on the floor of the House with respect to Section 30166(m)(4)(B) addressed the need to preserve relevant records to assure that the goals of the TREAD Act are achieved:

> 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.

As we discussed in Section VIII above, we are proposing to amend Part 576 to assure that documents covered by the early warning regulation are kept for an appropriate length of time after a manufacturer acquires or generates them.

Part 576 currently applies only to vehicle manufacturers, while the TREAD Act covers manufacturers of motor vehicle equipment as well. We propose to extend the applicability of Part 576 to those equipment manufacturers from whom we would require full reporting, i.e., manufacturers of child restraint systems and of tires. We ask for comments on whether record retention requirements should also be expanded to include manufacturers of replacement equipment other than child restraint systems and tires and manufacturers of original equipment.

Until the TREAD Act, the requirement that a remedy for safety defects and noncompliances be provided without charge did not apply if a vehicle or child restraint system was bought by the first purchaser more than eight calendar years, or a tire, including an original equipment tire, was bought by the first purchaser more than three calendar years, before the determination that a defect or noncompliance existed. (Section 30120(g)(1)). Section 4 of the TREAD Act amended Section 30120(g)(1) to extend the free remedy period to ten years for vehicles and most replacement equipment including child restraint systems, and to five years for tires.

Currently, 49 CFR 576.5 requires manufacturers of motor vehicles to retain the records specified in 49 CFR 576.6 for a period of five years from the date they were acquired or generated by the manufacturer. The purpose of Part 576 is:

> * * * to preserve records that are needed for the proper investigation, and adjudication or other disposition, of possible defects related to motor vehicle safety and instances of nonconformity to the motor vehicle safety standards and associated regulations (49 CFR 576.2)).

To effectuate this purpose, we believe that records that may be pertinent to possible defects and noncompliances should be retained by a manufacturer of motor vehicles for the period during which the manufacturer is required to provide a remedy without charge. Thus, we are proposing amending Section 576.5 to extend the record retention period from five years to ten years for the records specified in Section 576.6. Given that manufacturers of child restraint systems and tires are also required by statute to remedy defects and noncompliances without charge, and that they are also covered by the TREAD Act's early warning reporting requirements, we have tentatively decided that manufacturers of child

restraint systems and tires should be required to retain records for ten and five years, respectively.

We find the same justification for including manufacturers of child restraint systems and tires that we did in our original proposal of August 20, 1974, to adopt Part 576 (which was limited to vehicle manufacturers):

> Typically, the manufacturer is the main recipient of complaints of malfunctions by the vehicle [or equipment] owner. Many reports of malfunctions are processed through channels for the administration of vehicle [or equipment] warranties by manufacturers and their dealers. Manufacturers' field service representatives may also serve as collection points for information of this nature. It is to be expected that manufacturers compile analyses and lists of malfunction reports, with a view toward * * * the remedying of safety-related defects. Since some defects are not revealed as such until months or years after the vehicle's [or equipment's] manufacture, a determination by NHTSA of the proper disposition of a possible defect * * * may be seriously hindered if manufacturers do not retain these records (39 FR 30048).

We note that in 1995 we amended 49 CFR 576.5 to extend the record retention period from five years from receipt of the information to eight years from the last date of the model year in which the vehicle to which the record relates was produced, in order to make it congruent with the period for free remedy. However, we received a number of petitions for reconsideration of the amendment, rescinded it, and, on January 4, 1996, reinstated the previous period of five years. In doing so, we noted (61 FR 274 at 276):

> The primary reason for this decision is the time and cost burdens that the amendment would have placed upon vehicle manufacturers. Several manufacturers stated that it would be highly costly and extremely time consuming to change their computerized record keeping systems to comply with the new record retention requirements. The agency has concluded that the safety benefit that would be derived from revising the record retention period requirements would be far outweighed by costs and other burdens on resources that would be incurred by manufacturers in order to make the change.

The agency believes that costs of data retention technology on a unit storage basis in electronic format have decreased since 1996, and, therefore, that the cost of record keeping systems would be acceptable in light of the TREAD Act provisions.

Currently, Section 576.6 includes as records to be kept ''communications from vehicle users and memoranda of user complaints; * * * material * * * related to * * * claims made under warranties; service reports or similar documents, including electronic transmissions, from dealers or manufacturer's field personnel; * * *.'' This definition clearly covers consumer complaints, warranty claims, and field reports, which we are proposing to require manufacturers to keep for periods of not more than five years. We would remove these categories from Section 576.6 where we are proposing that the documents covered by that section be held by vehicle manufacturers for ten years.

Finally, we have reviewed our regulation on tire record keeping, 49 CFR Part 574. Section 574.6(d) and Section 574.10 require, respectively, tire manufacturers and motor vehicle manufacturers to maintain records of new tires they produce, and tires on new vehicles and the names and addresses of the first purchaser of the vehicles for not less than three years after the date of purchase. In light of the statutory amendment increasing the period from three to five years for free remedy of tires, and our proposed conforming change to Part 576, we are proposing conforming amendments to Sections 574.6(d) and 574.10 under which these records would also be held for five years.

X. Administrative Amendments to 49 CFR Part 573 To Accommodate Final Rules Implementing 49 U.S.C. Sections 30166(l) and (m)

For many years, we have required manufacturers to furnish us with a copy of all notices, bulletins, other communications including warranty and policy extension communiques and product improvement bulletins regarding defects, whether or not safety related (49 CFR 573.8). Currently, this requirement is located in our regulation on defect and noncompliance reporting, 49 CFR Part 573. Given our intent to adopt a new regulation, Part 579 *Reporting of Information and Communications About Potential Defects*, it seems appropriate to transfer the subject matter of Section 573.8 to Part 579. Accordingly, in the Foreign Defect NPRM, we proposed a Section 579.5 which is identical to Section 573.8. Proposed Section 579.5 would become Section 579.5(a), under this early warning NPRM. Under proposed Section 579.5(b) we would receive additional documentation such as communications relating to a customer satisfaction campaign, consumer advisory, recall, or other safety activity involving the repair or replacement of motor vehicles or equipment where a manufacturer had not decided that a defect exists. When the first final rule is issued, implementing either Section 30166(l) or Section 30166(m), we will remove Section 573.8.

There currently exists a regulation cited as 49 CFR Part 579 *Defect and Noncompliance Responsibility.* This regulation sets forth the responsibilities of manufacturers for safety-related defects and noncompliances. As such, we feel that it would be appropriate for its specifications to be reflected in Part 573. Accordingly, we shall amend Part 573 to incorporate these specifications at the time our proposed new Part 579 becomes effective.

XI. Rulemaking Analyses

Regulatory Policies and Procedures. Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993) provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines as ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

We have considered the impact of this rulemaking under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking has been determined to be non-significant by the Office of Management and Budget under E.O. 12866. This action has also been determined to be not ''significant'' under DOT's regulatory policies and procedures because of the anticipated relatively low costs that would be required to implement the rulemaking (see the agency's discussion of impacts above as taken from the PRE). This action does not impose substantive requirements and only requires reporting of information in the possession of the manufacturer.

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.*) Information on the number of enterprises manufacturing relevant equipment or vehicles currently sold in the U.S., by product category, is presented below. It should be noted that the employee figures within the parentheses are the employment thresholds for classification as a small business from the January 1, 2001 edition of 13 CFR 121.201—*Small Business Size Standards.* The categorization below is based on consolidated employment of any known parent company and its other subsidiaries.

1. Passenger cars and light trucks, including vans, SUV's and pickups. (1000 employees) *Ward's Automotive Yearbook 2000* lists 16 manufacturers of such vehicles sold in the United States, net of any that are now merged with or majority-controlled by another. All are large businesses.

In the 1998 (Preliminary) Regulatory Flexibility Analysis prepared for the FMVSS 208 (Advanced Air Bag) rulemaking, NHTSA stated that were four small manufacturers of (complete) motor vehicles in the U.S., accounting for <.1% of U.S. production, and, in addition, ''several hundred'' enterprises that modified or completed unfinished vehicles, of which many were van converters. Light truck conversions include those for recreational use as well as for light freight and passenger carriage, special transport of the handicapped and other work functions.[3] Under the proposed rule, a converter who certifies a vehicle would be either a manufacturer or an alterer, and subject to the reporting requirements. Conversions, it should be noted, are covered by the NAICS classification ''motor vehicle bodies produced on purchased chassis,'' and are also subject to the small business threshold of 1000 employees. Almost all final stage manufacturers and alterers certify fewer than 500 vehicles annually and would have very slight reporting requirements.

2. Medium and heavy trucks. (1000 employees) *Ward's Automotive Yearbook 2000* lists 12 manufacturers of such vehicles sold in the United States. All are large businesses. In addition, an unknown number of enterprises build specialty freight-carrying or work function bodies (including fire and heavy rescue apparatus) onto chassis produced by these manufacturers. Those enterprises which certify completed vehicles would be manufacturers subject to the reporting requirements of this proposed rule. Almost all final stage manufacturers and alterers certify fewer than 500 vehicles annually and would have very slight reporting requirements.

3. Buses. (1000 employees) In the 2000 (Preliminary) Regulatory Flexibility Act analysis prepared for the FMVSS Nos. 141 and 142 rulemaking (Platform lift systems), NHTSA estimated that there were 10 small manufacturers of transit and paratransit buses. There is one small manufacturer of school buses, and three small manufacturers of over-the-road buses.

4. Motorcycles. (500 employees) Only two motorcycle manufacturers could be identified from current editions of *Ward's* and *Standard and Poor's* as small businesses.

5. Trailers. (500 employees). We have identified 8 trailer manufacturers who produce 500 or more trailers per year. The remaining trailer manufacturers, even if small businesses, would have minimal reporting obligations under this rule.

6. Tires. (new—1000 employees; retreaded—500 employees) *Modern Tire Dealer* and *Rubber and Plastics News* together identify 10 companies manufacturing general-service highway vehicle tires sold in the U.S. under the companies' own or ''private brand'' trade names. All are large businesses. The International Tire and Rubber Association website states that there are approximately 1,126 retread tire plants in the U.S., of which approximately 95 percent are owned/operated by small businesses.

7. Child restraint systems. (500 employees) Child restraint systems are interpreted here as ''infant's car seats,'' classified as NAICS 3371247231 under the system now used in Part 121 in place of SIC codes, within ''furniture and related products.'' Available information on infant's car seats yields a total of 14 independent enterprises, of which seven are small manufacturers.

8. Small vehicle manufacturers, manufacturers of original equipment, and manufacturers of replacement equipment other than child restraint systems and tires. While there are manufacturers of fewer than 500 light vehicles, medium-heavy vehicles, buses, trailers, and motorcycles annually, and manufacturers of original and replacement equipment (other than manufacturers of child restraint systems and tires) that are small businesses, these manufacturers would have a reporting obligation under this regulation limited to incidents of death involving their products. These are expected to be rare. Thus, this rule would have only a slight impact on these manufacturers.

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 Executive Order 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 NPRM would regulate the manufacturers of motor vehicles and motor vehicle equipment and 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 Executive Order 13132.

Civil Justice Reform. A rule based on this NPRM 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 numerical counts of information, so as to ensure consistency of responses, and are proposing appropriate spreadsheets in this NPRM. 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, the requirements proposed 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

[3] Some conversions of the larger versions of vans and pickups involve vehicles of over 8500 lbs. GVW rating, to which the Advanced Air Bag rulemaking did not apply.

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, we are unlikely to extend the comment closing date for this notice. 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 final 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.

49 List of Subjects

49 CFR Part 574

Labeling, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements, Rubber and rubber products, Tires.

49 CFR Part 576

Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 579

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR chapter V is proposed to be amended as follows:

PART 574—TIRE IDENTIFICATION AND RECORDKEEPING

1. The authority for part 574 is revised to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 574.7(d) is proposed to be revised to read as follows:

§ 574.7 Information requirement—new tire manufacturers, new tire brand name owners.

* * * * *

(d) The information that is specified in paragraph (a)(4) of this section and recorded on registration forms submitted to a tire manufacturer or its designee shall be maintained for a period of not less than five years from the date on which the information is recorded by the manufacturer or its designee.

* * * * *

3. Section 574.10 is proposed to be amended by revising the final sentence to read as follows:

§ 574.10 Requirements for motor vehicle manufacturers.

* * * These records shall be maintained for a period of not less than 5 years from the date of sale of the vehicle to the first purchaser for purposes other than resale.

PART 576—RECORD RETENTION

4. The authority citation for part 576 is revised to read as follows:

Authority: 49 U.S.C. 322(a), 30117, 30120(g), 30141–30147; delegation of authority at 49 CFR 1.50.

5. Section 576.1 would be revised to read as follows:

§ 576.1 Scope.

This part establishes requirements for the retention by manufacturers of motor vehicles and of child restraint systems and of tires, of claims, complaints, reports, and other records concerning alleged and proven motor vehicle or motor vehicle equipment malfunctions that may be related to motor vehicle safety.

6. Section 576.3 would be revised to read as follows:

§ 576.3 Application.

This part applies to all manufacturers of motor vehicles, with respect to all records generated or acquired on or after August 16, 1969, and to all manufacturers of child restraint systems and tires, with respect to all records generated or acquired on or after [the effective date of the final rule].

7. Section 576.4 would be revised to read as follows:

§ 576.4 Definitions.

All terms in this part that are defined in 49 U.S.C. 30102 and part 579 of this chapter are used as defined therein.

8. Section 576.5 would be revised to read as follows

§ 576.5 Basic requirements.

As specified in § 576.7:

(a) Each manufacturer of motor vehicles and each manufacturer of child restraint systems shall retain all records described in § 576.6 of this part for a period of ten calendar years from the date on which they were generated or acquired by the manufacturer.

(b) Each manufacturer of tires shall retain all records described in § 576.6 of this part for a period of five calendar years from the date on which they were generated or acquired by the manufacturer.

(c) Each manufacturer of motor vehicles, original equipment, and replacement equipment shall retain each claim or notice related to an incident involving a death or injury.

(d) Each manufacturer of motor vehicles, child restraint systems, and tires shall retain each property damage claim, warranty claim, consumer complaint, and field report received from an authorized dealer of such manufacturer, for a period of five calendar years from the date the manufacturer acquires it, but need not retain it when the calendar year is or becomes ten years greater than the model year of any motor vehicle or child restraint system that is the subject of the document.

(e) Each manufacturer of motor vehicles, child restraint systems, and tires shall retain each field report received from either one of its employees or from the owner or operator of ten or more motor vehicles of the same make, model, and model year, that it has manufactured, and a copy of each document reported to NHTSA for a customer satisfaction campaign, consumer advisory, recall (other than that submitted pursuant to parts 573 and 577 of this chapter), for a period of one calendar year after it has received or generated such report or document.

9. Section 576.6 would be revised to read as follows:

§ 576.6 Records.

Records to be maintained by manufacturers under this part include all documentary materials, films, tapes, and other information-storing media that contain information concerning malfunctions that may be related to motor vehicle safety. Such records include, but are not limited to, reports and other documents, including material generated or communicated by computer, telefax or other electronic means, that are related to work performed under warranties; and any lists, compilations, analyses, or discussions of such malfunctions contained in internal or external correspondence of the manufacturer, including communications transmitted electronically.

10. Part 579 is proposed to be revised to read as follows:

PART 579—REPORTING OF INFORMATION AND COMMUNICATIONS ABOUT POTENTIAL DEFECTS

Subpart A—General

Sec.

Subpart B—Reporting of Defects in Motor Vehicles and Motor Vehicle Equipment in Countries Other Than the United States

Subpart C—Reporting of Early Warning Information

Authority: Sec. 3, Pub. L. 106–414, 114 Stat. 1800 (49 U.S.C. 30102–103, 30112, 30117–121, 30166–167); delegation of authority at 49 CFR 1.50.

Subpart A—General

§ 579.1 Scope.

This part sets forth requirements for reporting information and submitting documents that may help identify defects related to motor vehicle safety and noncompliances with Federal motor vehicle safety standards, including the reporting of foreign safety recalls and other safety-related campaigns conducted outside the United States under 49 U.S.C. 30166(l), early warning information under 49 U.S.C. 30166(m), and copies of communications about defects and noncompliances under 49 U.S.C. 30166(f).

§ 579.2 Purpose.

The purpose of this part is to enhance motor vehicle safety by specifying information and documents that manufacturers of motor vehicles and motor vehicle equipment must provide periodically to NHTSA with respect to possible safety-related defects and noncompliances in their products.

§ 579.3 Application.

(a) This part applies to all manufacturers of motor vehicles and motor vehicle equipment with respect to all vehicles and equipment that have been offered for sale, sold, or leased by the manufacturer, any parent corporation of the manufacturer, any subsidiary or affiliate of the manufacturer, or any subsidiary or affiliate of any parent corporation of the manufacturer.

(b) In the case of any report required under this part, compliance by either the fabricating manufacturer or the importer of the motor vehicle or motor vehicle equipment shall be considered compliance by both.

§ 579.4 Terminology.

(a) *Statutory terms.* The terms *dealer, defect, distributor, manufacturer, motor vehicle, motor vehicle equipment,* and *State* are used as defined in 49 U.S.C. 30102. For purposes of this part, the term *manufacturer* includes any parent corporation of the manufacturer, any subsidiary or affiliate of the manufacturer, any subsidiary or affiliate of any parent corporation of the manufacturer, and any legal counsel retained by the manufacturer.

(b) *Regulatory terms.* The terms *bus, GVWR, motorcycle, trailer,* and *truck* are used as defined in § 571.3(b) of this chapter.

(c) *Other terms.* The following terms apply to this part:

Administrator means the Administrator of the National Highway Traffic Safety Administration (NHTSA), or the Administrator's delegate.

Air service brakes means service brake systems based on an air actuation system.

Base means the detachable bottom portion of a child restraint system that may remain in the vehicle to provide a base for securing the system to a seat in a motor vehicle.

Bead means the area of a tire below the sidewall and in the rim contact area,

including: bead rubber components; bead bundle and rubber coating if present; the body ply and its turn-up including the rubber coating; rubber, fabric, or metallic bead reinforcing materials; and the inner-liner rubber under the bead area.

Body type means the general configuration or shape of a vehicle distinguished by such characteristics as the number of doors or windows, cargo-carrying features and the roofline (e.g., sedan, fastback, hatchback).

Buckle and restraint harness means the components of a child restraint system that are intended to restrain a child seated in such a system, including the belt webbing, shield, pads, buckles, buckle release mechanism, belt adjusters, and belt positioning devices.

Child restraint system means any system that meets or is offered for sale in the United States as meeting the definition set out in S4 of § 571.213 of this chapter, or is offered for sale as a child restraint system in a foreign country.

Claim means a written request or demand for relief, including money or other compensation, assumption of expenditures, or equitable relief, related to a motor vehicle crash, accident, the failure of a component or system of a vehicle or an item of motor vehicle equipment, or fire. Claim includes but is not limited to a demand in the absence of a lawsuit, a complaint initiating a lawsuit, an assertion or notice of litigation, a settlement, covenant not to sue or release of liability in the absence of a written demand, and a subrogation request. A claim exists regardless of any denial or refusal to pay it, and regardless of whether it has been settled or resolved in the manufacturer's favor. The existence of a claim may not be conditioned on the receipt of anything beyond the document stating a claim.

Common green tires means tires that are produced to the same internal specifications as a tire brand, but that have, or may have, different external characteristics and may be sold under different model designations.

Consumer complaint means a communication of any kind made by a consumer (or other person) to or with a manufacturer, expressing dissatisfaction with a product, or relating the unsatisfactory performance of a product, or any actual or potential defect in a product, or any event that allegedly was caused by any actual or potential defect in a product, but not including a claim of any kind or a notice involving a fatality or injury.

Counterpart vehicle means a vehicle made in a foreign country that is equivalent to one made in the United States except that it may have a different name, labeling, driver side restraints, lighting or wheels/tires, or metric system measurements.

Customer satisfaction campaign, consumer advisory, recall, or other activity involving the repair or replacement of motor vehicles or motor vehicle equipment means a communication by a manufacturer to, or made available to, more than one dealer, distributor, lessor, lessee, other manufacturer, or owner, in the United States, whether in writing or by electronic means, relating to repair, replacement, or modification of a vehicle, or item of equipment, or a component of a vehicle or item of equipment, the manner in which a vehicle or item of equipment is to be operated or maintained, or advice or direction to a dealer or distributor to cease the delivery or sale of specified models of vehicles or equipment.

Dealer field report means a field report from a dealer or authorized service facility of a manufacturer of motor vehicles or motor vehicle equipment.

Equipment comprises original and replacement equipment:

(1) *Original equipment* means an item of motor vehicle equipment (other than a tire) that was installed in or on a motor vehicle at the time of its delivery to the first purchaser if the item of equipment was installed on or in the motor vehicle at the time of its delivery to a dealer or distributor for distribution; or the item of equipment was installed by the dealer or distributor with the express authorization of the motor vehicle manufacturer.

(2) *Replacement equipment* means motor vehicle equipment other than original equipment, and tires.

Field report means a communication in writing, including communications in electronic form, from an employee or representative of a manufacturer of motor vehicles or motor vehicle equipment, a dealer or authorized service facility of such manufacturer, or by an entity that owns or operates a fleet, to a manufacturer, regarding the failure, malfunction, lack of durability, or other performance problem of a motor vehicle or motor vehicle equipment, or any part thereof, produced by that manufacturer, regardless of whether verified or assessed to be lacking in merit.

Fire means combustion of any material in a vehicle as evidenced by, but not limited to, flame, smoke, sparks, or smoldering.

Fleet means more than ten motor vehicles of the same make, model, and model year.

Good will means the repair or replacement of a motor vehicle or item of motor vehicle equipment, including labor, paid for by the manufacturer, at least in part, when the repair or replacement is not covered under warranty.

Hydraulic service brakes means service brake systems based on a hydraulic actuation system.

Integrated child restraint system means a factory-installed built-in child restraint system as defined by S4 of § 571.213 of this chapter, or is offered for sale as a factory-installed built-in child restraint system in a vehicle sold in a foreign country.

Latches means a latching system and its components fitted to a vehicle's exterior door, rear hatch, liftgate, tailgate, trunk, or hood. This includes, but is not limited to, devices for the remote operation of a latching device such as remote release cables (and associated components), electric release devices, or wireless control release devices.

Light vehicle means any motor vehicle, except a bus, motorcycle, or trailer, with a GVWR of 10,000 lbs or less.

Make means a name that a manufacturer applies to a group of vehicles.

Medium-heavy vehicle means any motor vehicle, except a bus, motorcycle, or trailer, with a GVWR greater than 10,000 lbs.

Minimal specificity means:

(1) for a vehicle, the make, model, and model year,

(2) for a child seat, the model (either the model name or model number),

(3) for a tire, the model and size, and

(4) for other motor vehicle equipment, if there is a model or family of models, the model name or model number.

Model means a name that a manufacturer of motor vehicles applies to a family of vehicles within a make which have a degree of commonality in construction, such as body, chassis or cab type. For equipment, it means the name that its manufacturer uses to designate it.

Model year means, for vehicles, the year that a manufacturer uses to designate a discrete model of vehicle, irrespective of the calendar year in which the vehicle was manufactured and if a year is not so designated, the year the vehicle was manufactured. For equipment, it means the year that the equipment was manufactured.

Notice means a document received by or prepared by a manufacturer that does not include a demand for relief.

Parking brake means a mechanism designed to prevent the movement of a stationary motor vehicle.

Power train means the components or systems of a motor vehicle which transfer motive power from the engine to the wheels, including transmission (manual and automatic), clutch, transfer case, driveline, differential(s), and all driven axle assemblies.

Property damage means physical injury to tangible property.

Property damage claim means a claim for property damage, excluding that part of a claim, if any, pertaining solely to damage to a component or system of a vehicle or an item of equipment itself based on the alleged failure or malfunction of the component, system, or item, and further excluding matters addressed under warranty.

Reporting period means a calendar quarter of a year, unless otherwise stated.

Seat shell means the portion of a child restraint system that provides the structural shape, form and support for the system, and for other components of the system such as the seat padding, shield, belt attachment points, and anchorage points to allow the system to be secured to a passenger seat in a motor vehicle.

Sidewall means the area of a tire between the tread and the bead area of the tire, including: the sidewall rubber components; the body ply and its coating under the rubber in the sidewall area; and the inner-liner rubber under the body ply in the side areas.

Structure means any part of a motor vehicle that serves to maintain the shape and size of the vehicle, and which provides attachment and connectivity of all of the components of the vehicle, including frame members, the body of the vehicle, bumpers, doors, tailgate, hatchback, trunk lid, hood, and roof.

Suspension system means the components and systems of a motor vehicle including but not limited to springs, shock absorbers, and dampers, that are designed to minimize the impact on the vehicle chassis of shocks from the road surface irregularities that are transmitted through the wheels, and to provide stability when the vehicle is being operated through a range, of speed, load, and dynamic conditions.

Tread (also known as crown) means all materials in the tread area of the tire including: the rubber that makes up the tread; sub-base rubber, when present, between the tread base and the top of the belts; the belt material, either steel and/or fabric, and the rubber coating of the belt material, including any rubber inserts; the body ply and its coating rubber under the tread of the tire; and the inner-liner rubber under the tread.

Vehicle speed control means the systems and components of a motor vehicle that control vehicle speed either by command of the operator or by automatic control, including but not limited to the accelerator pedal, linkages, cables, springs, speed control devices (cruise control) and speed limiting devices.

Visual systems means the systems and components of a motor vehicle through which a driver views the surroundings of the vehicle including windshield, side windows, back window, and rear view mirrors, and systems and components used to wash and wipe windshields and back windows.

Warranty means any written affirmation of fact or written promise made in connection with the sale or lease of a motor vehicle or motor vehicle equipment by a manufacturer, distributor, or dealer to a buyer or lessee that relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time (including any extensions of such specified period of time), or any undertaking in writing in connection with the sale or lease by a manufacturer, distributor, or dealer of a motor vehicle or item of motor vehicle equipment to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking.

Warranty claim means mean any claim presented to a manufacturer for payment pursuant to a warranty program, an extended warranty program, or good will.

(d) *Foreign claims and notices.* For purposes of subpart C of this part:

(1) A motor vehicle sold or in use outside the United States is identical or substantially similar to a motor vehicle sold or offered for sale in the United States if—

(i) Such a vehicle has been sold in Canada or has been certified as complying with the Canadian Motor Vehicle Safety Standards;

(ii) Such a vehicle is listed in Appendix A to part 593 of this chapter or determined to be eligible for importation into the United States in any agency decision issued between amendments to Appendix A to part 593;

(iii) Such a vehicle is manufactured in the United States for sale in a foreign country;

(iv) Such a vehicle is a counterpart of a vehicle sold or offered for sale in the United States; or

(v) Such a vehicle uses the same vehicle platform as a vehicle sold or offered for sale in the United States.

(2) An item of motor vehicle equipment sold or in use outside the United States is identical or substantially similar to equipment sold or offered for sale in the United States if such equipment and the equipment sold or offered for sale in the United States have one or more components or systems that are the same, regardless of whether the part numbers are identical.

(3) A tire sold or in use outside the United States is substantially similar to a tire sold or offered for sale in the United States if it has the same model and size designation, or if it is identical in design except for the model name.

§ 579.5 Notices, bulletins, customer satisfaction campaigns, consumer advisories, and other communications.

(a) Each manufacturer shall furnish to 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 pursuant to § 573.5(c)(9) of this chapter, sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser, in the United States, 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 any flaw or unintended deviation from design specifications), whether or not such defect is safety-related.

(b) Each manufacturer shall furnish to NHTSA a copy of each communication relating to a customer satisfaction campaign, consumer advisory, recall, or other safety activity involving the repair or replacement of motor vehicles or equipment, that the manufacturer issued to, or made available to, more than one dealer, distributor, lessee, other manufacturer, owner, or purchaser, in the United States.

(c) If a notice or communication is required to be submitted under both paragraphs (a) and (b) of this section, it need only be submitted once.

(d) Each copy shall be in readable form and shall be submitted monthly, not more than five (5) working days after the end of each month. Each submission shall be accompanied by a document identifying each communication in the submission by name or subject matter and date.

§ 579.6 Address for submitting reports and other information

Information and reports required to be submitted to NHTSA pursuant to this part, if submitted by mail or on CD–ROM, must be addressed to the Associate Administrator for Safety Assurance, National Highway Traffic Safety Administration (NHTSA), 400 7th Street, SW., Washington, DC 20590. Information and reports may also be submitted by electronic means to NHTSA's website address: www.*odi@nhtsa.dot.gov.* Submissions must be made by a means that permits the sender to verify that the report was in fact received by NHTSA and the day it was received by NHTSA.

§§ 579.7—579.10 [Reserved]

Subpart B—Reporting of Defects in Motor Vehicles and Motor Vehicle Equipment in Countries Other Than the United States

§ 579.11—579.20 [Reserved]

Subpart C—Reporting of Early Warning Information

§ 579.21 Reporting requirements for manufacturers of 500 or more light vehicles annually.

For each reporting period, a manufacturer whose aggregate number of light vehicles manufactured for sale, offered for sale, imported, or sold, in the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 500 or more shall submit the following information. For paragraphs (a) and (c) of this section, the manufacturer shall submit information separately with respect to each make, model and model year of light vehicle manufactured during the reporting period and the nine model years prior to the earliest model year of the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period, and the total model year production for all model years for which production has ceased. For all models that are manufactured with more than one type of fuel system, the information required by this subsection shall be reported separately for gasoline-powered vehicles and for non-gasoline-powered light vehicles.

(b) *Information on incidents involving death or injury.* For all light vehicles less than ten calendar years old at the beginning of the reporting period:

(1) A report on each incident involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death or injury was caused by a possible defect in the manufacturer's vehicle, together with each incident involving one or more death(s) occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's vehicle, if that vehicle is identical or substantially similar to a light vehicle that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the vehicle, the incident date, the number of deaths, the number of injuries for incidents occurring in the United (States, the State or foreign country where the incident occurred, each system or component of the vehicle that allegedly contributed to the incident, and whether the incident involved a fire, as follows: 01 for steering, 02 for suspension, 03 for service brakes, 04 for parking brakes, 05 for engine speed control including throttle and cruise control, 06 for airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), 07 for seat belts (including anchorages and other related components), 08 for integrated child restraint systems, 09 for door, hood, or hatch latches, 10 for tires, 11 for fuel system integrity, 12 for power train, 13 for electrical system, 14 for engine and engine cooling system, 15 for structure (other than latches), 16 for visual systems, 17 for seats, 18 for lighting, 19 for wheels, 20 for climate control system including defroster, 21 for trailer hitches and related attachments, 22 for fire, and 99 if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* A report on the numbers of property damage claims, consumer complaints, warranty claims, and field reports involving the same systems and components of the vehicle, and the number of incidents in which a fire was involved, as set forth in paragraph (b)(2) of this section, except that no reporting is necessary if the system or component involved is not identified in paragraph (b)(2) of this section.

(d) *Documents to be submitted.* For all light vehicles less than ten calendar years old as of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.22 Reporting requirements for manufacturers of 500 or more medium-heavy vehicles annually.

For each reporting period, a manufacturer whose aggregate number of medium-heavy vehicles manufactured for sale, offered for sale, imported, or sold, in the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 500 or more shall submit the following information. For paragraphs (a) and (c) of this section, a manufacturer shall submit information separately with respect to each make, model and model year of medium-heavy vehicle manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period and the total model year production for all model years for which production has ceased. For all models that are manufactured with more than one type of fuel system, the information required by this subsection shall be reported separately for gasoline-powered vehicles and for non-gasoline-powered medium-heavy vehicles.

(b) *Information on incidents involving death or injury.* For all medium-heavy vehicles less than ten calendar years old at the beginning of the reporting period:

(1) A report on incidents involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's vehicle together with each incident involving one or more deaths occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's vehicle, or one that is identical or substantially similar to a medium-heavy vehicle that the manufacturer has offered for sale in the United States. The report shall be

organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the medium-heavy vehicle, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the vehicle that allegedly contributed to the incident, whether the incident involved a fire, as follows: 21 for steering, 22 for suspension, 23 for service brakes, 24 for parking brake, 25 for engine and engine cooling system, 26 for fuel system integrity, 27 for power train, 28 for electrical system, 29 for lighting, 30 for visual systems, 31 for climate control system including defroster, 32 for airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), 33 for seat belts (including anchorages and other related components), 34 for structure (other than latches), 35 for seats, 36 for engine speed control including cruise control, 37 for latches (door, hood, or hatch), 38 for tires, 39 for wheels, 40 for trailer hitches and related attachments, 41 for engine exhaust system, 42 for fire, and 99 if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* A report on the numbers of property damage claims, consumer complaints, warranty claims, and field reports involving the same systems and components of the vehicle, and the number of incidents where a fire was involved, as set forth in paragraph (b)(2) of this section, except that no reporting is necessary if the system or component involved is not identified in paragraph (b)(2) of this section.

(d) *Documents to be submitted.* For all medium-heavy vehicles less than ten calendar years old as of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.23 Reporting requirements for manufacturers of 500 or more buses annually.

For each reporting period, a manufacturer whose aggregate number of buses manufactured for sale, offered for sale, imported, or sold, in the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 500 or more shall submit the following information. For paragraphs (a) and (c) of this section, a manufacturer shall submit information separately with respect to each make, model, and model year of bus manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period and the total model year production for all model years for which production has ceased. For all models that are manufactured with more than one type of fuel system, the information required by this subsection shall be reported separately for gasoline-powered buses and for non-gasoline-powered buses.

(b) *Information on incidents involving death or injury.* For all buses less than ten calendar years old at the beginning of the reporting period:

(1) A report on incidents involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's bus together with each incident involving one or more deaths occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's bus, or one that is identical or substantially similar to a bus that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the bus, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the bus that allegedly contributed to the incident, and whether the incident involved a fire, as follows: 51 for steering, 52 for suspension, 53 for service brakes, 54 for parking brake, 55 for engine and engine cooling system, 56 for fuel system integrity, 57 for power train, 58 for electrical system, 59 for lighting/horn/alarms, 60 for visual systems 61 for climate control system including defroster, 62 for airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), 63 for seat belts including anchorages and other related components, 64 for structure (other than latches), 65 for seats, 67 for engine speed control including throttle and cruise control, 68 for latches (door, hood, hatch), 69 for tires, 70 for wheels, 71 for trailer hitches and related attachments, 72 for engine exhaust system, 73 for fire, and 99 if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* A report on the numbers of property damage claims, consumer complaints, warranty claims, and field reports involving the same systems and components of the vehicle, and the number of incidents in which a fire was involved, as set forth in paragraph (b)(2) of this section, except that no reporting is necessary if the system or component involved is not identified in paragraph (b)(2) of this section.

(d) *Documents to be submitted.* For all buses less than ten calendar years old as of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.24 Reporting requirements for manufacturers of 500 or more motorcycles annually.

For each reporting period, a manufacturer whose aggregate number of motorcycles manufactured for sale, offered for sale, imported, or sold, in the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 500 or more shall submit the following information. For paragraphs (a) and (c) of this section, a manufacturer shall submit information separately with respect to each model and model year of motorcycle manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period and the total model year production for all model years for which production has ceased.

(b) *Information on incidents involving death or injury.* For all motorcycles less than ten calendar years old as of the beginning of the reporting period:

(1) A report on incidents involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's motorcycle together with each incident involving one or more deaths occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's motorcycle, or one that is identical or substantially similar to a motorcycle that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the motorcycle, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the motorcycle that allegedly contributed to the incident, and whether a fire was involved, as follows: 81 for steering, 82 for suspension, 83 for service brakes, 84 for engine and engine speed control, 85 for fuel system integrity, 86 for powertrain, 87 for electrical system, 88 for lighting 89 for structure, 90 for engine speed control (including throttle and cruise control, 91 for tires, 92 for wheels, 93 for fires, and 99 if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* A report on the numbers of property damage claims, consumer complaints, warranty claims, and field reports involving the same systems and components of the motorcycle, and the number of incidents in which a fire was involved, as set forth in paragraph (b)(2) of this section, except that no reporting is necessary if the system or component involved is not identified in paragraph (b)(2) of this section.

(d) *Documents to be submitted.* For all motorcycles less than ten years old as of the date of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.25 Reporting requirements for manufacturers of 500 or more trailers annually.

For each reporting period, a manufacturer whose aggregate number of trailers manufactured for sale, offered for sale, imported, or sold, in the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 500 or more shall submit the following information. For paragraphs (a) and (c) of this section, a manufacturer shall submit information with respect to each make, model and model year of trailer manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period and the total model year production for all model years for which production has ceased.

(b) *Information on incidents involving death or injury.* For all trailers less than ten calendar years old as of the beginning of the reporting period:

(1) A report on incidents involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's trailer together with each incident involving one or more deaths occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's trailer, or one that is identical or substantially similar to a trailer that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the trailer, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the trailer that allegedly contributed to the incident, and whether a fire was involved, as follows: 101 for suspension, 102 for service brakes, 103 for parking brakes, 104 for fuel system integrity (camping/travel trailers), 105 for electrical system, 105 for lighting/horn/alarms, 106 for climate control systems (camping/travel trailers), 107 for structure (other than latches), 108 for latches, 109 for tires, 110 for wheels, 111 for hitches and related attachments, 112 for 63 for tires, 113 for fire, and 99 if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* A report on the numbers of property damage claims, consumer complaints, warranty claims, and field reports involving the same systems and components of the trailer, and the number of incidents in which a fire was involved, as set forth in paragraph (b)(2) of this section, except that no reporting is necessary if the system or component involved is not identified in paragraph (b)(2) of this section.

(d) *Documents to be submitted.* For all trailers less than ten calendar years old as of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.26 Reporting requirements for manufacturers of child restraint systems.

For each reporting period, a person who has manufactured for sale, offered for sale, imported, or sold child restraint systems in the United States, shall submit the following information. For paragraphs (a) and (c) of this section, a manufacturer shall submit information separately with respect to each model and model year of child restraint system manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting

period and the total model year production for all model years for which production has ceased.

(b) *Information on incidents involving death or injury.* For all child restraint systems less than ten calendar years old as of the beginning of the reporting period:

(1) A report on incidents involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's child restraint system together with each incident involving one or more deaths occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's child restraint system, or one that is identical or substantially similar to a child restraint system that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the child restraint system, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, and each system or component of the child restraint system that allegedly contributed to the incident and whether a fire was involved, as follows: 121 for buckle and restraint harness, 122 for seat shell, 123 for handle, 124 for base, and, only for incidents of death, 99 if another component is involved or if the component is not specified in the complaint, claim, or report.

(c) *Documents to be submitted.* For all child restraint systems less than ten years old as of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during the reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.27 Reporting requirements for manufacturers of tires.

For each reporting period, a person who has manufactured for sale, offered for sale, imported, or sold, in the United States, tires shall submit the following information. For paragraphs (a) and (b) of this section, a manufacture shall submit separately for each model and model year produced during the reporting period and the nine calendar years prior to the earliest model year in the reporting period including models no longer in production. If the number of tires of the same size and design manufactured or imported does not exceed 15,000 tires in any single calendar year, the manufacturer shall report only information on incidents involving a death with respect to such tires, as specified in paragraph (b) of this section.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the tire model, the tire size, the plant where manufactured, the common green application, the serial code, the ''SKU'' code, application (original or replacement tire) and if original, the make model, and model year of the vehicle on which it is original equipment, production year, and warranty and total production information for the current production year and for all production years for which manufacture has ceased.

(b) *Information on incidents involving death or injury.* (1) A report on incidents involving one or more deaths or injuries occurring in the United States that are identified in claims against the manufacturer or in notices to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's tire together with incidents involving one or more death(s) occurring in foreign countries that is identified in claims against the manufacturer involving the manufacturer's tire, or one that is identical or substantially similar to a tire that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident, the manufacturer shall separately report the tire model, size of the tire, the DOT identification code, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, the make, model and model year of the vehicle on which the tire was installed, and each component of the tire allegedly involved and/or failure allegedly involved in the incident, as follows: 131 for tread, 132 for sidewall, 133 for bead, and, only for incidents of death, 99 if another component is allegedly involved, or if the component is not specified in the claim.

(c) *Numbers of property damage claims, field reports, and warranty claims (adjustments).* For all tires less than five calendar years old as of the date of the reporting period, for each tire model, the tire size, the SKU serial code, manufacturing plant, whether the application is as original or replacement tire, if original equipment, the make, model, and model year of the vehicle on which the tire was installed. The manufacturer shall separately report information on the number of property damage claims, field reports, and warranty claims (adjustments), involving the component of the tire or problem referred to in the claim, as specified in paragraph (b)(2) of this section.

§ 579.28 Reporting requirements for manufacturers of fewer than 500 vehicles annually, for manufacturers of original equipment, and for manufacturers of replacement equipment, other than child restraint systems and tires.

(a) *Applicability.* This section applies to all manufacturers of motor vehicles that are not required to file a report pursuant to §§ 579.21 through 579.25 of this part, to all manufacturers of original equipment, and to all manufacturers of replacement equipment other than manufacturers of tires and child restraint systems.

(b) *Information on incidents involving deaths.* For each reporting period, a manufacturer to which this section applies shall submit a report, pertaining to vehicles and/or equipment manufactured or sold during the calendar year of the reporting period and the nine calendar years prior to the reporting period, including models no longer in production, on each incident involving one or more deaths occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's vehicle or equipment, together with each incident involving one or more death(s) occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's vehicle or equipment, if it is identical or substantially similar to a vehicle or item of equipment that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(c) For each such incident, the manufacturer shall separately report the model and model year of the vehicle or equipment, the incident date, the number of deaths, the State or foreign country where the incident occurred, and each system or component of the

vehicle or equipment that allegedly contributed to the incident, and whether a fire was involved, as follows:

(1) For light vehicles, the system or component involved, and fire, shall be identified as specified in § 579.21(b)(2) of this part.

(2) For medium-heavy vehicles, the system or component involved, and fire, shall be identified as specified in § 579.22(b)(2) of this part.

(3) For buses, the system or component involved, and fire, shall be identified as specified in § 579.23(b)(2) of this part.

(4) For motorcycles, the system or component involved, and fire, shall be identified as specified in § 579.24(b)(2) of this part.

(5) For trailers, the system or component involved, and fire, shall be identified as specified in § 579.25(b)(2) of this part.

(6) For original and replacement equipment, a written identification of the alleged component or fire involved, in the manufacturer's own words.

§ 579.29 Due date of reports, and other provisions.

(a) *Due date of reports.* Each manufacturer of motor vehicles and motor vehicle equipment shall submit each report that is required by this subpart not later than 30 days after the last day of the reporting period.

(b) *One-time reporting of historical information.* No later than the date that each manufacturer subject to §§ 579.21 through 579.27 of this part must submit its first reports under those sections (April 30, 2003), the manufacturer shall also file corresponding reports, providing information on the numbers of property damage claims, consumer complaints, warranty claims, and field reports that it received in each calendar quarter from January 1, 2000 to December 31, 2002 for vehicles manufactured in model years 1994 through 2003, for child restraint systems manufactured on or after January 1, 1998, and for tires manufactured on or after January 1, 1998. Each report shall include production data, as specified in paragraph (a) of §§ 579.21 through 579.27 of this part and shall identify the alleged system or component related to the claim, incident, and other information, as specified in paragraph (c) of §§ 579.21 through 579.27 of this part.

(c) *Minimal specificity.* A claim or notice involving death, a claim or notice involving injury, a claim involving property damage, a consumer complaint, a warranty claim, a consumer complaint, or a field report need not be reported if it does not identify the vehicle or equipment with minimal specificity. If a manufacturer initially receives a claim, notice, or report in which the vehicle or equipment is not identified with minimal specificity, and subsequently obtains information that provides the requisite information needed to identify the product with minimal specificity the claim, etc. shall be deemed to have been received at that time.

(d) *Abbreviations.* Whenever a manufacturer is required to identify a State in which an incident occurred, the manufacturer shall use the two-letter abbreviations established by the United States Postal Service (e.g., AZ for Arizona). Whenever a manufacturer is required to identify a foreign country in which an incident occurred, the manufacturer shall use the English-language name of the country in non-abbreviated form

(e) *Claims of confidentiality.* If a manufacturer claims that any of the information, data, or documents that it submits is entitled to confidential treatment, it must make such claim in accordance with part 512 of this chapter. If a manufacturer submits a document that contain personal information about a person or persons, including but not limited to names, addresses, telephone numbers, driver licenses, credit cards, social security numbers or medical information, the manufacturer shall, at the same time, submit a copy of such document from which all such personal information has been redacted.

(f) *Additional related information that NHTSA may request.* In addition to information required periodically under this subpart, NHTSA may request other information that may help identify a defect related to motor vehicle safety.

§ 579.30 Manner of reporting.

(a) *Form of reports submitted.* (1) All reports required under paragraphs (a) through (c) of §§ 579.21 through 579.27 of this part shall be formatted by a manufacturer in either a Microsoft Excel spread sheet, or in a form readily importable into an Excel spread sheet, using the version of Excel that is current at the time the report is filed. The report shall be submitted to NHTSA's website address: www.*odi@nhtsa.dot.gov.* Alternatively, the report may be submitted to NHTSA on a CD–ROM, using the mailing address set forth in § 579.6 of this part. The report shall use the data elements specified in §§ 579.21 through 579.27 of this part. For data files smaller than the size limit of the Internet e-mail server of the Department of Transportation, a manufacturer may submit a report as an attachment to an e-mail message.

(2) Reports submitted under § 579.28 of this part may be submitted either in the form specified in paragraph (a)(1) of this section or as a paper document.

(b) *Form of documents submitted.* A copy of a document may be submitted as a photocopy of the document, or in digital form sent by electronic mail, on a computer diskette, or on a CD–ROM.

(c) *Designation of manufacturer contact.* At the time of its first submission, each manufacturer must designate by name, office telephone number, mailing address, and electronic mail address, an employee whom NHTSA may contact for resolving issues that may arise concerning submissions of reports and documents required by this subpart. The manufacturer shall promptly notify NHTSA of any changes in this information.

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Kathleen C. DeMeter,

Acting Associate Administrator for Safety Assurance.

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