

**Regulation Identification Number**

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

**List of Subjects in 49 CFR Part 89**

Claims, Debt collection.

**The Proposed Rule**

For the reasons set forth in the preamble, OST proposes to amend Part 89 of subtitle A of title 49, Code of Federal Regulations, as set forth below:

**PART 89—[AMENDED]**

1. The authority citation for 49 CFR part 89 continues to read as follows:

**Authority:** Pub. L. 89–508; Pub. L. 89–365, secs. 3, 10, 11, 13(b), 31 U.S.C. 3701–3720A; Pub. L. 98–167; Pub. L. 98–369; Pub. L. 99–578; Pub. L. 101–552, 31 U.S.C. 3711(a)(2).

2. Add new § 89.35 to read as follows:

**§ 89.35 Administrative wage garnishment.**

(a) General. The Secretary may use administrative wage garnishment for debts referred to cross-servicing at Financial Management Service, Department of Treasury. Regulations in 31 CFR 285.11 govern the collection of debts owed to federal agencies through administrative wage garnishment. Whenever the Financial Management Service collects a debt for the Secretary using administrative wage garnishment, the statutory administrative requirements in 31 CFR 285.11 will govern.

(b) Hearing official. Any hearing required to establish the Secretary's right to collect a debt through administrative wage garnishment shall be conducted by a qualified individual selected at the discretion of the Secretary of Transportation, as specified in 31 CFR 285.11. The qualified individual may include an Administrative Law Judge.

Dated: November 24, 2008.

**Mary E. Peters,**

*Secretary of Transportation.*

[FR Doc. E8–28768 Filed 12–4–08; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****49 CFR Parts 573 and 579**

[Docket No. NHTSA–2008–0169; Notice 1]

RIN 2127–AK28

**Early Warning Reporting Regulations**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes amendments to certain provisions of the early warning reporting (EWR) rule published pursuant to the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, responds to a petition for rulemaking, and proposes amendments to information identifying products involved in a recall under 49 CFR part 573 *Defect and Noncompliance Responsibility and Reports*. This document proposes to modify the threshold for submitting quarterly EWR reports for light vehicle, bus, and trailer manufacturers. It further proposes to require manufacturers to submit product names that are consistent from reporting quarter to quarter or advise NHTSA of changes; to add a requirement that light vehicle manufacturers specify the vehicle type and the fuel or propulsion system type of each model in their quarterly EWR submissions; to add a new component category for light vehicle manufacturers; and to correct the definition of “other safety campaign.” It also proposes to amend part 573 *Defect and Noncompliance Responsibility and Reports* to add a requirement that tire manufacturers provide tire identification numbers of recalled tires and manufacturers provide the country of origin of a component involved in a recall.

**DATES:** Written comments regarding these proposed rule changes may be submitted to NHTSA and must be received on or before: February 3, 2009.

**ADDRESSES:** Written comments may be submitted using any one of the following methods:

- **Mail:** Send Comments to: Docket Management Facility, U.S. Department of Transportation, West Building, RM. W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- **Fax:** Written comments may be faxed to (202) 493–2251.
- **Internet:** To submit comments electronically, go to the U.S.

Government regulations Web site at <http://www.regulations.gov>. Once here, follow the online instructions for submitting comments to an NPRM.

- **Hand Delivery:** If you plan to submit written comments by hand or courier, please do so at West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5 p.m. Eastern time, Monday through Friday, except Federal holidays.

Whichever way you submit your comments, please remember to mention the docket number of this document within your correspondence. The docket may be accessed via phone at 202–366–9324.

**Instructions:** All comments submitted in relation to these proposed rule changes must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Request for Comments heading of the **SUPPLEMENTARY INFORMATION** section of this document. Please note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**Privacy Act:** Please see the Privacy Act heading under Rulemaking Analyses and Notices.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, contact Tina Morgan, Office of Defects Investigation, NHTSA (phone: 202–366–0699). For legal issues, contact Andrew DiMarsico, Office of Chief Counsel, NHTSA (phone: 202–366–5263). You may send mail to these officials at National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

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## Introduction

In October 2000, Congress enacted the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, which the President signed into law on November 1, 2000 (Pub. L. 106-414). TREAD was, in part, a response to the controversy surrounding the recall of certain tires that had been involved in numerous fatal crashes. Up until that time, in its efforts to identify safety defects in motor vehicles and equipment, NHTSA relied primarily on its analysis of complaints from consumers and technical service bulletins from manufacturers. Congress concluded that NHTSA did not have access to data that may have provided an earlier warning of the safety defects that existed in the tires that were eventually recalled. Accordingly, the TREAD Act included a requirement that NHTSA prescribe rules establishing early warning reporting requirements.

In response to the TREAD Act requirements, NHTSA issued rules (49 CFR part 579; 67 FR 45822; 67 FR 63295) that, in addition to the information motor vehicle and equipment manufacturers were already required to provide, required that they provide certain additional information on foreign recalls and early warning indicators. The rules require:

- Monthly reporting of manufacturer communications (e.g., notices to distributors or vehicle owners, customer satisfaction campaign letters, etc.) concerning defective equipment or repair or replacement of equipment;
- Reporting (within five days of a determination to take such an action) of information concerning foreign safety recalls and other safety campaigns in foreign countries; and
- Quarterly reporting of early warning information: Production information; information on incidents involving death or injury; aggregate data on property damage claims, consumer complaints, warranty claims, and field reports; and copies of field reports (other than dealer reports) involving

specified vehicle components, a fire, or a rollover.

We use the term “Early Warning Reporting” (EWR) here to apply to the requirements in the third category above, which are found at 49 CFR part 579, subpart C. As described more fully in the Background section, below, the requirements vary somewhat depending on the nature of the reporting entity (motor vehicle manufacturers, child restraint system manufacturers, tire manufacturers, and other equipment manufacturers) and the annual production of the entity. All of the EWR information NHTSA receives is stored in a database called ARTEMIS (which stands for Advanced Retrieval, Tire, Equipment, and Motor Vehicle Information System), which also contains additional information (e.g., recall details and complaints filed directly by consumers) related to defects and investigations.

EWR reporting was phased in. The first quarterly EWR reports were submitted on or about December 1, 2003. However, actual copies of field reports were first submitted on or about July 1, 2004. 68 FR 35145, 35148 (June 11, 2003). Accordingly, NHTSA has just over four years of experience using the EWR information.

The Early Warning Division of the Office of Defects Investigation (ODI) reviews and analyzes a huge volume of early warning data and documents submitted by manufacturers. Using both its traditional sources of information, such as complaints from vehicle owner questionnaires (VOQs) and manufacturers’ own communications, as well as the additional quantum of information provided by EWR submissions, ODI conducts many investigations of potential safety defects and influences manufacturers to conduct recalls where defects have been determined to be present. In 2007, for example, manufacturers recalled more than 13 million vehicles for defective conditions, a majority of which involved recalls influenced by ODI’s investigations.

The TREAD Act requires NHTSA periodically to review the EWR rule. 49 U.S.C. 30166(m)(5). In previous EWR rulemakings, the agency indicated that we would begin a review of the EWR rule after two full years of reporting experience. When it had completed two full years of reporting in 2006, NHTSA began its review of the rule and presented proposed rule changes for public comment based on these evaluations.

NHTSA is evaluating the EWR rule in two phases. NHTSA completed phase one in 2007 and, after notice and

comment, published a final rule on May 29, 2007. 72 FR 29435. The May 2007 final rule made three (3) changes to the EWR rule. First, the agency eliminated the requirement to produce hard copies of a subset of field reports known as “product evaluation reports.” See 72 FR 29435, 29443. Second, the final rule amended the definition of fire to more accurately capture fire-related events. *Id.* Last, under the phase one final rule, the agency limited the requirement to update missing vehicle identification number (VIN)/tire identification number (TIN) or components on incidents of death or injury to a period of no more than one year after NHTSA receives the initial report. 72 FR 29444.

The majority of this document contains the second part of our evaluation of the EWR rule. This rulemaking addresses issues that required more analysis than those addressed in the first phase. In this phase, we address the threshold level for providing comprehensive quarterly EWR reports for certain industry categories. This required studying and assessing the quantity and quality of data that might be lost if the threshold is increased to particular levels and analyzing whether such a loss would have an appreciable effect on ODI’s ability to identify possible safety defects.

This document also contains proposals that amend part 573 *Defect and Noncompliance Responsibility and Reports* to require further information that identifies the tire identification number (TIN) of all the tires within the scope of a recall by a tire manufacturer and identifies the country of origin of recalled components. In part 573, we also propose to add an optional method to submit the TINs by uploading them directly to ODI via ODI’s Web site.

## I. Summary of the Proposed Rule

The early warning reporting (EWR) rule requires certain manufacturers of motor vehicles and motor vehicle equipment to submit information to NHTSA. 49 CFR part 579, subpart C. Under today’s proposal, the EWR reporting threshold would be modified for some categories of vehicle manufacturers and a new requirement would be added to require manufacturers to provide consistent naming conventions for their models that are consistent from quarter to quarter. In addition, we propose to add one component to the light vehicle reporting category and require light vehicle manufacturers to specify the vehicle type and the fuel and/or propulsion system type.

Under the EWR rule, certain motor vehicle manufacturers and motor vehicle equipment manufacturers are required to report information and submit documents to NHTSA that could be used to identify safety-related defects. The amount and frequency of reporting required of a manufacturer is dependent upon the level of its annual production volume.

The EWR regulation requires manufacturers of light vehicles and manufacturers of trailers to submit quarterly reports if they produce 500 or more vehicles or trailers annually. Manufacturers of light vehicles or trailers that produce fewer than 500 vehicles or trailers annually do not submit quarterly reports. These manufacturers are required to submit a report to NHTSA when they receive a claim or notice identifying an incident that involves a death. 49 CFR 579.27. Today's proposed rule would raise the EWR threshold for light vehicle manufacturers and trailer manufacturers from 500 or more units to 5,000 or more units. Manufacturers in the light vehicle and trailer categories producing 5,000 or more units annually would be required to report on a quarterly basis. Those light vehicle and trailer manufacturers producing fewer than 5,000 units per year would have a lower reporting burden, only being required to submit information related to incidents that involve a death.

Similar to light vehicles and trailers, the EWR regulation requires manufacturers of medium-heavy vehicles and buses to submit quarterly reports if they produce 500 or more vehicles annually. These manufacturers are required to report more comprehensive data on a quarterly basis, while those with a production volume below this threshold are required to submit information only on incidents that involve a death. Today's proposed rule would eliminate the reporting threshold for manufacturers of buses, which would require all manufacturers of buses to provide quarterly EWR reports.

Today's proposed rule would add new requirements that would require vehicle and equipment manufacturers to provide consistent naming conventions for their products that are consistent from quarter to quarter, or provide NHTSA with timely notice of any changes, and to require light vehicle manufacturers to include the vehicle type in the aggregate portion of their quarterly EWR reports.

Today's proposed rule would add one new component to the light vehicle reporting category and add a requirement that manufacturers specify

their fuel and/or propulsion system when providing model designations. The new component is electronic stability control. These two amendments are intended to capture new technologies that have been introduced to the light vehicle market.

Last, today's proposed rule amends two subsections of section 573.6 to add language that will require further information that identifies the tire identification number (TIN) of all the tires within the scope of a recall by a tire manufacturer and identifies the country of origin of recalled components in a manufacturer's Part 573 Defect or Noncompliance Information Report. Specifically, we are proposing to amend 573.6(c)(2)(iii) to add a requirement to report tire identification numbers (TINs) and 573.6(c)(2)(iv) to add a requirement to identify the country of origin of a component that is the subject of a recall. We also propose to add language to section 573.9 to facilitate the submission of reports affected by the proposal to require TINs.

## II. Background

### A. The Early Warning Reporting Rule

On July 10, 2002, NHTSA published a rule implementing the early warning reporting provisions of the TREAD Act, 49 U.S.C. 30166(m). 67 FR 45822. This rule requires certain motor vehicle manufacturers and motor vehicle equipment manufacturers to report information and submit documents to NHTSA that could be used to identify potential safety-related defects.

The EWR regulation divides manufacturers of motor vehicles and motor vehicle equipment into two groups with different reporting responsibilities for reporting information. The first group consists of (a) larger vehicle manufacturers (manufacturers of 500 or more vehicles annually) that produce light vehicles, medium-heavy vehicles and buses, trailers and/or motorcycles; (b) tire manufacturers that produce over a certain number per tire line; and (c) all manufacturers of child restraints. The first group must provide comprehensive reports every calendar quarter. 49 CFR 579.21–26. The second group consists of smaller vehicle manufacturers (e.g., manufacturers of fewer than 500 vehicles annually) and all motor vehicle equipment manufacturers other than those in the first group. The second group has limited reporting responsibility. 49 CFR 579.27.

On a quarterly basis, manufacturers in the first group must provide comprehensive quarterly reports for

each make and model for the calendar year of the report and nine previous model years. Tire and child restraint manufacturers must provide comprehensive reports for the calendar year of the report and four previous production years. Each report is subdivided so that the information on each make and model is provided by specified vehicle systems and components. The vehicle systems or components on which manufacturers provide information vary depending upon the type of vehicle or equipment manufactured.<sup>1</sup>

In general (not all of these requirements apply to manufacturers of child restraints or tires), manufacturers that provide comprehensive reports must provide information relating to:

- Production (the cumulative total of vehicles or items of equipment manufactured in the year),
- Incidents involving death or injury based on claims and notices received by the manufacturer,
- Claims relating to property damage received by the manufacturer,
- Warranty claims paid by the manufacturer pursuant to a warranty program (in the tire industry these are warranty adjustment claims),
- Consumer complaints (a communication by a consumer to the manufacturer that expresses dissatisfaction with the manufacturer's product or performance of its product or an alleged defect),
- Field reports (a report prepared by an employee or representative of the manufacturer concerning the failure,

<sup>1</sup> For instance, light vehicle manufacturers must provide reports on twenty (20) vehicle components or systems: Steering, suspension, service brake, parking brake, engine and engine cooling system, fuel system, power train, electrical system, exterior lighting, visibility, air bags, seat belts, structure, latch, vehicle speed control, tires, wheels, seats, fire and rollover.

In addition to the systems and components reported by light vehicle manufacturers, medium-heavy vehicle and bus manufacturers must report on the following systems or components: Service brake system air, fuel system diesel, fuel system other and trailer hitch.

Motorcycle manufacturers report on thirteen (13) systems or components: Steering, suspension, service brake system, engine and engine cooling system, fuel system, power train, electrical, exterior lighting, structure, vehicle speed control, tires, wheels and fire.

Trailer manufacturers report on twelve (12) systems or components: Suspension, service brake system-hydraulic, service brake system-air, parking brake, electrical system, exterior lighting, structure, latch, tires, wheels, trailer hitch and fire.

Child restraint and tire manufacturers report on fewer systems or components for the calendar year of the report and four previous model years. Child restraint manufacturers must report on four (4) systems or components: Buckle and restraint harness, seat shell, handle and base. Tire manufacturers must report on four (4) systems or components: Tread, sidewall, bead and other.

malfunction, lack of durability or other performance problem of a motor vehicle or item of motor vehicle equipment).

Most of the provisions summarized above (i.e., property damage claims, warranty claims, consumer complaints and field reports) require manufacturers to submit information in the form of numerical tallies, by specified system and component. These data are referred to as aggregate data. Reports on deaths or injuries contain specified data elements. In addition, these manufacturers are required to submit copies of field reports, except field reports by dealers (referred to as "non-dealer field reports") and product evaluation reports.

In contrast to the comprehensive quarterly reports provided by manufacturers in the first group, the second group of manufacturers does not have to provide quarterly reports. These manufacturers only submit information about a death incident when they receive a claim or notice of a death.

#### *B. Defect and Noncompliance Information Reports*

Pursuant to 49 U.S.C. 30118 and 30119, manufacturers are required to provide notice to the Secretary if the manufacturer determines that a motor vehicle or item of motor vehicle equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard. The regulation implementing the manufacturer's requirement to provide notice to NHTSA is located at 49 CFR part 573 *Defect and Noncompliance Responsibility and Reports*, which, among other things, requires manufacturers to provide reports (commonly referred to as Defect or Noncompliance reports, as the case may be) to NHTSA on defects in motor vehicles and motor vehicle equipment and noncompliances with motor vehicle safety standards prescribed under 49 CFR part 571. Section 573.6 specifies the information that manufacturers are required to submit to the agency and Section 573.9 specifies the address for submitting reports. An important element of the notice to NHTSA is the identification of the component containing the defect or noncompliance. Section 573.6(c)(2)(iii) requires manufacturers to identify items of motor vehicle equipment by the generic name of the component (tires, child seating system, axles, etc.), part number, size and function if applicable, the inclusive dates (month and year) of manufacturer if available and any other information to describe the items. Section 573.6(c)(2)(iv) requires manufacturers to identify the manufacturer of the

component that contains the defect or noncompliance if the component was manufactured by a different manufacturer. In such a case, the reporting manufacturer must identify the component and the manufacturer of the component by name, business address, and business telephone number.

#### *C. Scope of This Rulemaking*

The TREAD Act requires NHTSA periodically to review the EWR rule. 49 U.S.C. 30166(m)(5). In previous EWR rulemakings, the agency indicated that we would begin a review of the EWR rule after two full years of reporting experience. After we gained two full years of reporting experience, we commenced our evaluation.

NHTSA is evaluating the EWR rule in two phases. The first phase covered definitional issues and culminated in the final rule published on May 29, 2007. 72 FR 29435. Today's proposed rule is the culmination of the second phase of our evaluation.

Today's proposed rule is limited in scope to the amendments to the EWR requirements and the part 573 notification requirements proposed in this NPRM, as well as logical outgrowths of the proposal. Excluding the proposed changes noted above in the summary section, NHTSA intends to leave the remaining current EWR regulations and part 573 regulations unchanged.

### **III. Discussion**

#### *A. Statutory Background on Early Warning and Notification Requirements*

Under the early warning reporting requirements of the TREAD Act, NHTSA is required to issue a rule establishing reporting requirements for manufacturers of motor vehicles and motor vehicle equipment to enhance the agency's ability to carry out the provisions of Chapter 301 of Title 49, United States Code, which is commonly referred to as the National Traffic and Motor Vehicle Safety Act or Safety Act. 49 U.S.C. 30166(m)(1), (2). Under one subsection of the early warning provisions, NHTSA is to require reports of information in the manufacturers' possession to the extent that such information may assist in the identification of safety-related defects and which concern, *inter alia*, data on claims for deaths and aggregate statistical data on property damage. 49 U.S.C. 30166(m)(3)(A)(i); *see also* 49 U.S.C. 30166(m)(3)(C). Another subsection authorizes the agency to require manufacturers to report information that may assist in the

identification of safety defects. Specifically, section 30166(m)(3)(B) states:

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.

This subsection conveys substantial authority and discretion to the agency. Most EWR data, with the exception of information on deaths and property damage claims, is reported under regulations authorized by this provision.

The agency's discretion is not unfettered. NHTSA may not impose undue burdens upon manufacturers, taking into account the cost incurred by manufacturers to report EWR data and the agency's ability to use the EWR data meaningfully to assist in the identification of safety defects. More specifically, 49 U.S.C. 30166(m)(4)(D) provides:

(D) Burdensome requirements.—In promulgating the final rule under paragraph (1), the Secretary shall not impose requirements unduly burdensome to a manufacturer of a motor vehicle or motor vehicle equipment, taking into account the manufacturer's cost of complying with such requirements and the Secretary's ability to use the information sought in a meaningful manner to assist in the identification of defects related to motor vehicle safety.

The Safety Act also requires manufacturers of motor vehicles or items of motor vehicle equipment to notify NHTSA and owners and purchasers of the vehicle or equipment if the manufacturer determines that a motor vehicle or item of motor vehicle equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard. 49 U.S.C. 30118(b) & (c). Manufacturers must provide notification pursuant to the procedures set forth in section 30119 of the Safety Act. Section 30119 sets forth the contents of the notification, which includes a clear description of the defect or noncompliance, the timing of the notification, means of providing notification and when a second notification is required. 49 U.S.C. 30119. Subsection (a) of section 30119 confers considerable authority and discretion to NHTSA, by rulemaking, to require additional information in manufacturers' notifications. *See* 49 U.S.C. 30119(a)(7).

### *B. Matters Considered in Setting Thresholds for Early Warning Reporting*

As part of our evaluation of the reporting thresholds for comprehensive reporting under the EWR rule, the agency is endeavoring to ensure that it collects a body of information that may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment. We are also considering the burden on manufacturers. In view of our authority, stated in the statute in broad terms, to require reporting of information to the extent that such information may assist in the identification of defects related to motor vehicle safety, we do not believe that it is necessary or appropriate to identify a prescriptive list of factors for delineating a reporting threshold. Nonetheless, based on our experience, the following considerations, among other things, have been identified as relevant to evaluating whether EWR information assists or would assist in the identification of safety-related defects:

- The number of manufacturers in a particular class of vehicles or equipment.
- The proportion of manufacturers reporting in a particular class of vehicles or equipment.
- The number of vehicles or items of equipment at issue.
- Whether the vehicles carry large numbers of people.
- The safety risks attendant to a particular class of motor vehicles.
- The nature/amount of EWR data that the manufacturers have reported or would report.
- Whether the EWR data have been useful or may be useful in opening investigations into potential safety related defects and whether those investigations have resulted or may result in recalls.
- The effect that the reduction and or addition of EWR data would have on the quantity and quality of the data and ODI's ability to open investigations and identify possible safety-related defects.
- ODI's ability to monitor a group of vehicles and identify possible defects without EWR data.
- The burden on manufacturers.
- The burden on NHTSA.

We emphasize that the general approach of the EWR program is to collect very large amounts of data on numerous systems and components in a very wide range and volume of vehicles and, to a lesser degree, equipment, and for the agency to then systematically review information, with the end result being the identification of a relatively small number of potential safety

problems, compared to the amount of data collected and reviewed. These data are considered along with other information collected by and available to the agency in deciding whether to open investigations.

After extensive review of the EWR data currently collected, today's proposal would reduce overall the number of manufacturers that must provide comprehensive EWR submissions. The amount and usefulness of data that would no longer be required to be submitted would not be significant to NHTSA in assisting in the identification of safety related defects. Our proposal follows.

### *C. Light Vehicles*

The EWR regulation requires light vehicle manufacturers that produce 500 or more vehicles per year to provide quarterly EWR reports to NHTSA. 49 CFR 579.21. Light vehicle manufacturers that produce fewer than 500 vehicles are not required to provide quarterly reports to NHTSA, but must provide information related to a claim or notice alleging a death received by the manufacturer. 49 CFR 579.27.

The light vehicle EWR reporting sector includes about 60 manufacturers. These companies submit an immense amount of EWR data to NHTSA every quarter. For instance, in the third quarter of 2007, they submitted EWR data reflecting approximately 2,300 property damage claims, 11.7 million warranty claims, 600,000 consumer complaints and 395,000 field reports<sup>2</sup> on 169 million light vehicles. In general, these data consist of numerical tallies (aggregate data) for specified components and systems on light vehicles. In light of the large number of distinct models (products) and the number of reporting subcategories (see 49 CFR 579.21(b)(2), (c)),<sup>3</sup> the light vehicle data consist of over 200,000 potential product-components (the number of distinct models reported by light vehicle manufacturers multiplied

<sup>2</sup> A field report is defined as 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 an entity known to the manufacturer as owning or operating a fleet, to the 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 for sale by that manufacturer and transported beyond the direct control of the manufacturer, regardless of whether verified or assessed to be lacking in merit, but does not include any document covered by the attorney-client privilege or the work product exclusion. See 49 CFR 579.4.

<sup>3</sup> See footnote 1 for a list of vehicle components or systems that light vehicle manufacturers must report on.

by the number of components for which reporting is required in the EWR light vehicle category). In addition to the large amount of aggregate data, light vehicle manufacturers submitted approximately 20,000 copies of field reports in the third quarter of 2007. Also in the third quarter of 2007, the agency received information on approximately 1,100 death and injury incidents, which consist of specific information for each incident, including the number of deaths and/or injuries, the state or foreign country where the incident occurred and the specified components, if any.

NHTSA employs several methods to identify potential concerns in the data. For example, for the aggregate information, ODI undertakes data mining and trend analysis to search for outliers and trends in the data. Outliers usually relate to specific product-components for which there may be a spike in the EWR data within a particular model and quarter. Trend analysis looks at the EWR data over time, such as the historical frequency, the amount of variation in data, current trend and anticipated future values. For the death and injury information, ODI compares the current quarter data to previous quarters of data on incidents involving a death or injury. For the copies of field reports, ODI manually reviews the field reports to identify those related to potential safety concerns. If any of the EWR data raise a potential concern, ODI then reviews other information sources such as other EWR data, recalls, complaints/Vehicle Owner Questionnaires (VOQs), technical service bulletins, Web-based technical sources, and other information sources that may be available. ODI may also send an information request to a manufacturer for additional information related to the manufacturer's EWR data. Based on the agency's assessment of the potential presence of a safety-related defect, ODI may then open an investigation.

Since the first quarter of EWR reporting, EWR light vehicle data has assisted or prompted 48 ODI investigations into potential safety defects in light vehicles, with the aggregate data or field reports (non-dealer) data sets most often providing the more useful information. Overall, these investigations resulted in 30 recalls involving more than 15 million units. A few of the investigations resulted in more than one recall. Many investigations ODI initiated in 2007 and 2008 are ongoing so there is a potential for the number of recalls based on investigations prompted or assisted by EWR data to increase.

In general, light vehicle manufacturers that produce a significant volume of vehicles submit substantial amounts of EWR data. On the other hand, light vehicle manufacturers that produce relatively small numbers of vehicles, albeit at or above the 500 or more vehicles annually, generally do not submit much EWR information per quarter. This appears to be related to their relatively low production volumes. These relatively low-volume light vehicle manufacturers' EWR reports on various components or systems not uncommonly amount to zero (0) or one (1) complaint, claim or field report for a particular model. In contrast, larger light vehicle manufacturers provide reports with far more and larger numbers.

As NHTSA has observed in the past, the more robust the EWR data base, the better NHTSA is able to identify changes in trends or otherwise identify potential hazards. In contrast, the limited amount of EWR data from the relatively small light vehicle manufacturers is of little, if any, assistance to ODI in detecting potential safety-related defects. For example, a small light vehicle manufacturer contains zero (0) property damage claims for a particular product-component in a reporting quarter, then one (1) property damage claim the next quarter, followed by several quarters of zero (0) property damage claims. Using available methodologies, ODI cannot decipher possible trends that may be indicative of defects. ODI's reviews of the EWR submissions from the smaller-volume light vehicle manufacturers have not been productive in assisting it in identifying possible safety-related defects in light vehicles.

NHTSA considered a reporting threshold level higher than 500 or more vehicles annually when the EWR rule was adopted. In the July 2002 rule, we considered and rejected comments from industry that NHTSA set the threshold for triggering quarterly EWR reporting at 2,500 or 10,000 vehicles annually. 67 FR 45832. At that time, the agency stated that "if experience shows that we do not get valuable information from relatively small vehicle manufacturers, we can and will adjust the threshold in the future." *Id.*

A year and one-half later, the agency again addressed the threshold level for EWR reporting. On January 23, 2004, NHTSA published a **Federal Register** notice denying petitions for reconsideration from the following industry associations: The National Association of Trailer Manufacturers (NATM), the National Truck Equipment Association (NTEA) and the

Recreational Vehicle Industry Association (RVIA). 69 FR 3292. These industry associations petitioned the agency to raise the 500 annual vehicle production threshold for comprehensive EWR reporting, with NTEA and RVIA recommending 5,000 vehicles per year as the appropriate threshold. While we rejected raising the threshold at that time, we stated that "if we find that the information submitted by relatively small vehicle manufacturers does not help in the prompt identification of safety defects, we will commence a rulemaking proceeding to adjust the reporting requirements appropriately." <sup>4</sup> 69 FR 3297.

We tentatively believe that NHTSA's experience in reviewing 4 years of EWR reports provides a sufficient basis for adjustment of certain EWR reporting thresholds. Nonetheless, we are proceeding with some caution, as the agency should not act in a way that would meaningfully limit the agency's capabilities.

We are proposing to raise the reporting threshold for light vehicle manufacturers in 49 CFR 579.21 to 5,000 vehicles per year from 500 vehicles per year. This would reduce the number of reporting manufacturers from 60 to 30.

Only three-tenths of one percent (0.3%) of all light vehicles are produced by manufacturers that make fewer than 5,000 vehicles annually. Almost all of the light vehicle EWR data is submitted by manufacturers producing 5,000 or more vehicles annually. In the third quarter of 2007, manufacturers producing fewer than 5,000 vehicles annually reported only 0.2% (19,224 data points) of the total aggregate data in the third quarter of 2007.

Furthermore, manufacturers that produce fewer than 5,000 light vehicles annually do not submit large numbers of copies of non-dealer field reports.<sup>5</sup> Only two small volume light vehicle manufacturers have submitted copies of field reports. In 15 quarters of EWR reporting, these two manufacturers submitted a total of 61 copies of field reports. The information in these reports has not been used to identify a safety-related concern. In contrast, larger-volume light vehicle manufacturers

submit hundreds or thousands of copies of field reports per quarter.

Over the past five (5) years, the vast majority of all safety-related light vehicle recalls have been conducted by manufacturers producing 5,000 or more vehicles annually. Between January 2003 and January 2008, there were a total of 646 light vehicle recalls. Of these recalls, 93 percent involved manufacturers producing 5,000 or more vehicles annually. More significantly, none of the EWR data submitted by light vehicle manufacturers that produce fewer than 5,000 vehicles annually prompted an investigation leading to one of these recalls. In fact, all of the ODI light vehicle investigations that were influenced by EWR data involved vehicles from manufacturers that produced 5,000 or more light vehicles annually. In the past five years, only two recalls pertaining to manufacturers that produce fewer than 5,000 light vehicles annually were influenced by ODI. These two recalls involved vehicles where ODI had information other than EWR data to prompt its investigations. One such recall involved handicap accessible vans in which the wheelchair securement retractor assemblies can fail resulting in the securement system not supporting the wheelchair in a crash (NHTSA Recall No. 04V-589). The other recall involved vans with Sure-lok wheelchair securement systems that can fail resulting in injuries to the wheelchair occupant because the wheelchair may not be adequately secured in a crash (NHTSA Recall No. 06V075).

If the proposed production reporting threshold of 5,000 or more vehicles is adopted, approximately 30 light vehicle manufacturers would no longer have to submit quarterly EWR reports. As noted above, the EWR data submitted by the relatively small volume light vehicle manufacturers is limited and has not yielded any assistance in the prompt identification of potential safety defects. Thus, ODI would lose very little data that would appear to be helpful to the program.

Even though 30 light vehicle manufacturers will no longer report EWR data quarterly, NHTSA will still have an ability to monitor the vehicles made by these relatively small volume manufacturers for potential safety concerns. Those manufacturers under the proposed threshold will still be required to report information related to a death in a claim or a notice received by the manufacturer. NHTSA will also continue to receive the traditional screening information on these vehicles, such as VOQs. In the light vehicle category, NHTSA receives substantially

<sup>4</sup> In late 2005 and early 2006, the Alliance of Automobile Manufacturers, National Truck Equipment Association and Truck Manufacturers Association all requested to have the vehicle reporting threshold raised to 5,000 units annually.

<sup>5</sup> Manufacturers are required to submit the number of product evaluation reports in their quarterly EWR reports, but are no longer required to submit hard copies of them to NHTSA. 72 FR 29435, 29437.

more VOQs from owners of light vehicles than any other industry sector in EWR.

Raising the reporting threshold would also have the effect of reducing the EWR reporting burden on light vehicle manufacturers that currently produce 500 or more vehicles, but fewer than 5,000 vehicles annually. These manufacturers would no longer incur the costs associated with collecting and reporting comprehensive quarterly reports to NHTSA.

Based upon the foregoing, we propose to amend 49 CFR 579.21 to raise the reporting threshold for light vehicle manufacturers from its current level of 500 or more vehicles produced annually to 5,000 or more vehicles produced annually. We seek comment on this proposed revised reporting threshold.

#### D. Trailers

The EWR regulation requires trailer manufacturers that produce 500 or more trailers annually to submit quarterly EWR reports to NHTSA. 49 CFR 579.24. Trailer manufacturers that produce fewer than 500 vehicles are not required to provide quarterly reports to NHTSA, but must provide information related to a claim or notice alleging a death received by the manufacturer. 49 CFR 579.27.

Under the EWR rule, the agency receives a large amount of data related to trailers every quarter. Approximately 250 trailer manufacturers submit quarterly EWR reports to NHTSA. For the third quarter of 2007, trailer manufacturers submitted approximately 180 property damage claims, 51,000 warranty claims, 5,000 consumer complaints and 1,000 field reports on 14 million trailers. With a large number of distinct models, the trailer category consists of over 1,800,000 potential product-components (the number of distinct models reported by trailer manufacturers multiplied by the number of components in EWR). In contrast to the large amount of electronic data submitted, trailer manufacturers provide limited data on deaths and injuries and copies of non-dealer field reports. The agency received approximately six (6) death and injury incidents and twenty (20) copies of non-dealer field reports for the third quarter of 2007.

In order to review and analyze the EWR trailer data, ODI employs the same methods used to identify potential concerns in the light vehicle data. Like the EWR light vehicle data, the EWR trailer data is limited to the information in the possession of the manufacturer, which is then submitted to NHTSA. Smaller volume trailer manufacturers

submit less data than the larger volume trailer manufacturers. Manufacturers that produce lower volumes of trailers generally do not collect much reportable EWR information per quarter. As a result of the limited amount of data they receive, the smaller manufacturers' EWR reports are mostly devoid of EWR data.

The lack of data prevents several challenges to ODI. Without the ability to statistically analyze such meager data in a meaningful way, the EWR data from the smaller trailer manufacturers must be reviewed manually. These reviews have not produced much in the way of assistance in the identification of any safety concerns with these smaller trailer manufacturers. Based upon the foregoing, we are proposing to raise the reporting threshold for the trailer category to 5,000 or more vehicles produced annually to ensure that our resources are used efficiently.

As we discussed III.C above, a threshold level higher than 500 or more vehicles annually has been considered before by NHTSA. The January 2004 rulemaking considered raising the trailer category reporting threshold to 5,000 or more trailers annually. In late 2006, NATM requested that the trailer category reporting threshold be raised to 5,000 or more trailers produced annually. With trailers, our experience with four (4) full years of EWR reporting has shown that the EWR data provided by the relatively small volume trailer manufacturers has not yielded any assistance in the prompt identification of safety defects. Based upon this, we are proposing to raise the reporting threshold for the trailer category to the requested 5,000 or more trailers produced annually.

While we propose to raise the threshold for the trailer category to 5,000 or more trailers annually, we do not believe this elevated threshold will result in a meaningful reduction of EWR trailer data. Although raising the threshold for the trailer category to 5,000 eliminates 190 trailer manufacturers from quarterly EWR reporting, our analysis indicates that the majority of the EWR trailer data that can be consistently analyzed is data submitted by trailer manufacturers producing 5,000 or more trailers. Trailer manufacturers producing 5,000 or more trailers account for nearly 80% of all trailer production volume. The majority of the aggregate trailer EWR data is also submitted by large volume trailer manufacturers. Trailer manufacturers producing 5,000 or more trailers annually submit 70% of the aggregate trailer data. Additionally, compared to the other vehicles types, trailers manufacturers submit very few copies of

non-dealer field reports. In total, trailer manufacturers have submitted 549 non-dealer field reports in fifteen (15) EWR quarters. Only 30% of non-dealer field reports have been submitted by manufacturers that produce fewer than 5,000 trailers a year. The majority of these field reports deal with non-safety issues such as: Paint issues, rusty rivets, and non-structural sheet-metal cracks.

While the potential reduction in EWR trailer production and aggregate data appear to be greater when compared to the light vehicle category, we do not believe that raising the trailer category reporting threshold will reduce our ability to identify safety related concerns with the EWR trailer data. This is based upon the type of EWR submissions that will be eliminated from EWR reporting by raising the threshold. While trailer manufacturers that produce fewer than 5,000 trailers annually submit 30% of the aggregate data, our analysis of these data indicates that the aggregate data are sparsely populated and lack consistency. With trailer manufacturers, this is due in large part to the way the smaller trailer manufacturers operate their businesses. Smaller volume manufacturers often produce numerous trailer models with small production runs. As a result, the aggregate data submitted for these models have many product-component fields with zeros (0) or ones (1) (in other words there are zero or very few claims of any kind related to these particular trailers). This limited amount of product-component information is insufficient to establish a trend that would provide an early warning of a potential safety concern. As a result, these EWR data are of limited use to ODI as part of its efforts to analyze the EWR data for potential safety issues with smaller trailer manufacturers.

Our analysis of EWR trailer data indicates that when ODI did identify a potential safety concern, with one exception, it always concerned a trailer manufacturer with annual production of 5,000 or more trailers. Our analysis found that 80% of potential safety concerns were contained within the EWR data supplied by those manufacturers that produce 5,000 or more trailers annually. For example, in the third quarter of 2006, there were five (5) potential safety concerns identified by ODI, with four (4) associated with manufacturers with an annual production level 5,000 or more. We identified one potential safety concern within the EWR data provided by trailer manufacturers producing between 2,500 and 4,999 trailers. We did not identify any concerns in the EWR data submitted by manufacturers producing fewer than

2,500 trailers. Ultimately, the concerns identified did not result in ODI opening a defects investigation.

Our analysis of EWR trailer data for the last five (5) years of reporting indicates, on the one hand, that the EWR data for trailer manufacturers producing fewer than 5,000 trailers are insufficient to yield data that are likely to lead to ODI opening a defects investigation. On the other hand, it appears that ODI's traditional screening tools have proven effective at identifying safety concerns in the smaller volume trailer category and leading to a defects investigation. Over the past five (5) years, EWR data submitted by trailer manufacturers producing fewer than 5,000 trailers annually have not influenced any ODI investigations. From January 2003 through January 2008, there were 421 trailer recalls. Almost 40 percent (160) of those recalls were conducted by trailer manufacturers that produce more than 5,000 trailers per year. There were 121 trailer recalls conducted by trailer manufacturers that produce fewer than 5,000 trailers per year. Of the 121 trailer recalls conducted by trailer manufacturers producing fewer than 5,000 trailers, 43 of those recalls were influenced by ODI.

If the proposed reporting threshold were adopted, approximately 190 trailer manufacturers (72% of trailer manufacturers) would no longer have to submit quarterly EWR reports. As noted above, ODI would lose some EWR data, but the EWR trailer data that provide detailed, usable information on safety concerns will continue to be submitted by manufacturers that produce 5,000 or more trailers annually. Even though some trailer manufacturers would no longer submit quarterly reports, ODI will still have the ability to monitor trailers manufactured by small volume manufacturers for potential safety concerns. Those manufacturers who produce fewer than 5,000 trailers per year will be required to continue to report information related to a death and any associated injuries. ODI will also continue to receive the traditional investigative screening information on these trailers, such as technical service bulletins.

Raising the reporting threshold would also have the effect of reducing the EWR reporting burden on scores of trailer manufacturers that currently produce 500 or more vehicles, but fewer than 5,000 vehicles. These manufacturers will no longer have the costs associated with collecting and reporting comprehensive quarterly reports to NHTSA, without compromising

NHTSA's ability to detect potential safety concerns.

Based upon the foregoing, we propose to amend 49 CFR 579.24 to raise the reporting threshold for trailer manufacturers from its current level of 500 or more trailers annually to 5,000 or more trailers annually. We seek comment on our proposal to raise the reporting threshold for trailer manufacturers.

#### *E. Buses*

The EWR regulation requires medium-heavy vehicle and bus manufacturers that produce 500 or more units annually to submit quarterly EWR reports to NHTSA. 49 CFR 579.22. Currently, there are approximately 25 bus manufacturers submitting quarterly EWR reports to NHTSA. For the third quarter of 2007, bus manufacturers submitted, for the aggregate data, approximately 25 property damage claims, 290,000 warranty claims, 3,000 consumer complaints and 10,400 field reports on 800,000 buses. They also submitted 645 copies of field reports.

In our view, there is a significant need to amend the threshold level of reporting for manufacturers of buses. Buses—whether school buses, transit buses, or motorcoaches—have a unique character compared to other vehicles. These vehicles carry more occupants than other vehicle types, which means that safety risks on a per-vehicle basis are potentially greater with regard to buses. One crash involving a bus may result in multiple fatalities and injuries. Because of the potential for increased fatalities and injuries from bus crashes, NHTSA has reconsidered how it views buses within the EWR framework.

Today, we propose to eliminate the reporting threshold for buses because of the potential for multiple fatalities and injuries from a single crash. In our view, the safety consequences surrounding a single bus crash increase the urgency of identifying safety concerns at the earliest time possible. We believe that in the case of buses it is paramount to ensure that any potential safety issue relating to these vehicles is detected at an early stage. Several bus crashes over the last few years have led us to reconsider the importance of creating a special status for bus manufacturers in EWR, much like we treat manufacturers of child restraints (all manufacturers of child restraints must submit quarterly EWR reports to NHTSA, regardless of annual production). Some of the recent bus crashes that have caused us to rethink the status of bus manufacturers for the purposes of EWR reporting are:

- On April 18, 2005, a school bus crash in Arlington, Virginia resulted in

one (1) fatality and fourteen (14) injuries.

- On September 23, 2005, a motor coach bus carrying nursing home residents fleeing from Hurricane Rita caught fire outside Dallas, Texas resulting in twenty-three (23) fatalities.

- On November 20, 2006, a school bus crash in Huntsville, Alabama resulted in four (4) fatalities and 34 injuries.

- On March 2, 2007, a charter bus plunged from an overpass in Atlanta, Georgia resulting in seven (7) fatalities and twenty-eight (28) injuries.

- On February 19, 2008, four (4) students were killed and fourteen (14) injured in a school bus crash in Minnesota.

- On February 24, 2008, a motor coach traveling north of Scranton, Pennsylvania crashed and flipped over injuring 40 people.

While we do not assert or even imply that bus manufacturers were responsible for any of these crashes or that manufacturing or design defects played a causal role, we do believe that they demonstrate the scale of the consequences that could occur should a defect cause a crash. As a result, we believe that universal reporting by bus manufacturers will provide the agency with information that may identify safety concerns at an early stage to prevent future crashes.

We believe that the potential scale of the per-vehicle risk outweighs the potential for limited EWR data from the smaller bus manufacturers. As we have done in evaluating the thresholds for all vehicle categories, we carefully considered factors such as the likelihood of capturing data that will be useful in opening investigations in to safety defects and the safety risks associated with buses, balanced against the industry's burden of submitting the data and the agency's burden of reviewing the data. The risk to motor vehicle safety presented by just one bus crash warrants the collection and analysis of comprehensive EWR data from all bus manufacturers.

The need to eliminate the threshold for buses is illustrated by the number of recalls conducted in the last (5) years by bus manufacturers that produce fewer than 500 buses annually. Since 2003, there have been a total of 352 recalls totaling nearly one (1) million buses, regardless of production by the manufacturer. Bus manufacturers that produce fewer than 500 buses annually conducted 39 recalls in the same period for a total of nearly 8,000 buses. On average, 1,600 buses are recalled annually by manufacturers that produce fewer than 500 buses annually. Because



each bus transports a sizeable number of passengers, the impact of 1,600 buses could potentially affect ten of thousands of passengers per year. Without comprehensive early warning reports from bus manufacturers that produce fewer than 500 buses annually, ODI does not have data to promptly identify possible safety defects in buses produced by these low production bus manufacturers even though those vehicles transport large numbers of passengers annually. Some of the ODI's traditional sources of information are lacking in the area of buses. For example, vehicle owner complaints, which are a vital source of information on light vehicles, are a rarity in the bus area. Given the magnitude of the potential harm that could result in just one bus crash, we believe eliminating the threshold for buses would allow ODI to identify potential problems that may have escaped its consideration since the inception of EWR reporting.

We estimate that there are seventeen (17) additional bus manufacturers that would be required to report comprehensive EWR data to NHTSA under this proposal. We estimate that the costs for each additional bus manufacturer would include a one-time start-up cost of approximately \$3,500 and an annual reporting cost of approximately \$13,000. Considering the safety consequences associated with a crash involving a vehicle transporting large numbers of individuals and the likelihood that NHTSA may receive early warning information even from these small manufacturers that may help prevent such crashes, this burden on bus manufacturers does not appear to be unduly burdensome. As discussed further in section VII.B, below, eleven (11) of these bus manufacturers are considered small businesses according to criteria used for analysis under the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.* For the reasons explained in that section, we do not believe that this burden will be a significant economic impact on these bus manufacturers.

Based upon the foregoing, we propose to amend 49 CFR 579.22 to eliminate the current reporting threshold for bus manufacturers that produce 500 or more buses annually. We are also proposing that for those manufacturers that produce both buses and medium-heavy vehicles, the reporting threshold will be separate. Thus, a manufacturer who produces both buses and medium heavy vehicles does not have to also submit quarterly EWR reports for its medium-heavy vehicles until it produces 500 or more medium-heavy vehicles annually.

We seek comment on our proposal to require universal reporting by bus manufacturers.

#### *F. Medium-Heavy Vehicles and Motorcycles*

The EWR regulation requires medium-heavy vehicle manufacturers and motorcycle manufacturers that produce 500 or more units annually to submit quarterly EWR reports to NHTSA. 49 CFR 579.22, 23. For these medium-heavy vehicles (other than buses) and motorcycle manufacturers, we have decided to keep threshold level for reporting at 500 or more units annually. We discuss our reasons for leaving the threshold level for reporting unchanged below.

##### 1. Medium-Heavy Vehicles

The EWR regulation requires medium-heavy vehicle and bus manufacturers that produce 500 or more units annually to submit quarterly EWR reports to NHTSA. 49 CFR 579.22. The types of vehicles that report under this category include emergency vehicles, recreational vehicles, trucks and tractors.<sup>6</sup> In a January 2006 letter, the Truck Manufacturers Association (TMA) requested that the agency raise the EWR reporting threshold for medium-heavy vehicles from 500 or more to 5,000 or more vehicles annually. In response to TMA's request, we considered raising the threshold for medium-heavy vehicle manufacturers from 500 or more units annually to various annual production levels, such as 1,000, 2,500, and 5,000 units annually. However, we have decided to leave the current threshold for these manufacturers unchanged based upon a combination of factors, such as, the proportion of manufacturers that would no longer have to report, the proportion of vehicles that would no longer be subject to reporting and the effect that the reduction of EWR data would have on ODI's ability to determine whether to open investigations and identify possible safety-related defects. We discuss these reasons below.

Approximately 65 emergency vehicle, recreational vehicle, truck, and tractor manufacturers now submit quarterly EWR reports to NHTSA. For the third quarter of 2007, these manufacturers submitted approximately 95 property damage claims, 395,000 warranty claims, 16,000 consumer complaints

<sup>6</sup> For medium-heavy vehicle and bus category, vehicle type means: Truck, tractor, transit bus, school bus, coach, recreational vehicle, emergency vehicle or other. While buses are included within this category, they have been addressed previously in section E of this notice and are not included in the following discussion. 49 CFR 579.4.

and 19,000 field reports on 6 million vehicles. These vehicle manufacturers report data on approximately 400,000 potential products-components (the number of distinct models reported by these manufacturers multiplied by the number of components in EWR). In addition to the large amount of aggregate data submitted for the third quarter of 2007, these manufacturers reported approximately 40 death and injury incidents and provided two thousand (2,000) copies of non-dealer field reports.

If we were to raise the threshold for reporting quarterly reports from 500 or more to 1,000, 2,500, 5,000 or more medium-heavy vehicles annually, a significant number of medium-heavy vehicle manufacturers would no longer be required to provide quarterly early warning reports. At a threshold level of 1,000 or more vehicles annually, 50 percent of emergency vehicle, 26 percent of recreational vehicle, and 34 percent of truck manufacturers would not be required to submit comprehensive quarterly EWR reports. At a threshold level of 2,500, 63 percent of emergency vehicle, 47 percent of recreational vehicle, and 57 percent of truck manufacturers would not be required to submit comprehensive quarterly EWR reports. At a threshold level of 5,000 or more vehicles annually, 75 percent of emergency vehicle, 58 percent of recreational vehicle, 74 percent of truck, and seventeen (17) percent of tractor manufacturers would not be required to submit comprehensive quarterly EWR reports.

If we were to raise the reporting threshold for reporting quarterly reports from 500 or more to 1,000, 2,500, 5,000 or more medium-heavy vehicles annually, ODI would not receive quarterly EWR data on a significant amount of medium-heavy vehicle production. At a threshold level of 1,000 or more vehicles annually, 55 percent of all emergency vehicles produced, four (4) percent of all recreational vehicles produced and four (4) percent of all trucks produced would be eliminated from the requirement of comprehensive quarterly EWR reporting. At a threshold level of 2,500 or more vehicles annually, 84 percent of all emergency vehicles produced, sixteen (16) percent of recreational vehicles produced and nine (9) percent of all trucks produced would be eliminated from the requirements of comprehensive quarterly EWR reporting. At a threshold level of 5,000 or more vehicles annually, 84 percent of all emergency vehicles produced, 28 percent of recreational vehicles produced and twenty-three (23) percent of all trucks produced would be

eliminated from the requirements of quarterly EWR reporting.

The elimination of manufacturers and vehicles from the medium-heavy reporting category would severely impact the quantity of EWR data that ODI receives and utilizes in identifying potential safety-related defects. The reduction of data is most severe in the aggregate data for the medium-heavy category. If we were to raise the threshold to 1,000 or more medium-heavy vehicles annually, there would be a reduction in the aggregate data of 33 percent for emergency vehicles, five (5) percent for recreational vehicles and four (4) percent for trucks. If we were to raise the threshold to 2,500 or more medium-heavy vehicles annually, there would be a reduction in the aggregate data of 54 percent for emergency vehicles, twenty-three (23) percent for recreational vehicles and seven (7) percent for trucks. If we were to raise the threshold to 5,000 or more medium-heavy vehicles annually, there would be a reduction in the aggregate data of 54 percent for emergency vehicles, 30 percent for recreational vehicles and thirteen (13) percent for trucks.

The recent recall history of medium-heavy vehicles details the detrimental impact the reduction of EWR data would have on ODI's ability to identify potential safety recalls. For the time period of January 2003 through July 2007, there were 656 medium and heavy vehicle safety recalls (applicable to codes for recreational vehicles (RV), emergency vehicles (EV), trucks (TK) tractors (TT) and "other" (OT)). Slightly more than half (330) of those recalls were conducted by manufacturers producing 5,000 or more vehicles annually. The remaining 326 recalls were conducted by manufacturers producing fewer than 5,000 vehicles annually. ODI influenced 82 of the 656 recalls. Of the recalls influenced by ODI, more than half (50) involved manufacturers producing fewer than 5,000 vehicles annually. Many of the recalls conducted by medium-heavy vehicle manufacturers that produce fewer than 5,000 vehicles annually involved serious safety issues. The following are illustrative of recalls conducted by medium-heavy vehicle manufacturers during the past several years:

- Recall No. 03V-035, in which a 250 amp ground fuse became overloaded and was replaced with a 350 amp fuse.
- Recall No. 03V-224, in which an incorrect seat belt anchor was replaced.
- Recall No. 03V-465, in which a defective microwave oven could automatically activate and result in a fire.

- Recall No. 04V-491, in which a diode in the ABS module may experience a short resulting in a fire.
- Recall No. 05V-262, in which a positive battery cable shorts on the frame resulting in a fire.
- Recall No. 05V-334, in which non-conforming castings in the suspension may have fractured and failed under normal operating loads that could result in pieces of the casting becoming projectiles and the suspension's transverse beam dropping down low enough to contact the road surface, causing sparks that could potentially ignite a fire.
- Recall No. 06V-107, in which equipment compartment doors become stuck on emergency vehicle preventing access to equipment during an emergency.
- Recall No. 06V-157, in which an auto belt tensioner fails resulting in a stalled vehicle.

If we were to raise the threshold for medium-heavy vehicle manufacturers to 5,000 or more vehicles annually, we would not receive timely early warning information about these types of safety problems on a significant number of vehicles.

The importance of the receipt of quarterly EWR data from medium-heavy vehicle manufacturers is underscored when compared to the limited data that ODI has historically received from other sources in connection with medium-heavy vehicles. For example, for light vehicles, the agency relies upon, among other things, owner complaints to identify a problem that may be safety related. Over the last five years, ODI has received, on average, 40,000 owner complaints annually from all sources on all types of motor vehicles. Of these, an extremely low number relate to medium-heavy vehicles. For the period from December 1, 2007 through May 18, 2008, ODI received only 237 complaints related to medium-heavy vehicles. Broken down by vehicle type, those complaints are 173 (73%) recreational vehicles, 43 (18%) trucks, and twenty-one (21) (9%) tractors. ODI's lack of data can hamper its ability to identify defects in a timely manner in this population of vehicles. Because field information is difficult to obtain, the EWR data has become an increasing resource for screening for safety-related defect trends and supplements the meager complaint data. Thus, in our view, any reduction in medium-heavy vehicle EWR data would be a severe detriment to ODI's mission to identify safety-related defects.

Based upon the foregoing, we have decided to keep the reporting threshold for the medium-heavy category at 500 or

more vehicles annually. If we were to raise the threshold to a level greater than 5,000 or more vehicles annually, significant reductions in the proportion of manufacturers reporting and vehicles subject to reporting would occur, resulting in a significant loss of EWR data. This reduction is further compounded by the limited data related to medium-heavy vehicles that ODI receives from other sources. We believe this loss of data would detrimentally impact ODI's ability to identify safety-related defects. Accordingly, we have decided not to raise the threshold for the medium-heavy vehicle category.

## 2. Motorcycles

The EWR regulation requires motorcycle manufacturers that produce 500 or more units annually to submit quarterly EWR reports to NHTSA. 49 CFR 579.23. We considered raising the threshold for motorcycle manufacturers from 500 to 5,000 units annually. However, we have decided to leave the current threshold for motorcycle manufacturers unchanged based upon a combination of factors, such as, the proportion of manufacturers that would no longer have to report, the proportion of motorcycles that would no longer be subject to reporting, the effect that the reduction of EWR data would have on ODI's ability to determine when to open investigations and identify possible safety-related defects, and the safety risks attendant to motorcycles. We discuss these reasons below.

If we were to raise the threshold for reporting quarterly reports from 500 or more to 5,000 or more motorcycles annually, the agency would lose nearly 40 percent of motorcycle manufacturers currently providing quarterly EWR reports. Currently, twenty-one (21) motorcycle manufacturers provide comprehensive quarterly reports to NHTSA pursuant to section 579.23. Raising the threshold to 5,000 or more motorcycles would eliminate eight (8) motorcycle manufacturers from the requirement to submit quarterly reports. If those eight (8) manufacturers did not submit quarterly reports, the agency would not receive quarterly EWR data on approximately 15,000 motorcycles per year.<sup>7</sup> In our view, combined with the safety risks attendant to motorcycles, as discussed below, the loss of data on thousands of motorcycles would have a detrimental effect on ODI's ability to determine when to open

<sup>7</sup>The eight (8) manufacturers would still be required to submit information on incidents involving a death pursuant to 49 CFR 579.27.

investigations and identify possible safety-related defects.

The recent recall history of manufacturers producing fewer than 5,000 motorcycles annually offers some insight into the potential detrimental effect that raising the threshold would have on ODI's ability to identify safety concerns. Since 2002, manufacturers that produce fewer than 5,000 motorcycles annually have conducted a total of twenty-two (22) recalls, or nearly ten (10) percent of all motorcycle recalls in that time period, with a combined population of 60,000 motorcycles. Many of these recalls involved serious safety issues. The following are illustrative of recalls by these motorcycle manufacturers during the past several years:

- Recall No. 04V-523, in which there was an unintended kick stand deployment from a broken return spring mount.
- Recall No. 05V-199, in which a rear suspension failure occurred due to a broken shock absorber mount.
- Recall No. 07V-460, in which fuel leaks lead to fire incidents.
- Recall No. 07V-580, in which a rear fender detachment resulted from broken hardware.
- Recall No. 03V-521, in which a brake caliper failure resulted in wheel lock.
- Recall No. 06V-090, in which a wheel spoke failure lead to rapid loss of tire inflation.
- Recall No. 07V-450, involved engine stalling.

If we were to raise the threshold for motorcycle manufacturers to 5,000 or more motorcycles annually, we would not receive timely early warning information about these types of safety problems on a significant number of motorcycles.

Any reduction of the EWR data regarding motorcycles and potential diminution of ODI's ability to identify potential safety problems is particularly troubling when considering the increase in motorcycle ownership and use in the last decade. Between 1996 and 2006, the number of registered motorcycles nationwide increased from 3.87 million to 6.68 million and the vehicle miles traveled increased from 9.92 million miles to 12.4 million. See 2006 Motorcycle Traffic Safety Facts, March, 2008.<sup>8</sup> This growth in motorcycle use in the past several years has coincided with a dramatic increase in motorcycle fatalities and injuries. In 1996, there were 2,161 fatalities and 55,000 injuries

to motorcyclists. *Id.* In 2006, there were 4,810 fatalities and 88,000 injuries of motorcyclists. *Id.* Between 1996 and 2006, the number of motorcycle fatalities grew from a rate of 55.82 per 100,000 riders to 71.94 per 100,000 riders. *Id.* Based upon per vehicle mile traveled in 2006, motorcyclists were about 35 times more likely than passenger car occupants to die in a motor vehicle traffic crash and eight (8) times more likely to be injured. *Id.* The increases in miles driven by motorcyclists and fatalities and injuries to motorcyclists do not appear to be slowing. *Id.*

With the sharp increase in motorcycle use and the increase in fatalities and injuries as a result, we are reluctant to eliminate quarterly reporting from 40 percent of motorcycle manufacturers and on thousands of motorcycles. These manufacturers recall and remedy thousands of motorcycles per year with serious safety defects. Accordingly, we have decided to keep the threshold for EWR quarterly reporting by motorcycle manufacturers at 500 or more units annually.

#### *G. Response to the National Truck Equipment Association Petition for Rulemaking*

In April 2006, the National Truck Equipment Association (NTEA) petitioned the agency for a rulemaking to amend the EWR rule to raise the EWR reporting threshold for vehicle manufacturers from 500 to 5,000 vehicles annually, which would include final-stage manufacturers of multi-stage manufactured vehicles, include multi-stage manufacturers in the low volume category, formalize incomplete vehicle reporting to be consistent with NTEA's proposal, and require the incomplete vehicle manufacturer to provide comprehensive EWR reports. Essentially, NTEA petitions the agency to amend the EWR rule to raise the reporting threshold for final-stage manufacturers from 500 to 5,000 vehicles annually, or alternatively, to permit these manufacturers, regardless of their production, to report on the limited basis required of manufacturers whose production is fewer than 500 vehicles. NTEA states that it currently has over 1,600 member companies and they estimate that as many as 300 may be final-stage manufacturers producing a total of 500 or more trucks per year.

NTEA asserts that final-stage manufacturers do not receive the bulk of EWR data from the end user. According to NTEA, the primary reason for the limited amount of EWR information is because most final-stage vehicles are often custom or semi-custom work

trucks. It states that a typical work truck is purchased at the dealer of the chassis or incomplete vehicle manufacturer. The dealer works with the customer to detail the type of truck, truck body and equipment the customer will need. Once the truck requirements are specified, the dealer contacts a final-stage manufacturer, which will install the body and required equipment to meet the order. The final-stage manufacturer certifies that the completed vehicle meets all applicable federal motor vehicle safety standards and the vehicle is returned to the dealer. The dealer will then deliver the truck to the customer. Accordingly, the final-stage manufacturer has limited contact with the customer. If there are any concerns or complaints, in general, the customer contacts the dealer. In the vast majority of cases, the complaint is chassis related and handled at the dealership. NTEA asserts that the final-stage manufacturer has limited, if any, contact with the end user of the work truck, and as a result, the final-stage manufacturer will file the required reports with nothing to report.

NTEA further claims the costs for complying with EWR are disproportionate to the reporting obligations of final-stage manufacturers. According to NTEA, initial start-up costs can cost from \$26,000 to \$75,000, depending upon the software program and not including annual software upgrades. NTEA estimates the annual costs for submitting quarterly reports is in excess of \$25,000. Alternatively, for manufacturers producing fewer than 500 vehicles annually the start-up costs are approximately \$10,000 and annual maintenance is approximately \$5,000.

NHTSA has decided not to adopt the recommendations made by NTEA at this time. To the extent that any of NTEA's members are manufacturers of light vehicles, of course, they would be beneficiaries of the proposed increase of the reporting threshold for light vehicles to 5,000. However, its members that produce multi-stage vehicles are primarily producing medium and heavy trucks. Our explanation above for why we are not proposing to raise the threshold for medium and heavy trucks would apply to these multi-stage vehicles. We do not find persuasive NTEA's argument that multi-stage vehicle manufacturers are a special category of medium-heavy vehicle manufacturers that should be subject to different reporting rules. While NTEA asserts that the incomplete vehicle manufacturer is the point of contact for customers for a large number of chassis related concerns, there are a substantial number of concerns that are related to

<sup>8</sup>NHTSA's 2006 Motorcycle Traffic Safety Facts, March, 2008, is located at <http://www-nrd.nhtsa.dot.gov/Pubs/810806.PDF>.

the equipment added by the final-stage manufacturer.

NHTSA's understanding of the multi-stage vehicle process is that the purchaser decides on a chassis manufacturer and the type of completed vehicle he/she wishes to purchase. A dealer that sells the required chassis or incomplete vehicle is contacted. Based on the specifications of the completed vehicle, a chassis model and appropriate equipment, i.e., axles with adequate load rating, are selected. The chassis may range from being relatively close to completion (such as a chassis cab<sup>9</sup>) to being relatively far from completion (such as a stripped chassis<sup>10</sup>). To produce a completed vehicle, a platform or body type is added to the chassis. The purchaser, with assistance from the dealer, chooses a manufacturer of the platform or body. The chassis is ordered from the chassis manufacturer by the dealer and is typically sent to the manufacturer of the platform or body, or to a distributor of the platform or body. The platform or body is manufactured and installed on the chassis or is sent to the distributor who installs it on the chassis, completing the vehicle. NHTSA recognizes the company that completed the vehicle by installing the platform as its final-stage manufacturer. A number of different vehicle types can be produced from the same chassis including a school bus, flatbed truck, dump truck, tow truck, box truck, service truck, utility truck or other specialized application. Regardless of the state of completion of the chassis or where it goes after it leaves the incomplete vehicle manufacturer's plant, there is one fundamental fact: Once the incomplete vehicle is out of the incomplete vehicle manufacturer's hands, the incomplete vehicle manufacturer does not have control over

what is done with, or what components are added to, the incomplete vehicle.

There can be problems with the vehicle once it is completed that may not be attributed to the incomplete vehicle manufacturer, but that may be attributed to the final-stage manufacturer. These problems may never be brought to the attention of the incomplete vehicle manufacturer. A common scenario would be that the owner takes the vehicle to a dealer. If the problem is with the body or platform, the dealer would probably recommend that the owner contact the manufacturer of the platform or body or its distributor to resolve the problem. If the problem is with the chassis, the chassis dealer would take appropriate action, including notifying the chassis manufacturer, i.e., to obtain warranty reimbursement. However, if the problem on the chassis is a result of work performed by the vehicle's final-stage manufacturer, the dealer would likely repair the problem but seek reimbursement from the final-stage manufacturer.

Consider the following examples:

- An incomplete vehicle manufacturer ships a chassis to a final-stage manufacturer, who then installs an ambulance body. If, during the body installation process, the brake lines were to be squeezed by the body, in time, the brake line would leak brake fluid. In this case, given that the chassis is beyond the control of the incomplete vehicle manufacturer, the responsibility lies with the final-stage manufacturer, even though the chassis manufacturer installed the original brake lines on the chassis. While the initial contact by the customer may be with a dealer, in at least some cases the dealer is also the final-stage manufacturer or authorized to implement repairs on behalf of the final-stage manufacturer. For those that are not, normally the dealer will submit an invoice for reimbursement of the repairs and therefore the final-stage manufacturer would have possession of the complaint or warranty claim information.

- A final-stage manufacturer adds a dump truck body to a cab and chassis. During the body installation, the positive battery cable (originally installed by the chassis manufacturer) is positioned in such a way that it chafes on the body/frame interface during normal operation. At some point, the cable shorts out, creating sparks and possibly a fire. The owner would report the problem to a dealer who would most likely implement the repair and record the complaint/warranty claim in the company's warranty/complaint system. An invoice would be sent to the final-

stage manufacturer for reimbursement and thus be available for EWR reporting purposes.

- A final-stage manufacturer mounts a top-heavy gasoline tank on the chassis, which causes the suspension to become overloaded. Due to the overloading, the suspension fails prematurely resulting in the body dropping down on top of the tires. The final-stage manufacturer would be responsible (even though the chassis manufacturer installed the suspension) and would record the complaint.

- A final-stage manufacturer makes modifications to the interior compartment of a chassis cab, potentially resulting in an overloaded electrical harness. This type of overloading could result in a fuse circuit becoming overloaded with possible headlight or brake light failure or perhaps an interior fire. Such issues would most likely be reported to a dealer who may also be the final-stage manufacturer. However, if not, the final-stage manufacturer would submit an invoice for reimbursement and thus have a record of the repair.

These examples serve to illustrate the substantial number of issues that may emerge after the final-stage manufacturer completes the vehicle. NHTSA agrees that the initial contact for a problem will most often be a dealer; however, some dealers are final-stage manufacturers and even if they are not, they will make contact with the final-stage manufacturer (if appropriate) for reimbursement of any repairs performed. In many cases, the dealer would also be the correct entity to service the cab/chassis (incomplete vehicle). Clearly, both incomplete vehicle manufacturers and final-stage manufacturers may receive complaints and concerns with their respective products and frequently these complaints will come through the dealer network.

NTEA estimates that as many as 300 final-stage manufacturers produce 500 or more vehicles annually and are subject to EWR quarterly reporting. NTEA's numbers of reporting final-stage manufacturers appear to be overstated. NHTSA receives EWR data from 139 vehicle manufacturers who indicate that they produce either light or medium-heavy and bus vehicles (light vehicles are included in this discussion to capture the 1-ton series cab and chassis from various manufacturers). Some manufacturers produce both, so the total number of manufacturers reporting in both categories is 150. NHTSA is unable to identify exactly which of the 150 vehicle manufacturers are final-stage

<sup>9</sup> A chassis cab is an incomplete vehicle with a completed occupant compartment that requires only the addition of cargo-carrying, work-performing, or load-bearing components to perform its intended function. See 49 CFR 567.3 (2007). For illustration purposes, an example is a pickup truck without a standard pickup truck bed. These may be built into various trucks including a tradesman's utility service truck, a tow truck, a dump truck, a box truck or a specialized work truck.

<sup>10</sup> A stripped chassis may be viewed as meeting the definition of an incomplete vehicle without more. As shipped by the incomplete vehicle manufacturer, it would have steering control and braking systems (to meet the definition of incomplete vehicle). It ordinarily would not have the windshield, roof, A-pillar (the pillar to which the windshield attaches), B pillar (the pillar behind the (front) doors) or body components. Ford's E-series incomplete vehicle manual refers to this as a basic chassis. These may not be particularly evident on the road and may underlie, for illustration purposes, school buses or large recreation vehicles.

manufacturers. However, we know that the number of final-stage manufacturers is a subset of the 150 manufacturers reporting under the light vehicle and medium-heavy and bus categories. We also know that not all of these 150 manufacturers are final-stage manufacturers.<sup>11</sup>

The actual number of NTEA members providing EWR quarterly reports appears to be significantly lower than NTEA's estimates. In January 2006, NTEA submitted to NHTSA a spreadsheet that listed 702 of its "Distributor" members. Using NTEA's "Distributor" list, NHTSA searched its EWR database to identify those manufacturers who had established EWR accounts in order to submit EWR reports. We found that only eleven (11) of the 702 members had existing EWR accounts. Of the eleven (11) NTEA members reporting, three (3) members submit reports only for the light vehicle category, one (1) member submits reports only for the trailer category, three (3) members submit reports for only medium-heavy and bus category and the remaining four (4) members submit quarterly reports for both light vehicles and medium-heavy and bus categories. At a minimum, potentially, four (4) of the eleven (11) NTEA members will realize a reduction in their burden to provide quarterly EWR reports with the proposed increase of the threshold for light vehicle and trailer reporting. With only eleven (11) members of NTEA providing EWR reports, NTEA's claims that 300 of its members submit quarterly EWR reports appears to be greatly exaggerated. In contrast to NTEA's claim, it appears that the vast majority of its members are under the current 500 vehicle threshold and subject only to the limited reporting applicable to small volume manufacturers under 49 CFR 579.27.

NTEA also claims that final-stage manufacturers do not receive much of the reportable EWR data. Our experience with EWR contradicts NTEA's allegation. EWR data indicates that final-stage manufacturers that produce 500 or more vehicles or trailers submit quarterly EWR reports that include property data claims, warranty claims, consumer complaints, and field reports. For final-stage manufacturers that produce fewer than 5,000 light

vehicles and trailers, they should see a reduction in their reporting burden if today's proposal is adopted. But for the medium-heavy and bus categories, as we noted in sections E and F above, there would be detrimental impacts upon our ability to identify safety-related defects if we were to raise the threshold for final-stage manufacturers. Based upon NHTSA's general understanding of the 90 manufacturers reporting under the medium-heavy and bus category, we were able to estimate that 40 percent of the production volume of the medium-heavy and bus category is reported by final-stage manufacturers. In our view, losing 40 percent of the current production volume submitted by medium-heavy and bus manufacturers would negatively affect our ability to find potential safety defects in these vehicles.

NTEA also asserts that the costs for EWR submissions are between \$26,000 and \$75,000 for start-up and \$25,000 for annual reporting. NTEA did not submit any evidence to support its cost estimates. Based upon NTEA's "Distributors" members list, only eleven (11) manufacturers submit quarterly EWR reports, and these manufacturers have already incurred the one-time start-up fee for EWR reporting. Several of those members may have their annual reporting costs reduced because they are final-stage manufacturers submitting reports in the light vehicle and trailer categories. Furthermore, for the remaining final-stage manufacturers, the costs of complying with EWR are low because they are under the 500 vehicle threshold for quarterly reports.

Based on the above analysis, NHTSA is leaving the threshold for EWR reporting for final-stage manufacturers unchanged. We seek comment on our decision to leave the threshold for EWR reporting for final-stage manufacturers unchanged.

#### H. Data Consistency

The EWR regulation requires manufacturers to follow certain filing naming conventions when submitting their quarterly EWR reports. 49 CFR 579.29(a). The naming requirement does not specify a format for manufacturers to provide the model names of their products submitted with their EWR quarterly reports. Manufacturers are under no obligation to provide the same make, model and model name from quarter to quarter, although the overwhelming majority of manufacturers do so. Our experience with the EWR data submissions reveals that some manufacturers do not provide consistent model naming across EWR

quarters, which impedes our ability to analyze the EWR data.

Our analysis of the EWR data reveals that some manufacturers' production and aggregate data do not align across reporting quarters due to inconsistent model names submitted by manufacturers from one reporting period to another. We have also found that in some instances, we cannot analyze data because a particular model's run ended prematurely or started later than would be normally expected based on a typical model year.

To illustrate the inconsistencies we have encountered, we provide the following examples.

- Manufacturers inadvertently insert spaces or slightly alter the make, model and model year of a product. For instance, manufacturer submits quarterly reports for product with the make, model and model year as a 2004 Pontiac Sunbird. This product name is provided for the quarterly reports for the third quarter of 2003 through the fourth quarter 2005. However, in the first quarter of 2006, the manufacturer submits the 2004 Pontiac Sunbird as the 2004 Pontiac Sun bird. The manufacturer inadvertently added a blank space between the "Sun" and "bird."

- Manufacturers provide shorthand names for their products. For example, changing the make of a product from "Oldsmobile" to "Olds" or changing the model name from "Mark7" to "Mark VII."

Adding a blank space, shortening a make or model name, replacing a number with text or adding text to the vehicle make or model (in the case of tires, the tire line) will make the data from one quarter inconsistent from another quarter. Inconsistent product naming in the data reported under EWR rules significantly diminishes NHTSA's ability to utilize the EWR data for identifying potential safety concerns. In particular, the inconsistency found in model naming across report periods makes it impossible to perform a longitudinal (time series) analysis of the EWR data. Additionally, NHTSA is unable to efficiently automate the review of data across reporting periods due to an inability to map data from one period to another. The lack of a consistent model naming means there is no "key" with which to merge data across report periods.

To improve the quality of EWR data, today we propose to amend 49 CFR 579.29 to add a requirement that manufacturers must provide the identical make, model and model year of products previously submitted to

<sup>11</sup> Based on our review of manufacturers submitting EWR reports, it appears that the majority of final-stage manufacturers of vehicles manufactured in multiple stages submit reports in the light vehicle category. As we stated before, 30 light vehicle manufacturers will no longer have to submit quarterly EWR reports if the proposed 5000 or more vehicle threshold for light vehicles is adopted.

NHTSA or to inform NHTSA in a timely way of changes in these names. This proposal would require manufacturers reporting EWR data on a quarterly basis to maintain a consistent model naming convention for each unique product from one report to the next, and throughout the full reporting period. This does not preclude the manufacturer from changing or creating another name when a "new" product (e.g., a new model and/or model year) is reported, just that the product's make, model, and model year must remain consistent from the first time it is included in an EWR report throughout subsequent EWR reports. If this proposal is adopted, we plan on implementing a screening process within ARTEMIS to ensure data integrity and reject any quarterly submission where a product name is inconsistent with prior quarterly submissions, or is otherwise unrecognizable.

Our intention to amend ARTEMIS to reject quarterly reports raises the issue of how a manufacturer notifies NHTSA that it is adding a new model to its product line and reporting in its EWR quarterly report. We plan to amend the EWR reporting template required by 49 CFR 579.29(a)(1) to add a new field so that a manufacturer can indicate that it is introducing a new make, model and model year vehicle. A manufacturer may populate the field with an "n" for a make, model, model year vehicle with a new model name in its EWR submission for the quarter that the new model debuts. Otherwise, manufacturers must provide an "h" to indicate that the make, model, model year is not new, but a historical product.

We believe that this proposed change would have a minimal burden on those manufacturers required to submit quarterly EWR data. Manufacturers would need to implement a system to ensure a consistent naming convention for each unique product submitted in their EWR reports. In addition, there would be an increased burden on manufacturers to populate the additional field in the EWR reporting template.

We seek comment on our proposal to amend 49 CFR 579.29 to add a new paragraph to require manufacturers to provide consistent product names in their EWR quarterly reports and indicate whether when a new model is added to the manufacturer's product line.

#### *I. Vehicle Type for Light Vehicle Aggregate Data*

The EWR regulation requires light vehicle manufacturers that produce 500 or more vehicles annually to submit

production information that includes the make, the model, the model year, the type, the platform and the production. 49 CFR 579.21(a). Manufacturers must provide the production as a cumulative total for the model year, unless production of the product has ceased. *Id.* While light vehicle manufacturers are required to provide the type of vehicle with their production, they are not required to provide the type of vehicle when they submit their death and injury data pursuant to 49 CFR 579.21(b) or with their aggregate data under 49 CFR 579.21(c).<sup>12</sup> Under today's notice, we propose to amend 579.21(b) and (c) to require light vehicle manufacturers to provide the type of vehicle when they submit their death and injury data and aggregate data under those sections.

Because light volume manufacturers that provide quarterly EWR reports are not obligated to provide the vehicle type in all their EWR reports, NHTSA is unable to distinguish whether the light vehicle death and injury and aggregate data are associated with a certain type of vehicle such as a car, light truck, multi-purpose vehicle or incomplete vehicle. Without being able to isolate this information by vehicle type, ODI cannot match the aggregate data with the production data.

If today's proposal is adopted, NHTSA could perform a more focused analysis of the EWR information. For instance, warranty claims by vehicle type from the aggregate data can be matched with the corresponding vehicle type production volume data, allowing us to determine the occurrence of warranty claims per vehicle type. This ratio can then be used to guide our efforts in a subsequent and more focused and thorough analysis of EWR data; a high ratio of warranty claims per production unit may warrant further examination of EWR and other ODI sources of information. Today's proposal would permit a more efficient and targeted use of the EWR data in terms of detecting and identifying potential safety concerns.

Light vehicle manufacturers should be able to readily identify the vehicle type from the VIN provided in the information they receive. About 95 percent of the EWR reports on incidents involving a death or injury include a VIN when initially submitted by manufacturers. 71 FR 52040, 52046 (September 1, 2006). Warranty claims

<sup>12</sup> For light vehicles, type means a vehicle certified by its manufacturer pursuant to 49 CFR 567.4(g)(7) as a passenger car, multipurpose passenger vehicle, or truck or a vehicle identified by its manufacturer as an incomplete vehicle pursuant to 48 CFR 568.4. See 49 CFR 579.4.

and field reports normally contain a VIN because the manufacturer's authorized dealer or representative has access to the vehicle and, in the case of warranty claims, a vehicle manufacturer will not pay a warranty claim unless the claim includes the VIN. For consumer complaints and property damage claims, the VIN or other information is available to identify the type of vehicle. If in some instances the VIN is not available, we propose that the manufacturer submit "UN" for "unknown" in the required field.

NHTSA believes that a one-time burden would be placed on light vehicle manufacturers as a result of this change. Each manufacturer would need to add an additional field to their EWR database that will contain the light vehicle type information. This burden should be minimal.

We seek comment on today's proposed amendments to 49 CFR 579.21(b) and (c) to add the requirement that the vehicle type be reported included in death and injury and aggregate data EWR reports.

#### *J. New Component Category for Light Vehicles and Reporting by Fuel and/or Propulsion System Type*

The EWR regulation requires vehicle and equipment manufacturers for each reporting category to report the required information by specific component categories. 49 CFR 579.21(b)(2), 579.22(b)(2), 579.23(b)(2), 579.24(b)(2), 579.25(b)(2), and 579.26(b)(2). The component categories for each industry have remained unchanged since the EWR regulation was published in July 2002. Since that time, new technologies have been introduced into the marketplace, such as hybrid vehicles and Electronic Stability Control (ESC). As these new technologies proliferate throughout the industry, and demand for these products increase in the market place, we are concerned that the EWR component categories are unsuitable for capturing these newer technologies. As a result, today we propose to add a component for the light vehicles and to amend the model designation for motor vehicles.

We propose to add one new component for light vehicles in 49 CFR 579.21(b)(2) for Electronic Stability Control (ESC) systems. On April 6, 2007, NHTSA published a final rule adding Federal Motor Vehicle Safety Standard (FMVSS) No.126; Electronic stability control systems. 72 FR 17310, as amended 72 FR 34410, June 22, 2007. FMVSS No. 126 is phased-in, requiring that all new light vehicles must be equipped with an ESC system that meets the requirements of the standard

by September 1, 2011, with certain exceptions. As a result of this Standard, the number of vehicles containing ESC entering the market is increasing and will be standard on all light vehicles by the 2011 model year.

Adding an ESC component category to light vehicle reporting category will allow NHTSA to capture data on this mandatory system and analyze ESC data for potential safety concerns. The EWR regulation currently does not have a specific component for ESC issues. See 49 CFR 579.21(b)(2). Many manufacturers report ESC issues under "03 service brakes" because the definition of "service brake" includes ESC. As a result, potential ESC issues will be masked within the broader service brake category, making NHTSA unable to examine and detect potential safety concerns that may be associated directly with a vehicle's ESC system.

We propose to amend 49 CFR 579.4(b) to add the regulatory definition of ESC systems, found in 49 CFR 571.126.S4 and to amend the definition of "service brake system" to remove ESC from the definition. We seek comments on our proposal to amend 49 CFR 579.21(b)(2) to add the component "Electronic Stability Control system." We also seek comments on the proposed definitions for this component.

The current national focus on automobile fuel efficiency is likely to cause a rapid increase in the number of vehicles with alternative fuel and/or propulsion systems and a proliferation in the types of those systems. NHTSA believes that the large scale introduction of new fuel/propulsion systems, particularly in light vehicles, may present safety issues peculiar to those new systems.

Therefore, NHTSA believes it is an opportune time to start collecting EWR information in a way that facilitates sorting the light vehicle data by type of fuel/propulsion system. In this way, problems with a particular make and model that may be unique to only one fuel/propulsion system can readily be distinguished from problems that may apply to that make and model regardless of the fuel/propulsion system. Also, NHTSA would be able to more readily investigate problems that could possibly appear in many vehicles with similar fuel/propulsion systems (e.g., a battery problem in a plug-in electric vehicle or a hydrogen fuel cell problem that may extend to similarly equipped vehicles).

NHTSA believes that the most useful way to collect this information is at the vehicle model level. We considered asking for the information at the component level, but have tentatively concluded that asking manufacturers to

simply describe the fuel/propulsion system type at the model level would be the least costly and most efficient method.

Accordingly, we propose to amend 49 CFR 579.21 by adding the words "(separately reported by fuel and/or propulsion system type and code)" after the word "model" the first time it is used in that section (i.e., before subsection (a)). That language applies to paragraphs (a) and (c) of that section, which cover production information and aggregate data on property damage claims, consumer complaints, warranty claims, and field reports. To ensure that we get the same level of detail on incidents involving a death or injury, we propose to add the same words, i.e., "(separately reported by fuel and/or propulsion system type and code)," after the word "model" the first time it is used in paragraph (b)(2).

In order to ensure some standardization in terms of how fuel/propulsion system types are reported, we propose to add to 49 CFR 579.4 a new definition of "fuel and/or propulsion system type" immediately after the current definition of "fuel system." The new definition would provide that "*Fuel and/or propulsion system type* means the variety of fuel and/or propulsion systems used in a vehicle, coded as follows: 01 gasoline only, 02 diesel only, 03 gasoline—dual fueled, 04 diesel—dual fueled, 05 hybrid—gas/electric, 06 hybrid—diesel/electric, 07 electric—battery, 08 electric—hydrogen fuel cell, 09 natural gas, 10 liquefied petroleum gas, 11 hydrogen internal combustion, 12 alcohol only, 13 other."

We do not suggest that this definition includes every possible fuel and/or propulsion system type. Nor do we suggest that these are the only ways to describe these systems. We solicit comment on whether additional fuel and/or propulsion system types should be added and on how each distinct type of system might be best described.

However, we do not believe it is necessary to add definitions of each particular fuel system type. We are content, once we have developed a sufficiently complete list, to have the manufacturer choose which description best fits its vehicle. If its fuel and/or propulsion system is not described, the manufacturer may always choose "other." Eventually, based on experience, we may have to expand the number of choices. We did not incorporate the "dual fueled automobile" definition used for fuel economy purposes and found in 49 U.S.C. 32901. That definition incorporates that statute's definition of

"alternative fuel," which includes electricity. We think that could lead to confusion about how to categorize hybrid electric vehicles for EWR purposes. When we use "dual fueled" in the definition of "Fuel and/or propulsion system type," we are intending to include only vehicles that run on either gasoline or diesel fuel and another liquid fuel (e.g., ethanol or methanol) combined with either gasoline or diesel fuel. We specifically seek comment on whether to incorporate "dual fueled automobile" definition 49 U.S.C. 32901 for EWR purposes and, if we do, how to make appropriate distinctions.

Adding this brief description of the fuel and/or propulsion system type to the model name should not be a burden for manufacturers. They already make these distinctions in marketing their vehicles and their databases presumably distinguish within models by fuel and/or propulsion system type for a variety of reasons. However, we ask that commenters address what steps manufacturers would have to take to ensure that their EWR submissions complied with the proposed standard. We believe that the simple addition of the appropriate fuel and/or propulsion system type and its code to the model name will provide measurable benefits throughout the coming years by enhancing NHTSA's ability to identify and address potential safety defects that may be related to specific fuel and/or propulsion systems.

In addition to comments on above proposals, we also seek comment on whether the EWR reports should contain additional component categories for other emerging technologies. Among those technologies are adaptive cruise control, lane departure warning, lane keeping, automatic braking, and forward collision avoidance. Problems that may develop in several of these technologies may be reported under existing component categories, but may be very hard to identify within those categories. We seek comment on the possible need for such particularized data, the extent to which manufacturers are already separately tracking these categories, and the additional burden on manufacturers that would be caused by requiring that EWR reports clearly identify these technologies as components.

#### K. Lead Time

We understand that if today's proposed amendments to the EWR regulation were adopted, manufacturers would require time to either install systems to meet their new obligations under the EWR regulation or modify

their existing EWR databases and/or IT systems to take into account the changes to the regulation. The proposed amendments that would require some lead time for manufacturers to modify their databases and IT systems include the elimination of the reporting threshold for submitting quarterly EWR reports to NHTSA by bus manufacturers, the requirement for consistent product naming, the requirement for light vehicle manufacturers to provide the vehicle type in their quarterly EWR submissions, the addition of another component for light vehicle manufacturers and the requirement for fuel and/or propulsion vehicle model reporting. Because manufacturers will need time to modify existing EWR databases and/or IT systems to confirm their systems to meet the amendments proposed today, we propose a lead time of (1) calendar year from the date the final rule is published. We believe that a one year lead time is an adequate amount of time for manufacturers to comply with the proposed amendments. Accordingly, the effective date for the amendments to the reporting threshold for buses, consistent product naming, light vehicle type, light vehicle component and fuel and/or propulsion system model reporting will be the first reporting quarter that is one year from the date the final rule is published.

For the proposed amendments to the reporting threshold for manufacturers of light vehicles and trailers, we do not believe a long lead time is necessary. We propose that the effective dates for these amendments be 30 days after date the final rule is published.

We seek comments on our proposed lead time and effective dates.

#### *L. Technical Correction to the Definition of Customer Satisfaction Campaign and Other Safety Campaign*

Attorney Stephen Selander pointed out an inconsistency in the definitions of "customer satisfaction campaign" and "other safety campaign" in 49 CFR 579.4. He points out that the language in the two definitions is similar and that there appears to be a misplaced closed parenthetical in the definition of "other safety campaign." The definition of "customer satisfaction campaign" states: "Customer satisfaction campaign, consumer advisory, recall, or other activity involving the repair or replacement of motor vehicles or motor vehicle equipment means 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 repair, replacement, or modification of a vehicle, component of a vehicle, item of equipment, or a component thereof, the manner in which a vehicle or child restraint system is to be maintained or operated (excluding promotional and marketing materials, customer satisfaction surveys, and operating instructions or owner's manuals that accompany the vehicle or child restraint system at the time of first sale); or advice or direction to a dealer or distributor to cease the delivery or sale of specified models of vehicles or equipment."

The definition of "other safety campaign" states: "Other safety campaign means an action in which a manufacturer communicates with owners and/or dealers in a foreign country with respect to conditions under which motor vehicles or equipment should be operated, repaired, or replaced that relate to safety (excluding promotional and marketing materials, customer satisfaction surveys, and operating instructions or owner's manuals that accompany the vehicle or child restraint system at the time of first sale; or advice or direction to a dealer or distributor to cease the delivery or sale of specified models of vehicles or equipment)."

We agree with Mr. Selander that the closed parenthesis in the definition "other safety campaign" is misplaced and should be moved to immediately after the term "of first sale" to be consistent with the definition of "customer satisfaction campaign." Accordingly, we propose to amend the definition of "other safety campaign" to reflect this change. The new definition would read as follows: "Other safety campaign means an action in which a manufacturer communicates with owners and/or dealers in a foreign country with respect to conditions under which motor vehicles or equipment should be operated, repaired, or replaced that relate to safety (excluding promotional and marketing materials, customer satisfaction surveys, and operating instructions or owner's manuals that accompany the vehicle or child restraint system at the time of first sale); or advice or direction to a dealer or distributor to cease the delivery or sale of specified models of vehicles or equipment."

We seek comment on this proposed change.

#### *M. Amendments to Information Required To Be Submitted in a Part 573 Defect or Noncompliance Information Reports*

Pursuant to 49 U.S.C. 30118 and 30119, manufacturers must provide

notification to the agency if the manufacturer decides or the agency determines that a defect or noncompliance exists in a motor vehicle or item of motor vehicle equipment. NHTSA has significant discretion in determining the contents of this notification. 49 U.S.C. 30119(a)(7). NHTSA's regulation specifying the contents of the notification to the agency is located at 49 CFR Part 573, Defect and Noncompliance Responsibility and Reports. Among other things, Part 573 delineates the information to be contained in the notification to NHTSA in section 573.6 and the address for submitting reports in section 573.9. We are proposing to amend subsections 573.6(c)(2)(iii) & (iv) to add language that will further assist the agency and the public to identify components or identify the items of motor vehicle equipment involved in the subject recall and section 573.9. In turn, we propose to add language to section 573.9 to facilitate the submission of reports affected by the proposal to subsection 573.6(c)(2)(iii). These proposals are discussed in detail below.

Subsection 573.6(c)(2)(iii) concerns the identification of motor vehicle equipment containing the defect or noncompliance. It requires the manufacturer of the item of motor vehicle equipment to identify the item that contains the defect, with other identifying information. Subsection 573.6(c)(2)(iii) currently states: "In the case of items of motor vehicle equipment, the identification shall be by the generic name of the component (tires, child seating systems, axles, etc.), part number, size and function if applicable, the inclusive dates (month and year) of manufacture if available and any other information necessary to describe the items."

With respect to tire recalls, tire manufacturers generally provide the brand name, model name and size of the particular tire recalled. In addition, tire manufacturers identify the tires that contain the defect by providing the build dates of the tires. Build dates are of limited assistance to consumers who undertake to determine if a tire is subject to a recall because there is no "build date" on the tire. Rather, the tire build date is encoded within the Tire Identification Number (TIN) which is molded to the side of the tire. In addition to providing build dates, we are proposing that tire manufacturers submit a list of all unique TINs of the tires containing the defect. Alternatively, we propose that tire manufacturers provide a range of TINs if providing a list of all unique TINs



would be difficult and costly. We believe that providing a list of TINs or range of TINs will further assist consumers in identifying whether their tire is the subject of the recall. Therefore, we propose to amend subsection 573.6(c)(2)(iii) as follows: "In the case of items of motor vehicle equipment, the identification shall be by the generic name of the component (tires, child seating systems, axles, etc.), part number (for tires, a list of tire identification numbers), size and function if applicable, the inclusive dates (month and year) of manufacture if available and any other information necessary to describe the items."

We seek comments on our proposal to require a list of unique TINs for tires subject to a recall. We also seek comment on our alternate proposal to require a range of TINs in lieu of a list of unique TINs. We are particularly interested in practical concerns tire manufacturers would face in providing a unique list of TINs or a range of TINs. In either case, we are interested in comments on whether providing additional TIN information will assist consumers in identifying tires subject to manufacturer recalls and the best method of disseminating that information (for example: In range or list form, or as a lookup application on the NHTSA Web site). If we adopt the alternative proposal for a range of TINs, we will amend the proposed language of section 573.6(c)(2)(iii) to reflect that decision.

We recognize that should we adopt the proposal to require a list of unique TINs or a range of TINs that tire manufacturers could in practice submit long lists because in some tire recalls or noncompliances the list of unique TINs number in the tens of thousands or hundreds of thousands. In order to facilitate the submission of a large list of unique TINs with a manufacturer's Part 573 Report, we are proposing to amend section 573.9 to provide for the submission of the list of unique TINs or a range of TINs in an electronic format that can be e-mailed or submitted through the Internet. Section 573.9 currently permits manufacturers to submit their 573 Defect or Noncompliance Report as a portable document format (.pdf.) attachment to an e-mail message to the agency. See 72 FR 32014 (June 11, 2007). That option does not supersede the requirement in 49 U.S.C. 30118(c) <sup>13</sup> that manufacturers notify NHTSA by certified mail when

they learn a product they manufacture contains a safety defect or does not comply with a FMVSS. Currently, section 573.9 states: "All submissions, except as otherwise required by this part, shall be addressed to the Associate Administrator for Enforcement, National Highway Traffic Safety Administration, Attention: Recall Management Division (NVS-215), 1200 New Jersey Avenue, SE., Washington, DC 20590. These submissions may be submitted as an attachment to an e-mail message to *RMD.ODI@dot.gov* in a portable document format (.pdf). Whether or not they are also submitted electronically, defect or noncompliance reports required by section 573.6 of this part must be submitted by certified mail in accordance with 49 U.S.C. 30118(c)."

We are proposing to amend section 573.9 to permit manufacturers to submit a unique list of TINs to NHTSA electronically as an attachment to the e-mail submitting a Defect or Noncompliance Report or through the Intranet via NHTSA's Internet Web address. If we adopt the alternative proposal for a range of TINs, we will amend the proposed language of section 573.9 to reflect that decision. If a manufacturer chooses to submit the list of TINs as an attachment to the e-mail submitting its Part 573 Defect or Noncompliance report, the TIN data must be in a commercially available text format such as Microsoft Access or an Excel spreadsheet. If a manufacturer has an established EWR identification and password or establishes an EWR identification and password with NHTSA,<sup>14</sup> we propose that the manufacturer may submit the TIN data to NHTSA via a Secure File Transfer Protocol (SFTP) server located at <http://www-odi.nhtsa.dot.gov/safetrecall/TINupload>. Accordingly, we propose to amend section 573.9 to read: "All submissions, except as otherwise required by this part, shall be addressed to the Associate Administrator for Enforcement, National Highway Traffic Safety Administration, Attention: Recall Management Division (NVS-215), 1200 New Jersey Avenue, SE., Washington, DC 20590. These submissions may be submitted as an attachment to an e-mail message to *RMD.ODI@dot.gov* in a portable document format (.pdf). Tire Identification Numbers that are required to be submitted pursuant to 573.6(c)(2)(iii) may be submitted as an attachment to the aforementioned e-mail message and provided in a commercially available text format (e.g.

Microsoft Access or Excel), or, if the manufacturer has an early warning reporting identification and password pursuant to 49 CFR 579.28, submitted to NHTSA's tire identification number repository identified on the Office of Defects' Internet homepage (<http://www-odi.nhtsa.dot.gov/safetrecall/TINupload>). Whether or not these submissions are also submitted electronically, defect or noncompliance reports required by section 573.6 of this part must be submitted by certified mail in accordance with 49 U.S.C. 30118(c)."

We seek comments on our proposal to amend section 573.9 to permit the submission of a list of unique TINs for tires subject to a recall or noncompliance by e-mail or directly uploading the list to NHTSA.

We are also proposing to amend subsection 573.6(c)(2)(iv). That subsection concerns the identification of the manufacturer that supplies the defective or noncompliant component to the manufacturer reporting the defect to NHTSA. It requires the reporting manufacturer to identify the component and the manufacturer of the component by name, address and telephone number. 49 CFR 573.6(c)(2)(iv). Subsection 573.6(c)(2)(iv) currently states: "In the case of motor vehicles or items of motor vehicle equipment in which the component that contains the defect or noncompliance was manufactured by a different manufacturer from the reporting manufacturer, the reporting manufacturer shall identify the component and the manufacturer of the component by name, business address, and business telephone number. If the reporting manufacturer does not know the identity of the manufacturer of the component, it shall identify the entity from which it was obtained."

When this regulation was adopted, the identification of the manufacturer of the component by name and business address was sufficient to provide NHTSA with the country of origin of the component. By providing the name of the manufacturer, NHTSA could determine the location where the component was finally assembled or fabricated. However, with the increasing globalization of the automotive industry, the identification of the manufacturer of a component by name and business address sometimes does not provide information related to the country of origin where the component that is the subject of the recall was manufactured. Instead, this information may only identify the location of a distributor and have no bearing on the actual location of manufacture. We believe that it is important for the

<sup>13</sup> 49 U.S.C. 30118(c) states in pertinent part: "A manufacturer of a motor vehicle or replacement equipment shall notify the Secretary by certified mail \* \* \*."

<sup>14</sup> Manufacturers submitting EWR reports to NHTSA must request an identification number and a password. 49 CFR 579.28

agency to know where the component that is the subject of the recall is fabricated or assembled so as to appropriately focus follow-up activities of our Recall Management Division to ensure that products imported into this country meet all applicable Federal Motor Vehicle Safety Standards and are free of safety-related defects. Therefore, we are proposing to amend subsection 573.6(c)(2)(iv) to add language requiring the reporting manufacturer to provide the country of origin of the component identified containing the defect or noncompliance. By country of origin, we intend for the reporting manufacturer to provide the location of the manufacturing or assembly process where the component is assembled or manufactured in its completed form. Accordingly, we propose to amend subsection 573.6(c)(2)(iv) to read: "In the case of motor vehicles or items of motor vehicle equipment in which the component that contains the defect or noncompliance was manufactured by a different manufacturer from the reporting manufacturer, the reporting manufacturer shall identify the component and its country of origin (i.e., final place of manufacture or assembly), and the manufacturer and/or assembler of the component by name, business address, and business telephone number. If the reporting manufacturer does not know the identity of the manufacturer of the component, it shall identify the entity from which it was obtained."

We seek comments on our proposal to require the reporting manufacturer to provide the country of origin for the component that contains the defect or noncompliance.

#### IV. 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.<sup>15</sup> We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit your comments by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the

online instructions for submitting comments.

- **Mail:** Docket Management Facility, M-30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- **Hand Delivery or Courier:** West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

- **Fax:** (202) 493-2251.

If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.<sup>16</sup>

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines.

Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at <http://www.whitehouse.gov/omb/fedreg/reproducible.html>. DOT's guidelines may be accessed at <http://dmses.dot.gov/submit/DataQualityGuidelines.pdf>.

##### *How Can I Be Sure That My Comments Were Received?*

If you submit your comments by mail and 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, at the address given above under **FOR FURTHER INFORMATION CONTACT**. 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.<sup>17</sup>

<sup>16</sup> Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

<sup>17</sup> See 49 CFR part 512.

In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the Docket by one of the methods set forth above.

##### *Will the Agency Consider Late Comments?*

We will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments received after that date. Therefore, if interested persons believe that any new information the agency places in the docket affects their comments, they may submit comments after the closing date concerning how the agency should consider that information for the final rule.

If a comment is received too late for us to consider in developing a final rule (assuming that one is issued), 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 materials placed in the docket for this document (e.g., the comments submitted in response to this document by other interested persons) at any time by going to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets. You may also read the materials at the Docket Management Facility by going to the street address given above under **ADDRESSES**. The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

#### V. Privacy Act Statement

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit <http://dms.dot.gov>.

#### VI. Rulemaking Analyses and Notices

##### *A. 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

<sup>15</sup> See 49 CFR 553.21.

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.

This document was reviewed under E.O. 12866 and the Department of Transportation’s regulatory policies and procedures. This rulemaking action is not considered “significant” under Department of Transportation policies and procedures. The effects of these proposed rule changes have been analyzed in a Preliminary Regulatory Evaluation. Two of the proposed rule changes presented within this document would raise the reporting thresholds under EWR rules and have the effect of lowering the reporting burden on manufacturers of light vehicles and trailers. Although we are proposing to eliminate the reporting threshold for bus manufacturers, the result of this action will not impose a significant burden on this industry. Finally, the proposals being made within this document related to data consistency and the addition of reporting field for light vehicle manufacturers would place only a minimal burden on EWR manufacturers through a one-time adjustment to their EWR databases. The agency estimates that the proposal will result in a net annual reduction in costs of \$3.5 million.

#### B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations and small governmental jurisdictions. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

This proposed rule would affect 237 manufacturers (30 light vehicle manufacturers, 190 trailer manufacturers, and 17 bus

manufacturers). The rule would relieve reporting burdens currently imposed on some light vehicle manufacturers and trailer manufacturers and impose modest new burdens on the bus manufacturers. In order to determine if any of these manufacturers are small entities under the RFA, NHTSA reviewed the North American Industry Classification System (NAICS) codes. Under those criteria, manufacturers of light vehicles, light and heavy duty trucks, buses, or motor vehicle bodies are classified as a small business if they have fewer than 1,000 employees. For trailer manufacturers, the company must have fewer than 500 employees to be considered a small business. All employees from the parent company and its subsidiaries are considered when determining the number of employees.

Based on our application of these criteria (for details of our analysis, see our Preliminary Regulatory Evaluation in the docket of this rulemaking), NHTSA has concluded that the majority of the light vehicle manufacturers and almost all of the 190 trailer manufacturers that would be relieved of quarterly reports by this rule (except for instances of fatalities) are small businesses.

In the bus industry, we estimate there are 45 businesses, 28 of which currently report to us and 17 of which will be required to report all EWR data to us. Of those 17 bus companies that would be required to report data fully under this rule, based on our review of publicly available information, we estimate that 11 companies are small businesses having fewer than 1,000 employees. In our view, 11 small businesses out of a total of 17 entities (64.7 percent) constitute a substantial number.

To determine whether the proposal would have a significant economic impact on the small bus companies, we look at our estimated cost of the proposal (an annual reporting cost of \$13,238 per average company and a one time start-up cost of \$3,500 per company) and compare that to the revenues of the company (which would include the parent company and its subsidiaries). The two smallest bus companies that are not a subsidiary of a larger company appear to be Ebus with 60 employees and U.S. Bus Corporation with 70 employees. U.S. Bus has sales revenues of \$9.7 million. Costs imposed by this rule would equal 0.17 percent of revenue (\$16,500 divided by \$9,700,000), which the agency does not consider to be a significant economic impact. Based on publicly available information, Ebus sells approximately 12 vehicles per year at an estimated cost

of about \$100,000 each. Thus, its estimated revenues are at least \$1.2 million and its costs under this rule would equal 1.37 percent of revenue (\$16,500 divided by \$1,200,000), which the agency does not consider to be a significant economic impact.

For the automobile and light truck manufacturers affected by this proposal, we estimate a cost savings of \$47,282 per manufacturer. For trailer manufacturers affected by this proposal, we estimate a cost savings of \$11,832 per manufacturer. Even though we do not have revenue estimates for these manufacturers, these are cost savings and not burdens and we do not believe that they are economically significant.

In summary, while this proposal will affect a substantial number of small businesses (a majority of the light vehicle manufacturers, most of the trailer manufacturers, and 11 bus manufacturers), the agency believes that the proposal will not have a significant economic impact on those entities. Accordingly, I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities.

#### C. 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.” The agency has analyzed this proposed rule in accordance with the principles and criteria set forth in Executive Order 13132 and has determined that it will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The changes proposed in this document only affect a rule that regulates the manufacturers of motor vehicles and motor vehicle equipment, which does 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.

**D. Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted annually for inflation with base year of 1995). Adjusting this amount by the implicit gross domestic product price deflator for the year 2007 results in \$130 million (119.682 ÷ 92.106 = 1.30). This proposal would not result in expenditures by State, local or tribal governments of more than \$130 million annually. The proposal would result in an annual savings of about \$3.4 million. The Final Rule did not have unfunded mandates implications. 67 FR 49263 (July 30, 2002).

**E. Executive Order 12988 (Civil Justice Reform)**

Pursuant to Executive Order 12988, "Civil Justice Reform" <sup>18</sup> the agency has considered whether this proposed rule would have any retroactive effect. We conclude that it 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.

**F. Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid Office of Management and Budget (OMB) control number. The collection of information associated with Part 579 is titled "Reporting of Information and Documents About Potential Defects" and has been assigned OMB Control Number 2127-0616. At present, OMB is

reviewing NHTSA's request for an extension of approval to collect this information. Based on Part 579 as presently written, NHTSA has estimated that the collection of information will result in 2,355 responses, with a total of 82,391 burden hours on affected manufacturers.

NHTSA has published today's NPRM in order to reduce the reporting burden on manufacturers associated with Part 579. NHTSA believes that if this NPRM is made final, there will be a reduction of 26,247 burden hours on those reporting. The reduction in burden hours was calculated by separating the type of reports that manufacturers are required to submit under EWR into two groups, A and B. Group A reports include reports that all manufacturers, regardless of industry, are required to submit if they meet the specific industry threshold. Group B reports are reports that not all manufacturers are required to submit even if they meet the specific industry threshold. Our calculation follows:

**GROUP A REPORTS**

	At present	NPRM	Change
Claims and notices of injury/fatality .....	508.9 hours .....	508.4 hours .....	-0.4 hours.
Property damage .....	1200.6 hours .....	1198.3 hours .....	-2.3 hours.
Field reports .....	12,691.5 hours .....	12,686.25 hours .....	-5.25 hours.
Foreign Death claims .....	18 hours .....	18 hours .....	0.
			Total change of -8 hours.

**Bus Manufacturers**—As noted, if the NPRM is made final, there will be an extra collection of information burden on bus manufacturers. NHTSA estimates that bus manufacturers will file an additional 7 claims and notices of injury/fatality reports a year, for a total of 35 minutes. NHTSA estimates an additional 19 reports on property damage, for a total of 95 minutes. NHTSA estimates an additional 579 manufacturer field reports, for a total of 2,895 minutes. NHTSA estimates there will be no additional foreign death claim reports. Thus, if the NPRM is made final, NHTSA estimates there will be an additional 605 reports or 50.42 burden hours on bus manufacturers.

50.42 additional burden hours minus 8 hours of reduced burden on other vehicle manufacturers that submit Group A reports, results in a total of 42.42 burden hours a year if this NPRM is made final.

**Group B Reports**

Group B reports consist of warranty claims, consumer complaints, and dealer field reports. If this NPRM is made final, the number of manufacturers reporting on light vehicles will be reduced from 56 to 26 (a reduction of 30 manufacturers) or -636.5 burden hours. The number of bus manufacturers reporting will increase from 28 to 45 (an addition of 17 manufacturers) for a total of +225.4 burden hours. The number of trailer manufacturers will decrease from 251 to 61 (a reduction of 190 trailer manufacturers), or -503.93 burden hours.

Thus, if this NPRM is made final, NHTSA estimates there will be a reduction of 915 burden hours on vehicle manufacturers for Group B reports.

**Computer Maintenance Burden Hours**

If this NPRM is made final, there will be 30 fewer light vehicle manufacturers reporting, or 30 × 347 burden hours per

manufacturer, for -10,410 fewer burden hours. There will be 17 more bus manufacturers reporting, or 17 × 86.52 burden hours per manufacturer, for a total increase of +1470.84 more burden hours on bus manufacturers. There will be 190 fewer trailer manufacturers reporting multiplied by 86.5 burden hours each, for a total of -16,435 burden hours for trailer manufacturers. Thus, there will be a reduction of 25,374 burden hours on industry resulting from computer maintenance, if this NPRM is made final.

**TOTAL BURDEN HOURS ON INDUSTRY, IF TODAY'S NPRM IS MADE FINAL**

Group A Reports .....	+42 burden hours.
Group B Reports .....	-915 burden hours.
Computer Maintenance Reports.	-25,374 burden hours.
Grand total .....	-26,247 burden hours.

<sup>18</sup> See 61 FR 4729 (February 7, 1996).

For these reasons, if this NPRM is made final, NHTSA believes industry will incur 26,247 fewer burden hours a year in reporting requirements to NHTSA.

#### G. Executive Order 13045

Executive Order 13045 applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rulemaking is not economically significant.

#### H. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in or about April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

#### I. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

#### J. Data Quality Act

Section 515 of the FY 2001 Treasury and General Government Appropriations Act (Pub. L. 106-554, section 515, codified at 44 U.S.C. 3516 historical and statutory note), commonly referred to as the Data

Quality Act, directed OMB to establish government-wide standards in the form of guidelines designed to maximize the "quality," "objectivity," "utility," and "integrity" of information that Federal agencies disseminate to the public. As noted in the EWR final rule (67 FR 45822), NHTSA has reviewed its data collection, generation, and dissemination processes in order to ensure that agency information meets the standards articulated in the OMB and DOT guidelines. The changes proposed by today's document would alleviate some of the burden for manufacturers to provide EWR reports by reducing the reporting requirement on light vehicle manufacturers and trailer manufacturers. Where the proposed rule change is requiring additional reporting by manufacturers, the new requirement will serve to improve the quality of the data NHTSA receives under the EWR rule, enabling the agency to be more efficient and productive in proactively searching for potential safety concerns as mandated through the TREAD Act.

#### VII. Proposed Regulatory Text

##### List of Subjects in 49 CFR Parts 573 and 579

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA proposes that 49 CFR parts 573 and 579 be amended as set forth below:

##### PART 573—DEFECT AND NONCOMPLIANCE RESPONSIBILITY AND REPORTS

1. The authority citation for part 573 is revised to read as follows:

**Authority:** 49 U.S.C. 30102, 30103, 30116-30121, 30166; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

2. Amend § 573.6 by revising paragraphs (c)(2)(iii) and (iv) to read as follows:

##### § 573.6 Defect and noncompliance information report.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(iii) In the case of items of motor vehicle equipment, the identification shall be by the generic name of the component (tires, child seating systems, axles, etc.), part number (for tires, a list of tire identification numbers), size and function if applicable, the inclusive dates (month and year) of manufacture if available and any other information necessary to describe the items.

(iv) In the case of motor vehicles or items of motor vehicle equipment in

which the component that contains the defect or noncompliance was manufactured by a different manufacturer from the reporting manufacturer, the reporting manufacturer shall identify the component and its country of origin (i.e. final place of manufacture or assembly), and the manufacturer and/or assembler of the component by name, business address, and business telephone number. If the reporting manufacturer does not know the identity of the manufacturer of the component, it shall identify the entity from which it was obtained.

\* \* \* \* \*

3. Revise § 573.9 to read as follows:

##### § 573.9 Address for submitting required reports and other information.

All submissions, except as otherwise required by this part, shall be addressed to the Associate Administrator for Enforcement, National Highway Traffic Safety Administration, Attention: Recall Management Division (NVS-215), 1200 New Jersey Avenue, SE., Washington, DC 20590. These submissions may be submitted as an attachment to an e-mail message to [RMD.ODI@dot.gov](mailto:RMD.ODI@dot.gov) in a portable document format (.pdf). Tire Identification Numbers that are required to be submitted pursuant to § 573.6(c)(2)(iii) may be submitted as an attachment to the aforementioned e-mail message and provided in a commercially available text format (e.g. Microsoft Access or Excel) or, if the manufacturer has an early warning reporting identification and password pursuant to 49 CFR 579.28, submitted to NHTSA's tire identification number repository identified on the Office of Defects' Internet homepage (<http://www-odi.nhtsa.dot.gov/safetrecall/TINupload>). Whether or not these submissions are also submitted electronically, defect or noncompliance reports required by § 573.6 of this part must be submitted by certified mail in accordance with 49 U.S.C. 30118(c).

##### PART 579—REPORTING OF INFORMATION AND COMMUNICATIONS ABOUT POTENTIAL DEFECTS

4. The authority citation for part 579 is amended to read as follows:

**Authority:** 49 U.S.C. 30102-103, 30112, 30117-121, 30166-167; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

##### Subpart A—General

5. Amend § 579.4 by adding at the end of paragraph (b) a new sentence and amending paragraph (c) by revising the definitions of "Model," "Other safety

campaign,” and “Service brake system” and adding the definition of “Fuel and/or propulsion system type” in alphabetical order, to read as follows:

§ 579.4 Terminology.

(b) Regulatory terms. \* \* \* The term Electronic Stability Control System is used as defined in S4. of § 571.126 of this chapter.

(c) Other terms. \* \* \*

Fuel and/or propulsion system type means the variety of fuel and/or propulsion systems used in a vehicle, coded as follows: 01 gasoline only, 02 diesel only, 03 gasoline—dual fueled, 04 diesel—dual fueled, 05 hybrid—gas/electric, 06 hybrid—diesel/electric, 07 electric—battery, 08 electric—hydrogen fuel cell, 09 natural gas, 10 liquefied petroleum gas, 11 hydrogen internal combustion, 12 alcohol only, 13 other.

Model means a name that a manufacturer of motor vehicles applies to a family of vehicles within a make that have a degree of commonality in construction, such as body, chassis or cab type. For light vehicles, if a model has sub-models with different fuel and/or propulsion system types, it means each such sub-model. For equipment other than child restraint systems, it means the name that the manufacturer uses to designate it. For child restraint systems, it means the name that the manufacturer uses to identify child restraint systems with the same shell, buckle, base (if so equipped) and restraint system.

Other safety campaign means an action in which a manufacturer communicates with owners and/or dealers in a foreign country with respect to conditions under which motor vehicles or equipment should be operated, repaired, or replaced that relate to safety (excluding promotional and marketing materials, customer satisfaction surveys, and operating instructions or owner’s manuals that accompany the vehicle or child restraint system at the time of first sale); or advice or direction to a dealer or distributor to cease the delivery or sale of specified models of vehicles or equipment.

Service brake system means all components of the service braking system of a motor vehicle intended for the transfer of braking application force from the operator to the wheels of a vehicle, including the foundation braking system, such as the brake pedal,

master cylinder, fluid lines and hoses, braking assist components, brake calipers, wheel cylinders, brake discs, brake drums, brake pads, brake shoes, and other related equipment installed in a motor vehicle in order to comply with FMVSS Nos. 105, 121, 122, or 135 (except equipment relating specifically to a parking brake). This term also includes systems and devices for automatic control of the brake system such as antilock braking, traction control, and enhanced braking, but does not include systems or devices necessary for electronic stability control. The term includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Subpart C—Reporting of Early Warning Information

- 6. Amend § 579.21 by:
a. Revising the section heading;
b. Revising the introductory text;
c. Revising the first sentence of paragraph (b)(2);
d. Revising the first sentence of paragraph (c); and
e. Adding a fifth sentence to paragraph (c) to read as follows:

§ 579.21 Reporting requirements for manufacturers of 5000 or more light vehicles annually.

For each reporting period, a manufacturer whose aggregate number of light vehicles manufactured for sale, sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported into the United States, during the calendar year of the reporting period or during each of the prior two calendar years is 5000 or more shall submit the information described in this section. For paragraphs (a) and (c) of this section, the manufacturer shall submit information separately with respect to each make, model (separately reported by fuel and/or propulsion system type and code), and model year of light 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.

- (b) \* \* \*
(2) For each incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model (separately reported by fuel and/or propulsion system type and code), model year, the type and VIN 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 or rollover, coded as follows: 01 steering system, 02 suspension system, 03 service brake system, 05 parking brake, 06 engine and engine cooling system, 07 fuel system, 10 power train, 11 electrical system, 12 exterior lighting, 13 visibility, 14 air bags, 15 seat belts, 16 structure, 17 latch, 18 vehicle speed control, 19 tires, 20 wheels, 22 seats, 23 fire, 24 rollover, 25 electronic stability control system, 98 where a system or component not covered by categories 01 through 22 or 25, is specified in the claim or notice, and 99 where no system or component of the vehicle is specified in the claim or notice. \* \* \*

(c) Numbers of property damage claims, consumer complaints, warranty claims, and field reports. Separate reports on the numbers of those property damage claims, consumer complaints, warranty claims, and field reports which involve the systems and components that are specified in codes 01 through 22, or 25 in paragraph (b)(2) of this section, or a fire (code 23), or rollover (code 24). \* \* \* For each report, the manufacturer shall separately state the vehicle type if the manufacturer stated more than one vehicle type for a particular make, model, model year in paragraph (a) of this section.

- 7. Amend § 579.22 by revising the section heading and by revising the introductory text to read as follows:

§ 579.22 Reporting requirements for manufacturers of buses and manufacturers of 500 or more medium-heavy vehicles (other than buses) annually.

For each reporting period, any manufacturer who has manufactured for sale, sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported one or more buses into the United States, during the calendar year of the reporting period or during either of the prior two calendar years shall submit the information described in this section. For each reporting period, any manufacturer who has manufactured for sale, sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported a total of 500 or more medium-heavy vehicles (a sum that does not include buses) shall submit the information described in this section.

For paragraphs (a) and (c) of this section, the manufacturer shall submit information separately with respect to each make, model, and model year of medium-heavy vehicle and/or 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.

\* \* \* \* \*

8. Amend § 579.24 by revising the section heading and by revising the first sentence of the introductory text to read as follows:

**§ 579.24 Reporting requirements for manufacturers of 5000 or more trailers annually.**

For each reporting period, a manufacturer whose aggregate number of trailers manufactured for sale, sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported into the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 5000 or more shall submit the information described in this section. \* \* \*

\* \* \* \* \*

9. Amend § 579.27 by revising the section heading to read as follows:

**§ 579.27 Reporting requirements for manufacturers of fewer than 500 medium-heavy vehicles or motorcycles annually, for manufacturers of fewer than 5000 light vehicles or trailers annually, for manufacturers of original equipment, and for manufacturers of replacement equipment other than child restraint systems and tires.**

\* \* \* \* \*

10. Amend § 579.29 by adding paragraph (a)(3) to read as follows:

**§ 579.29 Manner of reporting.**

(a) \* \* \*

(3) For each report required under paragraphs (a) through (c) of §§ 579.21 through 579.26 and submitted in the manner provided in paragraph (a)(1) of this section, a manufacturer must provide a make, model and model year that is identical to the make, model, model year provided in the manufacturer's previous report. A manufacturer that intends to provide a make, model, model year in its report that is not identical to the manufacturer's previous report, must notify NHTSA by populating the appropriate field in the template required under paragraph (a)(1) of this section.

\* \* \* \* \*

Issued on: November 26, 2008.

**Daniel C. Smith,**

*Associate Administrator for Enforcement.*

[FR Doc. E8-28873 Filed 12-4-08; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

[FWS-R2-ES-2008-0110; MO-9221050083 – B2]

**Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Sacramento Mountains Checkerspot Butterfly (*Euphydryas anicia cloudcrofti*) as Endangered with Critical Habitat**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding and initiation of a status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Sacramento Mountains checkerspot butterfly (*Euphydryas anicia cloudcrofti*) as an endangered species and designate critical habitat under the Endangered Species Act of 1973, as amended (Act). We find the petition provides substantial scientific or commercial information indicating that listing this subspecies under the Act may be warranted. Therefore, with the publication of this notice, we are initiating a status review of the species, and we will issue a 12-month finding to determine if the petitioned action is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial data regarding this species. We will make a determination on critical habitat for this subspecies if and when we initiate a listing action.

**DATES:** To allow us adequate time to conduct this review, we request that we receive information on or before February 3, 2009.

**ADDRESSES:** You may submit information by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS-R2-ES-2008-0110; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all information received on

<http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Information Solicited section below for more details).

**FOR FURTHER INFORMATION CONTACT:**

Wally "J" Murphy, Field Supervisor, New Mexico Ecological Services Office, 2105 Osuna NE, Albuquerque, NM 87113; by (telephone at 505-346-2525, or by facsimile at 505-346-2542. If you use a telecommunications devise for the deaf (TTD), you may call the Federal Information Relay Service (FIRS) at 800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**Information Solicited**

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information on the status of the Sacramento Mountains checkerspot butterfly. We request information from the public, other concerned governmental agencies, Tribes, the scientific community, industry, or any other interested parties concerning the status of the Sacramento Mountains checkerspot butterfly. We are seeking information regarding the subspecies' historical and current status and distribution, its biology and ecology, its taxonomy, ongoing conservation measures for the subspecies and its habitat, and threats to either the subspecies or its habitat.

If we determine that listing the Sacramento Mountains checkerspot butterfly is warranted, we intend to propose critical habitat to the maximum extent prudent and determinable at the time we would propose to list the subspecies. Therefore, with regard to areas within the geographical range currently occupied by the Sacramento Mountains checkerspot butterfly, we also request data and information on what may constitute physical or biological features essential to the conservation of the subspecies, where these features are currently found, and whether any of these features may require special management considerations or protection. In addition, we request data and information regarding whether there are areas outside the geographical area occupied by the subspecies that are essential to the conservation of the subspecies. Please provide specific