and Budget under that Order. This rule is also not significant under the regulatory policies and procedures of the Department of Transportation, 44 FR 11034.

This rule does not impose unfunded mandates or requirements that will have any impact on the quality of the human environment.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism Assessment

This proposed rule has been reviewed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999, and it is determined that this action does not have a substantial direct effect on the States, or the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule will not limit the policymaking discretion of the States nor preempt any State law or regulation.

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies), Organization and functions (government agencies).

In consideration of the foregoing, part 1 of title 49, Code of Federal Regulations, is amended, effective upon publication, to read as follows:

PART 1—[AMENDED]

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

Authority: 49 U.S.C. 322; Public Law 101–552, 28 U.S.C. 2672; 31 U.S.C. 3711(a)(2).

2. In section 1.66, add new paragraph (ee) to read as follows:

§ 1.66 Delegations to Maritime Administrator.

* * * * *

(ee) Exercise the authority vested in the Secretary of Transportation by section 408(a) of Public Law 105–383 approved November 13, 1998, (112 Stat. 3411 and 3430), 46 U.S.C. 2302(e), relating to the enforcement of the prohibition of shipment of Government-impelled cargoes on vessels if (1) the vessel has been detained and determined to be substandard by the Secretary of Transportation for violation of an international safety convention to which the United States is a party; or (2) the operator of the vessel has on more than one occasion had a violation of an international safety convention to which the United States is a party. The term ''Government-impelled cargo'' means cargo for which a Federal agency contracts directly for shipping by water or for which (or the freight of which) a Federal agency provides financing, including financing by grant, loan, or loan guarantee, resulting in shipment of the cargo by water.

* * * * *

Issued on November 26, 2002.

Norman Y. Mineta,

Secretary of Transportation.

[FR Doc. 02–30852 Filed 12–4–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 573 and 577

[Docket No. NHTSA–2001–11108, Notice 2]

RIN 2127–AI27

Motor Vehicle Safety; Acceleration of Manufacturer's Remedy Program

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

ACTION: Final rule.

SUMMARY: This document adopts a regulation implementing Section 6(a) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. Under this rule, motor vehicle and motor vehicle equipment manufacturers will be required to accelerate their programs to remedy a defect related to motor vehicle safety or a noncompliance with a Federal motor vehicle safety standard if directed to do so by NHTSA. The agency will impose this requirement if it determines that the manufacturer's remedy program is not likely to be capable of completion within a reasonable time and finds: that there is a risk of serious injury or death if the remedy program is not accelerated; and that acceleration of the remedy program can be reasonably achieved by expanding the sources of replacement parts, expanding the number of authorized repair facilities, or both.

DATES: *Effective Date:* The effective date of the final rule is January 6, 2003. Petitions for Reconsideration: Petitions for reconsideration of the final rule must be received not later than January 21, 2003.

ADDRESSES: Petitions for reconsideration of the final rule should refer to the docket and notice number set forth above and be submitted to Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, with a copy to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, contact George Person, Office of Defects Investigation, NHTSA, (202) 366–5210. For legal issues, contact Coleman Sachs, Office of Chief Counsel, NHTSA, (202) 366–5238.

SUPPLEMENTARY INFORMATION:

I. Background

On November 1, 2000, the TREAD Act, Public Law 106–414, was enacted. The statute was an outgrowth, in part, of Congressional concerns over manufacturers' delays in repairing or replacing motor vehicles or motor vehicle equipment items that contain a safety-related defect or fail to comply with a Federal motor vehicle safety standard (FMVSS).

Under 49 U.S.C. 30118(b), the agency may make a final decision that a motor vehicle or item of replacement motor vehicle equipment contains a defect related to motor vehicle safety or does not comply with an applicable FMVSS. In addition, under section 30118(c), a manufacturer of a motor vehicle or replacement equipment item is required to notify the agency when it determines, or should determine, that the vehicle or equipment item contains a defect that is related to motor vehicle safety or does not comply with an applicable safety standard.

Under both circumstances, the manufacturer is required to provide notification of the defect or noncompliance to owners, purchasers, and dealers of the affected vehicle or equipment item, and remedy the defect or noncompliance without charge. Section 30119 sets forth statutory requirements for owner notification and requires the manufacturer to give such notice within a reasonable time. *See also* 49 CFR Part 577. However, if the agency makes a final decision under section 30118(b) that a motor vehicle or equipment item contains a safety-related defect or noncompliance, then it prescribes under section 30119(c)(1) the date by which the manufacturer must provide notification to the affected owners, purchasers, and dealers.

49 U.S.C. 30120 further provides that a manufacturer of a defective or noncompliant motor vehicle or replacement equipment item must repair it or replace it with an identical or reasonably equivalent vehicle or equipment item or, in the case of a

vehicle, refund the purchase price less depreciation. Under section 30120(c), if a manufacturer decides to repair a defective or noncomplying motor vehicle or replacement equipment item and the repair is not done adequately within a reasonable time, the manufacturer is required to replace the vehicle or equipment item without charge or, for a vehicle, refund the purchase price. Failure to repair within 60 days after the vehicle or equipment item is presented to a dealer in accordance with the manufacturer's notification is prima facie evidence of failure to repair within a reasonable time. The agency can extend the 60-day period if good cause for the extension is shown and the reason is published in the **Federal Register** before the period ends.

Section 30120(d) requires the manufacturer to submit its program for remedying a defect or noncompliance to the agency. Manufacturers fulfill this requirement by submitting defect and noncompliance information reports to NHTSA in accordance with procedures set forth in 49 CFR Part 573. Section 573.6(c)(8) of these regulations requires a manufacturer, as part of its report, to provide a description of the manufacturer's program for remedying the defect or noncompliance. In 1995, NHTSA amended that section (then 573.5(c)(8)) to require a manufacturer to advise NHTSA of the estimated date on which it will begin sending notifications to owners that there is a safety-related defect or noncompliance and that a remedy without charge will be available, and the estimated date on which the notification campaign will be completed. See Section 573.6(c)(8)(ii). In the preamble of the proposed rule that led to the 1995 amendment, NHTSA explained that there had been an increase in the number of recalls in which there was a significant delay in the commencement of the remedy campaign, and, in some instances, an inordinate extension in the duration of the campaign. NHTSA further explained that the amendment was necessary for the agency to assure that the timing and duration of remedy campaigns were appropriate, and to enable it to respond more completely to public questions concerning the timing of recall campaigns. 58 FR 30817, September 27, 1993.

Section 6(a) of the TREAD Act added a new paragraph (3) to 49 U.S.C. 30120(c), which provides that if the Secretary determines that a manufacturer's remedy program is not likely to be capable of completion within a reasonable time, the Secretary may require the manufacturer to accelerate the remedy program if the Secretary finds: (A) There is a risk of serious injury or death if the remedy program is not accelerated; and (B) acceleration of the remedy program can be reasonably achieved by expanding the sources of replacement parts, expanding the number of authorized repair facilities, or both. Although section 30120(c)(3) is self-executing in the absence of implementing regulations, the statute provides that the Secretary may prescribe regulations to carry out its purposes. This authority has been delegated to NHTSA's Administrator pursuant to 49 CFR 1.50.

On December 11, 2001, we issued a notice of proposed rulemaking (NPRM) at 66 FR 64897 that would implement this provision, in which we solicited comments on how we could best approach this task. We received 11 comments in response to the NRPM. These were submitted by the Alliance of Automobile Manufacturers (Alliance), Bendix Commercial Vehicle Systems LLC (Bendix), Delphi Automotive Systems LLC (Delphi), Ford Motor Company (Ford), the Juvenile Products Manufacturers Association, Inc. (JPMA), the National Automobile Dealers Association (NADA), the Rubber Manufacturers Association (RMA), the Truck Manufacturers Association (TMA), Volkswagen of America, Inc., on its own behalf, as well as that of Volkswagen AG and Audi AG (Volkswagen), and Wenda A. Wacker, who commented both as a private citizen and as an employee of the California Department of Motor Vehicles (DMV). In addition, a comment was submitted by Attorney Lawrence Henneberger on behalf of the Motor and Equipment Manufacturers Association (MEMA) and the Original Equipment Suppliers Association (OESA). These comments have provided us with a variety of insights in developing this final rule.

II. Discussion

A. Application

In the NPRM, we proposed that the acceleration of remedy rule apply to manufacturers of motor vehicles and replacement equipment items whose products have been determined to contain a safety-related defect or a noncompliance with a FMVSS. The manufacturing entities that are subject to these requirements are listed in 49 CFR 573.3(a)–(f). We did not receive any comments on the proposed application of this rule. We are adopting this aspect of the rule as proposed.

B. Circumstances Under Which the Administrator May Require a Manufacturer To Accelerate Its Remedy Program

1. Risk of Serious Injury or Death

In the NPRM, we noted that under 49 U.S.C. 30120(c)(3), the decision to require a manufacturer to accelerate its remedy program is to be exercised at the discretion of the Administrator. We proposed that the Administrator be required to make two findings and one determination to invoke this provision. One of the proposed findings, adopted from the statute, was that there is a risk of serious injury or death if the remedy program is not accelerated. See proposed section 573.14(b)(1). We observed that for the Administrator to make this finding, there need only be a risk of serious injury or death, and not necessarily a high probability.

We received several comments with regard to this proposed finding. The Alliance, Ford, JPMA, Delphi, TMA, and NADA all took exception to the statements in the preamble that there need only be a risk of serious injury or death, and not necessarily a high probability, for a manufacturer to be required to provide an accelerated remedy, and that most safety recall campaigns address circumstances where a serious risk of injury or death can be found. The Alliance observed that under such a premise, the agency could find that virtually every recall meets the first test for requiring an accelerated remedy. Contending that Congress believed that an accelerated remedy would only be necessary in rare instances, the Alliance recommended that the text of proposed section 573.14(b)(1) be changed to require the Administrator to find, before requiring an accelerated remedy, ''that there is an imminent risk of serious injury or death if the remedy program is not accelerated.'' Ford, an Alliance member, concurred with the Alliance's comments in this regard. TMA expressed a similar opinion regarding the authorizing language in the TREAD Act.

JPMA asserted that there must be an existing risk of serious injury or death, and not a mere possibility, before the agency could require an accelerated remedy. In its view, this would have the benefit of filtering out recalls that address only minor injuries and those that address injury risks that could arise in the future, but are not present as yet. JPMA asserted that in neither of these circumstances would an accelerated remedy be warranted under the TREAD Act. Likewise, NADA proposed that an accelerated remedy be required only in recalls involving an ''unacceptable'' risk

of serious injury or death and where acceleration can be reasonably and safely achieved by expanding the sources of remedy parts, repair centers, or both.

Delphi contended that because Congress gave NHTSA discretionary authority to require an accelerated remedy, it could not have intended for these to be a definitive requirement for exercising that authority. Despite this observation, Delphi requested clarification on the level of risk that would be necessary before NHTSA would require an accelerated remedy.

The agency disagrees with many of these comments. The standard is stated in the statute and it is appropriate to graft that standard into these regulations. We reject comments that may be viewed as raising the bar with regard to when the agency may act. We may consider probabilities and consequences or, put another way, risk and harm. While we agree that accelerated remedies would not be required to address defects that present a risk only of minor injuries, we disagree with JPMA's observation that an accelerated remedy should not be required in circumstances where the risk of injury is low. Similarly, we disagree with the Alliance's proposal that we add the adjective ''imminent'' before ''risk of serious injury.'' The term ''imminent'' is not used in the statute and might be subject to varying interpretations. *See Megrig* v. *KFC Western, Inc.,* 516 U.S. 479, 486 (1996). The agency's 35 years of experience in investigating suspected safety-related defects and noncompliances, and monitoring recall campaigns, have given it sensitivity to the assessment of circumstances involving the nature, extent, and timing of risk. We intend to assess the circumstances before requiring a manufacturer to provide an accelerated remedy. As noted in the NPRM, we do not foresee a need for the agency to exercise this authority frequently.

2. Expanding Sources of Replacement Parts or Number of Repair Facilities

As proposed in the NPRM, the second finding the Administrator would need to make before requiring a manufacturer to accelerate a remedy program, also adopted from the statute, was that ''acceleration of the remedy program can be reasonably achieved by expanding the sources of replacement parts, expanding the number of authorized repair facilities, or both.'' *See* proposed section 574.14 (b)(2). We noted that if warranted under the circumstances, we could require a manufacturer to add additional suppliers and/or production lines and/or production shifts in order to increase the number of available remedy parts. We further noted that in those cases in which the manufacturer identified supplemental repair facilities, it would have to assure that the facility had the parts and expertise needed to adequately perform the remedy.

a. Sources of Replacement Parts

With regard to expansion of the sources of replacement parts, we noted that this finding is most likely to be made when there is a substantial aftermarket supply of the parts necessary to effect the remedy, such as exists for tires, brake rotors, steering and suspension components, and ignition components. We observed, on the other hand, that it is less likely that this finding would be made where there is little or no aftermarket supply, as might be the case for air bags and anti-lock brake system (ABS) control units, since the particular specifications of the remedy part is generally unique to the particular vehicle or supplier involved. Even in the absence of an aftermarket supply, we noted that manufacturers might be able to expand the sources of replacement parts, either by contracting with additional suppliers, or by adding assembly lines or production shifts within their own plants.

Several commenters took issue with our observation that manufacturers could be required to expand the supply of replacement parts needed for a recall by adding assembly lines or production shifts within their own plants. The Alliance contended that it is nearly impossible to add assembly lines or additional work shifts to existing production at affected plants on short notice. First, the Alliance believes that such excess capacity, both in terms of machinery and labor, does not exist. Second, the Alliance observed that diverting a component production line that is dedicated to normal production requirements to the production of components needed for a recall remedy would have a ripple effect that would curtail or stop current production, perhaps even for other manufacturers if the component supplier ships to other vehicle manufacturers. Third, the Alliance stated that existing labor agreements may prohibit the hiring of extra temporary employees, or the purchasing of parts from outside sources not under contract, referred to as ''outsourcing,'' or limit the amount of overtime. Finally, the Alliance contended that there would be international legal implications to any requirement that could affect a manufacturer's production in foreign plants.

Volkswagen, which is a member of the Alliance, added that any extraterritorial directive by NHTSA might trigger a foreign country to respond by passing ''claw back'' or ''blocking'' legislation. Volkswagen described such legislation as mandating that domestic companies overseas not comply with U.S. law, and cited its view of the British Protection of Trading Interests Act of 1980. Volkswagen stated that it is possible that the foreign county could also respond by passing ''copy-cat'' legislation, which would mimic the applicable provisions of U.S. law with respect to U.S.-manufactured vehicles sold in that country. Volkswagen, which does not have production facilities in the United States, recommended that the rule be redrafted to specify that it applies only to production line or shifts located in the United States. Anticipating that NHTSA would not accept this position, Volkswagen suggested, in the alternative, that if the agency does not incorporate this limitation into the rule, that it consult with the U.S. Trade Representative and the State Department before requiring a foreign manufacturer to accelerate a remedy program so that the consequential implications and responses from the foreign government can be explored.

Volkswagen also contended that the need to increase production to assure a supply of recall remedy components could violate labor agreements in foreign countries. It stated, for example, that in Germany, some labor agreements restrict the hiring of temporary employees, preclude purchasing parts from outside sources, limit the amount of overtime, and require pre-approval of the union to add shifts or change a worker's duties. Volkswagen also cited many of the practical problems associated with adding production lines or shifts that were raised by the Alliance. Additionally, Volkswagen cited the economic consequences of shutting down a production line that is used for normal production.

JPMA expressed concern that child restraint manufacturers do not have excess tooling or trained labor that could be used to provide additional production lines or work shifts. The comment urged NHTSA to take these factors into account in recalls affecting these manufacturers.

We do not agree with the premises of many these comments. For example, there is overcapacity in many segments of the global automotive industry. Moreover, if a vehicle manufacturer has greater than expected sales and calls

upon suppliers to provide more parts than originally projected, suppliers make adjustments and increase the number of parts delivered. We wish to point out that legitimate production issues will be taken into consideration by the agency in determining, under section 573.14(b)(2), whether an acceleration of remedy program can be ''reasonably achieved'' by expanding the sources of replacement parts. If there are legal or practical limitations to a manufacturer's ability to comply with an acceleration of remedy directive, these can be identified by the manufacturer in providing the agency with information under section 573.14(c).

Turning to the international law implications of this rule that were raised by Volkswagen, NHTSA wishes to observe that if a foreign-based manufacturer produces vehicles for sale in the United States, that manufacturer is legally obligated to comply with all laws administered by NHTSA that apply to the manufacturers of vehicles sold in this county, including laws governing remedies for safety-related defects and noncompliances. There is nothing in the TREAD Act, or in any other statute administered by the agency, that would exempt foreign manufacturers from meeting these obligations. As discussed previously, NHTSA anticipates that it will only rarely have the need to require a manufacturer to accelerate a remedy program. Foreign-based manufacturers may raise particular issues regarding the expansion of the sources of replacement parts. They should be aware that our primary concern will be to have the problem corrected as quickly as possible, and that we will expect them to surmount difficulties to the fullest extent possible.

b. Number of Repair Facilities

With regard to the expansion of the number of authorized repair facilities, we noted in the NPRM that major vehicle manufacturers have large networks of dealers to perform repairs. As a consequence, we stated that we would ordinarily not expect to find a need for these major manufacturers to expand the number of authorized repair facilities. We observed that other vehicle manufacturers, such as importers of limited-production vehicles and multistage vehicle manufacturers, and most manufacturers of equipment items, do not have established networks of repair facilities. Noting that the need to travel a long distance may discourage vehicle owners from having remedy repairs performed, we stated that we could require such manufacturers to expand the number of repair facilities in order to assure that the campaign is completed in a reasonable time.

The Alliance commented on this aspect of the proposal. While not challenging the agency's assumption that its members [1] should have a sufficient dealer networks to conduct any recall, the Alliance took exception to the notion that its members might be required to provide additional facilities ''if an owner would have to travel a large distance to obtain the remedy repair directly from the manufacturer or one of its dealers.'' The Alliance contended that the TREAD Act was not intended to address the issue of convenience to a vehicle owner and asserted that owners have already factored inconvenience into their purchase decision. The Alliance further noted that if recall parts were to be provided to a repair facility unrelated to the manufacturer that is subject to the acceleration of remedy directive, no infrastructure would be in place to provide those parts and problems could occur in communicating to the unrelated facility the vehicle identification numbers (VINs) of the vehicles to be remedied, verifying the VINs as a basis for authorizing the recall repairs, or recording the recall status of the vehicles involved. The Alliance also noted that its members would not be able to prevent an unrelated facility from ''overcharging'' for the recall work or charging for additional work on the basis that it is required to remedy a defect.

The agency continues to believe that the proximity of authorized service facilities, or the lack thereof, would be an appropriate consideration in requiring an expansion in the number of repair facilities. We expect that the issue would arise less often in the case of major light vehicle manufacturers than special purpose vehicle manufacturers such as ambulance or school bus manufacturers. In any event, the agency does not believe that it is necessary to address these issues within the text of the final rule. If circumstances should dictate the use of repair facilities unrelated to the manufacturer conducting the recall, it will be up to the manufacturer to work out, by contract or otherwise, the processes necessary to supply required parts and perform required repairs, and to verify that vehicles covered by the recall receive the remedy, as well as to arrange appropriate reimbursement so that owners would not have to pay for the work performed.

3. Capability of Completion Within Reasonable Time

The NPRM also proposed that before requiring a manufacturer to accelerate its remedy program, the Administrator must also determine that the program is not likely to be capable of completion within a reasonable time. *See* proposed section 573.14(b)(3). We proposed to decide the issue of reasonableness in light of all of the circumstances, including the efforts that the manufacturer has made to complete the remedy program, as well as the safety risks associated with the defect or noncompliance.

We noted that the statute is silent with respect to when we can require a manufacturer to accelerate its program under section 6(a). We expressed the belief that in the interests of motor vehicle safety, it would be appropriate for us to impose such a requirement at any time that the statutory conditions are found to exist.

No comments were submitted regarding this issue. Section 573.14(b)(3) is therefore adopted as proposed.

4. Consultation With Manufacturer

In the NPRM, we stated that we anticipated that there would be consultation between NHTSA and the manufacturer before a manufacturer would be formally required to accelerate the remedy program, but noted that such consultation is not required by the statute. We stated our expectation that in most cases in which we believed that acceleration was appropriate, the manufacturer would take action without being directed to do so by the agency.

There were several comments regarding the issue of agency consultation with affected manufacturers. The Alliance expressed the belief that NHTSA is required under the Administrative Procedure Act to consult with the affected manufacturer before an acceleration of remedy directive is issued and to give the manufacturer an opportunity to be heard on the questions of whether there is a risk of serious injury or death if the remedy program is not accelerated and whether acceleration of the remedy program can be reasonably achieved. RMA also commented that the agency should be obliged to consult with any affected manufacturer before issuing an acceleration of remedy directive. TMA expressed concern over the adequacy of the consultation provisions in the proposed rule and the absence of a provision for the appeal of an

[1] BMW, DaimlerChrysler, Fiat, Ford, GM, Isuzu, Mazda, Mitsubishi, Nissan, Porsche, Toyota, Volkswagen, Volvo.

acceleration of remedy directive short of filing a Federal court action. In their joint comment, MEMA and OESA observed that ''if the process is to be an informed one for the agency and one of fairness to affected manufacturers while serving the public interest in avoidance of safety risk, NHTSA should closely consult with a manufacturer before proceeding with an accelerated [remedy] program.'' Those commenters stated that the need for consultation between an affected manufacturer and NHTSA should be incorporated into the regulatory text and not merely alluded to in the preamble.

The agency does not agree that a manufacturer has a statutory right to consultation. Nonetheless, we have added language to the text of section 573.14(c) to provide for consultation with the affected manufacturer before the agency requires the acceleration of a remedy program. This may enhance the agency's understanding of what is reasonably achievable. Addressing the TMA's comment, we have decided not to provide an opportunity for an administrative appeal of a directive for a manufacturer to accelerate a remedy program. On a practical level, the agency will have consulted with the affected manufacturer before requiring the manufacturer to accelerate a remedy program. Hopefully, this consultation will produce consent to implement an accelerated remedy, and minimize the conflicts that could be the subject of an administrative appeal. In addition, allowing an administrative appeal would introduce delay that would undermine the purpose of the accelerated remedy program.

C. Effect of Acceleration on the Nature and Quality of the Remedy

1. Equivalency of Replacement Parts and Repair Facilities

We stated in the NPRM that we would require manufacturers to assure that replacement parts from additional suppliers used under accelerated remedy programs are equivalent to the remedy parts supplied by the manufacturer, so that there will be no difference in the quality of the remedy received by owners. We noted, however, that in those instances where parts are purchased from manufacturers other than those who would ordinarily supply parts for the vehicle in question, it might be difficult to determine whether or not the part is equivalent. As a consequence, we proposed that the agency would, in appropriate cases, require manufacturers to provide information to owners with respect to any differences among different brands of replacement parts. We also stated that the service procedures must be ''reasonably equivalent'' to those that would have been used if the remedy program were not accelerated. See proposed Section 573.14(e).

Several comments were received concerning the need for equivalency of replacement parts and repair procedures. The Alliance complained that the proposed rule provided no clarification on who would make the determination of equivalency and the basis on which it would be made. The Alliance asked, for instance, whether the determination would be based on the engineering performance of the remedy or whether warranty and post-recall service availability would also be considered. The Alliance surmised that while aftermarket parts might be readily available for use as replacement components in a recall remedy, the matter of establishing that those parts perform in an equivalent manner to original equipment might be extremely complex and controversial. The Alliance further expressed the belief that the untested and unverified substitution of aftermarket parts may not result in equivalence, and may cause the manufacturer, dealer, and vehicle owner to bear certain additional secondary costs. The Alliance contended that this is particularly true if the aftermarket product is warranted, as these products typically are, by the product manufacturer and not the vehicle manufacturer. The Alliance conjectured that if the aftermarket product should fail, the vehicle owner would be obliged to seek remedy from the product manufacturer as opposed to the vehicle manufacturer. Because the performance of the aftermarket part would in this circumstance be unknown to the vehicle manufacturer, and because equipment manufacturers are, in most respects, not covered by NHTSA's recently issued early warning reporting (EWR) rules, the Alliance contended that any problems in the performance of aftermarket replacement parts might not be reported to the agency. As a consequence, the Alliance asserted that NHTSA must make the determination of equivalence when directing a manufacturer to obtain parts from an alternative source, and must also take responsibility for that determination and its consequences, in place of the vehicle manufacturer.

Ford stated that it concurs in the Alliance's position on the issue of equivalency. In addition, Ford stated that the proposal for the Administrator to find, before requiring a manufacturer to accelerate a remedy program, that acceleration of the program can be reasonably achieved by expanding the sources of replacement parts, expanding the number of authorized repair facilities, or both, ''imposes on the agency a responsibility to gather information necessary to decide whether these extraordinary remedies are appropriate.'' The comment contended, without support, that the agency is also obligated to ensure that the remedies ''do not compromise vehicle safety or interfere with the intellectual property rights of the various parties.''

In their joint comment, MEMA and OESA asked who is to make, and take responsibility for, a determination that a replacement part or service facility is ''reasonably equivalent,'' and who is to oversee the testing of alternative parts or the evaluation of additional service facilities. The comment contended that if the agency proceeds with a final rule, it ''must articulate standards or baselines'' for the term ''reasonably equivalent,'' and ''take responsibility for any such determinations made with respect both to additional sources of parts and service facilities.'' The organizations indicated concern over the involvement of additional suppliers and third party service outlets for which their members will be held accountable, particularly in the context of a safety recall campaign. The comment stated that manufacturers would be reluctant to be part of such a program because of concern over potential product liability exposure for deficiencies in the products and services of others, the negative competitive impact of having to recommend other suppliers' parts and identify them as equivalent to the manufacturer's own, and future recall responsibility if a competitor's product or third party service facility is deficient.

In its comment, Bendix contended that the proposed rule places an undue burden on the affected manufacturer to assure that replacement parts from other sources are compatible and will perform properly as a substitute for the manufacturer's own product. Bendix also asserted that a manufacturer could suffer competitive harm if it were forced to use a competitor's product to accelerate a recall, especially if it was obliged to provide consumers with specific product comparisons. Like MEMA and OESA, Bendix expressed concern over legal issues such as who would take responsibility for the equivalence of the replacement part, and who would be responsible for defective substitute components, particularly if a crash should result or an additional recall should be necessary.

Delphi also took issue with the requirement in the proposed rule for the recalling manufacturer to assure the equivalence of replacement parts. Noting that many of the parts installed on motor vehicles meet QS–9000 and/or ISO–9000 certification, the comment asserted that an alternate supplier must have its parts certified to ensure that this level of quality is maintained. Delphi expressed concern that the recalling manufacturer might have to divulge ordinarily protected intellectual property in assisting an alternate supplier in the production of remedial parts.

The agency has carefully considered each of these comments. We start from the premise that in an accelerated remedy context, a manufacturer will generally need to engage in the procurement of parts in a manner and on a schedule different from its ordinary practices. While exceptional efforts may be required, there are limits. Because the statute authorizes us to require a manufacturer to accelerate its remedy program only if such acceleration ''can reasonably be achieved,'' by definition the burden on the manufacturer will not be insurmountable. We expect to consider the types of issues raised in these comments as part of the consultative process under section 573.14(c).

Finally, the agency will not assume any legal responsibility for determining the equivalency of replacement parts or repair facilities, or for any consequences that result from the use of replacement parts or the service actions under an accelerated remedy. Nothing in the TREAD Act acceleration of remedy provision places liability on the Federal government for its actions or authorizes us to adopt any form of indemnity program.

2. Equivalency of Tires

With regard to passenger car tires, we noted that guidelines are available to assure that tires from alternative sources are at least equivalent to those being replaced. These guidelines, found in the Uniform Tire Quality Grading System (UTQGS), set forth three criteria that buyers can use to make relative comparisons among passenger car tires. *See* 49 CFR 575.104. We proposed that the manufacturer be required to provide tires of a size and type that are suitable for the owner's vehicle and of the same or better UTQGS rating in each category. Alternatively, we observed that a manufacturer could do what Bridgestone/Firestone, Inc. (Firestone) did in connection with its recall of Firestone Radial ATX and Wilderness AT tires. There, Firestone authorized owners to obtain replacement tires of their choice from any tire manufacturer, and agreed to reimburse the owner up to a specified amount per tire. We noted that for the purpose of the acceleration of remedy program, the reimbursement amount would have to be sufficient to allow for the purchase of a tire that is reasonably equivalent to the defective or noncompliant tire.

Two comments were received concerning the equivalency of remedy issue as it pertains to tires. One of these comments, from RMA, recommended that the text of proposed section 573.14(e) be changed to specify that the replacement tire have the same or higher load index and speed rating as the defective or noncompliant tire it is to replace. The second comment, from the Alliance, cited circumstances in which an alternative tire identical in size, type, and Uniform Tire Quality Grading to a tire furnished as original equipment on a vehicle may not in fact be equivalent in terms of ''tire ply, steer, noise, rolling resistance, and tire uniformity.''

We agree with the RMA suggestion and are including appropriate language in the final rule. Although we recognize the validity of the Alliance's comment, we believe that it would not be practical to specify in the rule that all replacement tires must be equivalent to the recalled tires in every possible respect. Therefore, we will not add the parameters identified by the Alliance to the text of section 573.14(e). However, an agency decision requiring acceleration may specify particular features that must be present to ensure equivalency under the circumstances of a given recall.

3. Equivalency of Child Restraint Systems

We proposed to require that all replacement child restraint systems provided under an accelerated remedy program be of the same type and the same overall quality as the recalled restraints. Examples of the ''types'' of child restraint systems for purposes of this rule are rear-facing infant seats with a base, rear-facing infant seats without a base, convertible seats (designed for use in both rear- and forward-facing modes), forward-facing only seats, high back booster seats with a five-point harness and belt positioning booster seats. These examples are described in a NHTSA brochure, DOT HS 809 230 (May 2002). These types are listed as examples; if in the future another type of seat is marketed, it can be referenced in any agency decision under this rule.

D. Obligations of a Manufacturer That Is Required To Accelerate Its Remedy Program

Under the proposal in the NPRM, a manufacturer who is required to accelerate its remedy campaign would be required to implement the accelerated remedy program as directed by the agency. We noted that the level of detail and direction provided by the agency might vary, and that it could include expanding the sources of replacement parts provided to the manufacturer's franchised dealers, expanding the number of authorized repair facilities to include facilities not owned or franchised by the manufacturer that have repair or replacement capabilities, or other provisions. We further noted that the agency might require the submission of implementation plans and schedules, and might also require the reimbursement of consumers, particularly where facilities that are not owned or franchised by the manufacturer are involved.

One comment was received regarding these implementation issues. That comment, from TMA, observed that there was nothing in the proposed rule that identified how much lead time the agency would allow a manufacturer to implement an accelerated remedy program. Rather than specifying, within the text of the rule, the amount of lead-time that a manufacturer will be allowed, the agency believes that this matter can be best addressed on a case-by-case basis, after consultation with the manufacturer. This will permit the agency to take a reasoned approach to the implementation of the accelerated remedy program, taking account of the unique circumstances that can exist within any given recall.

E. Manufacturer's Notice to Vehicle or Equipment Owners

In the NPRM, we observed that the notice that a manufacturer who is required to accelerate a remedy campaign would be required to send to owners of the vehicles or equipment items involved would vary, depending on the circumstances. We stated that if the manufacturer has not sent an initial notification to owners under 49 CFR Part 577, relevant information about alternative parts or authorized repair facilities could be included in the initial notification letter. If the manufacturer has already sent an initial notification to owners under 49 CFR Part 577, the manufacturer would in most circumstances be required to send a supplemental letter to all owners except those who have had the remedy

performed. Proposed section 577.12 included provisions regarding the scope, timing, form, and content of the notice to be sent by the manufacturer.

The Alliance submitted the only comment on the owner notification aspects of the proposed rule. The Alliance recommended that a manufacturer affected by an acceleration of remedy directive be allowed to place within the owner notification letter a statement that parts or services are being provided by suppliers or facilities other than its own, that those parts or services would not be guaranteed by the manufacturer conducting the recall, and that the owner should inquire with the part or service provider to learn whether any warranties are being provided. The agency disagrees with this suggestion, because we are concerned that this sort of language could discourage owners from having defects or noncompliances remedied with the alternate parts or at the alternate facilities, and thus would undermine the purpose of requiring acceleration. However, if a manufacturer believes that the circumstances of a particular recall warrant the inclusion of caveats in the owner notification letter, it may bring those circumstances to our attention during the consultation process.

The Alliance also commented on the specific language to be included in the owner notification letter that was set out in proposed section 577.12(c)(6). That language was intended to alert owners that if they paid for a remedy from a service facility not affiliated with the manufacturer, or for replacement parts from sources other than the manufacturer, those expenses would be eligible for reimbursement. The proposed language would further direct the owner to a website, toll-free telephone number, or mailing address where the owner could obtain information on the costs that are eligible for reimbursement and on the procedures for obtaining reimbursement. The Alliance stated that this language had the potential to confuse consumers. While acknowledging that a manufacturer should be obligated to explain the costs that will be covered, how to obtain reimbursement, and how to obtain additional information from the manufacturer, the Alliance asserted that ''NHTSA should not attempt to prescribe the exact wording of the notification, in order to permit manufacturers to conform the style and readability of the language to the rest of the notification letter.''

We recently addressed a variety of issues related to reimbursement of costs associated with remedying defects and noncompliances in a separate regulation implementing Section 6(b) of the TREAD Act, ''Reimbursement Prior to Recall.'' *See* 67 FR 64049 (October 17, 2002). In that rule, we decided not to specify exact wording for manufacturer notifications about the possible availability of reimbursement. Rather, we described what needed to be in the owner notification and stated that we would review the manufacturer's proposed language regarding reimbursement as part of our general review of owner notifications under 49 CFR 573.6(c)(10). *See* 67 FR at 64061. We will take the same approach here. To permit manufacturers reasonable flexibility in the wording of the owner notification letter, we have eliminated proposed section 577.12(c)(6).

The Alliance also recommended that proposed section 577.12(c)(2) be changed to reflect that its requirements will not apply if the manufacturer, after consultation with the agency, agrees to take steps voluntarily to accelerate the remedy, rather than pursuant to a directive. The Alliance pointed out that in this circumstance the specific requirements of section 577.12 would not be triggered, because paragraph (a) of that section explains that the notification requirements only apply when the Administrator requires acceleration.

The agency believes that the owner notification requirements in proposed section 577.12 should apply whenever a remedy program is accelerated at the suggestion of the agency, regardless of whether the affected manufacturer agrees ''voluntarily'' to take steps to accelerate the program following consultation with the agency or is directed to do so. Accordingly, it would not be appropriate to waive the notification requirements altogether for manufacturers who agree to accelerate their remedy program in advance of receiving a formal directive to do so from the agency. To reflect this, we have changed the text of section 577.12(a) to require notification, in accordance section 577.12, ''[w]hen the Administrator requires a manufacturer to accelerate its remedy program under section 573.14 of this chapter, or when a manufacturer agrees with a request from the Administrator that it accelerate its remedy program in advance of being required to do so.'' We have made a corresponding change to proposed section 577.12(c)(2) to emphasize that the statement ''that the National Highway Traffic Safety Administration has required the manufacturer to accelerate its remedy program'' need only be included in the owner notification letter when the Administrator has directed that the remedy program be accelerated.

F. Accelerated Remedy Programs Involving Reimbursement

We noted in the NPRM that in some circumstances, a remedy campaign could be accelerated without any out-of-pocket expense to the owners of the vehicles or equipment items involved, precluding the need for those owners to be reimbursed by the manufacturer. We observed that in these instances, appropriate financial arrangements could be made between the manufacturer and the dealer or repair facility. For example, when a vehicle is repaired at a dealer who is franchised or authorized by the vehicle manufacturer or when the parts in question (such as a tire) are provided by a facility owned or franchised by the manufacturer, the manufacturer would reimburse the dealer for the cost of the parts as well as the labor, and the owner would not have any out-of-pocket expense. We noted, however, that in other circumstances, the accelerated remedy program might be structured to allow an owner to obtain the remedy from independent third-party parts suppliers and/or repair facilities, pay that independent entity, and then be reimbursed by the manufacturer.

We stated that reimbursement under an accelerated remedy program would be similar in most respects to the applicable provisions of our regulation implementing section 6(b) of the TREAD Act, codified as the third and fourth sentences of 49 U.S.C. 30120(d) (''pre-notification remedy''), with two obvious differences. For one, the periods covered by the respective programs would be different. Under the pre-notification remedy program, reimbursement would be available for expenditures made by vehicle or equipment owners before they receive notification of a defect or noncompliance from the manufacturer. Under an acceleration of remedy program, reimbursement would be available for owner expenditures made after notification from the manufacturer, as provided in the program. Second, under the pre-notification remedy program, reimbursement would be available for a range of remedies addressing the underlying problem. In contrast, under an acceleration of remedy program, reimbursement may not be available at all, or when it is, may be conditioned on the use of a specific remedy. In addition, owners could be limited to obtaining the remedy at specific service facilities under an acceleration of remedy program.

We noted in the NPRM that despite these substantive differences, the general procedures for obtaining reimbursement in the two programs would be very similar. The provisions specifying the documentation a manufacturer may require a claimant to submit to obtain reimbursement would be identical in the two programs, as would the provisions relating to the amount of reimbursement and the time frame for seeking reimbursement, and the method for owners to obtain information about reimbursement availability.

Since the process governing reimbursement under the two programs would virtually be the same, we stated in the NPRM that there was no need for us to repeat those provisions or discuss them in the context of this rulemaking. Instead, we referred interested persons to our discussion of the reimbursement provisions in the preamble to the pre-notification remedy NPRM, and stated that to the extent that we modify the proposal in that NPRM following public comment, we would make corresponding changes to the applicable provisions of the accelerated remedy rule. We published a final rule on pre-notification remedies on October 17, 2002 at 67 FR 64049. In that final rule we made a number of relatively minor substantive changes to the provisions proposed in the NPRM, but these changes would not have a significant effect upon acceleration of remedy programs. As a consequence, there is no need to make corresponding revisions to section 573.14. In the preceding section of this document, we discussed changes that we have made in the text of proposed section 577.12 concerning notification to owners when reimbursement is to be provided as part of an accelerated remedy program.

G. Termination of an Accelerated Remedy Program

In the NPRM, we expressed the belief that a manufacturer should be able to terminate an accelerated remedy program when the conditions that gave rise to the need for an accelerated program no longer exist. We noted that we should not require a manufacturer to authorize the use of alternative replacement parts or to reimburse an owner who purchased such parts if the manufacturer is able to provide the recall remedy promptly. Thus, we proposed to allow a manufacturer that believes that it can meet all future demand for the remedy in a prompt manner through its own normal mechanisms (*e.g.*, its dealers) to request authorization to terminate an accelerated remedy program.

Under section 573.14(g) of the proposed rule, if NHTSA agreed with the manufacturer's request, the manufacturer could terminate the program, provided that notice is given to all owners of unremedied vehicles or equipment items at least 30 days in advance of the termination date of the accelerated remedy program. We invited comment with regard to how such notice should be given. No comments regarding this issue were submitted, and we are not addressing it within the text of this final rule.

III. Regulatory Analyses and Notices

A. Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993) provides for making determination 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 defies as ''significant 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 government or communities;

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

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

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

We have considered the impact of this final rulemaking action under E.O. 12866 and the Department of Transportation's Regulatory Policies and Procedures. This rulemaking was not reviewed under the executive order and is not considered ''significant'' under the Department of Transportation's regulatory policies and procedures. The impacts of this rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation. We do not foresee substantially increased costs to a manufacturer because of an accelerated remedy program. First, a remedy program will already be in place at the time that a manufacturer is required by the agency to accelerate that program. The scope of the remedy program is not being expanded under this final rule. The only aspects that will be affected are the time for completion of the remedy and alternative sources of replacement parts or repair facilities needed to perform the remedy. Second, we expect this provision to be invoked infrequently, since in the large majority of cases, the manufacturer's original remedy program will fully address the defect or noncompliance in a timely fashion, or no accelerated remedy will be reasonably available.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act 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. Business entities are defined as small by standard industry classification for the purposes of receiving Small Business Administration (SBA) assistance.

We have also considered the impacts of this final rule under the Regulatory Flexibility Act. For the reasons discussed above with regard to E.O. 12866 and the DOT Policies and Procedures, I certify that this final rule will not have significant economic impact on a substantial number of small entities. The impacts of this rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation because this provision only involves motor vehicle and equipment manufacturers that have submitted defect or noncompliance reports. The majority of recalls are not initiated by small entities. The primary impact of this rule will be on major motor vehicle manufacturers. Even this impact will be small because we anticipate that we will only rarely need to require a manufacturer to accelerate its remedy program.

C. National Environmental Policy Act

We have analyzed this rule under the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

D. Paperwork Reduction Act

In the NPRM, we stated that the proposed rule would impose new collection of information burdens within the meaning of the Paperwork Reduction Act of 1995 (PRA). *See* NPRM at 66 FR 64090. At that time, we had no experience under the TREAD Act acceleration provision, did not engage in an analysis, and simply assumed that the PRA would be applicable. We have since evaluated this issue, and concluded, for a number of reasons, that the final rule will not

impose a collection of information burden that would trigger the requirements of the PRA.

First, in a recall, NHTSA may accelerate a remedy based on the statute alone, and the final rule itself provides no independent authority for the agency to require a manufacturer to undertake a collection of information. In any event, 49 CFR Part 573 already contains information collection requirements. To the extent needed, if at all, PRA authorization would be subsumed in periodic renewals of information collection authorizations with regard to Part 573.

Second, even if the final rule could be construed as imposing a collection of information requirement, that requirement would be highly discrete in the context of an individual recall action, of limited extent, and would arise so infrequently as to call the need for PRA approval into question. As indicated in the preceding discussion, the agency does not foresee the need to require manufacturers to provide accelerated remedies with any significant frequency. In fact, the acceleration provision (which, as previously indicated, is self-executing) has not been invoked in the two years since the TREAD Act was enacted.

Third, there are substantial questions as to how many manufacturers would be subject to the final rule or when they would be so subject. As such, additional information collection requirements stemming from the rule, if any, will not affect a sufficient number of manufacturers, or a sufficient share of the manufacturers within each of the industries regulated by the agency, to require the agency to obtain authorization under the PRA. *See* 5 CFR 1320.7(c) and (s).

Lastly, if there were any information collection requirements that result from the final rule, those requirements would arise in the context of agency actions to monitor manufacturers' recalls that either are influenced by agency investigations or are undertaken by a manufacturer exclusively on its own initiative. As such, these information collections appear to be exempt from the coverage of the PRA under OMB regulations at 5 CFR 1320.4(a)(2), which exempt collections of information ''during the conduct of an administrative action, investigation, or audit involving an agency against specific individuals or entities.''

In any event, we are providing an opportunity for comment on the above by February 3, 2003. If a commenter suggests that there are PRA information collection burdens, the commenter should provide a detailed explanation of the basis for that suggestion in the context of this rule and estimates of the burden, with adequate support.

E. Executive Order 13132 (Federalism)

Executive Order 13132 on ''Federalism'' requires us to develop an accountable process to ensure ''meaningful and timely input'' by State and local officials in the development of ''regulatory policies that have federalism implications.'' The E.O. defines this phrase to include regulations ''that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This rule, which is limited in its application to motor vehicle and motor vehicle equipment manufacturers, will not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in E.O. 13132.

F. Civil Justice Reform

This rule will not have a retroactive or preemptive effect. Judicial review of the rule 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.

G. Unfunded Mandates Reform Act of 1995

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 the expenditure by State, local or tribunal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rule will not have a $100 million annual effect, no Unfunded Mandates assessment is necessary and one will not be prepared.

H. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of whether the material is organized to suit the public's needs, whether the requirements in the rule are clearly stated, whether the rule contains technical language or jargon that is not clear, and whether a different format would make the rule easier to understand. We have endeavored to meet these objectives in preparing this final rule.

List of Subjects

49 CFR Part 573

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

49 CFR Part 577

Motor vehicle safety.

In consideration of the foregoing, NHTSA is amending 49 CFR Parts 573 and 577 as set forth below.

1. The authority citation for Part 573 continues to read as follows:

Authority: 49 U.S.C. 30102–103, 30112, 30117–121, 30166–167; delegations of authority at 49 CFR 1.50; 501.2.

2. Part 573 is amended by adding § 573.14 to read as follows:

§ 573.14 Accelerated remedy program.

(a) An accelerated remedy program is one in which the manufacturer expands the sources of replacement parts needed to remedy the defect or noncompliance, or expands the number of authorized repair facilities beyond those facilities that usually and customarily provide remedy work for the manufacturer, or both.

(b) The Administrator may require a manufacturer to accelerate its remedy program if:

(1) The Administrator finds that there is a risk of serious injury or death if the remedy program is not accelerated;

(2) The Administrator finds that acceleration of the remedy program can be reasonably achieved by expanding the sources of replacement parts, expanding the number of authorized repair facilities, or both; and

(3) The Administrator determines that the manufacturer's remedy program is not likely to be capable of completion within a reasonable time.

(c) The Administrator, in deciding whether to require the manufacturer to accelerate a remedy program and what to require the manufacturer to do, will consult with the manufacturer and may consider a wide range of information, including, but not limited to, the following: the manufacturer's initial or revised report submitted under § 573.6(c), information from the manufacturer, information from other manufacturers and suppliers, information from any source related to the availability and implementation of the remedy, and the seriousness of the risk of injury or death associated with the defect or noncompliance.

(d) As required by the Administrator, an accelerated remedy program shall include the manner of acceleration (expansion of the sources of

replacement parts, expansion of the number of authorized repair facilities, or both), may require submission of a plan, may identify the parts to be provided and/or the sources of those parts, may require the manufacturer to notify the agency and owners about any differences among different sources or brands of parts, may require the manufacturer to identify additional authorized repair facilities, and may specify additional owner notifications related to the program. The Administrator may also require the manufacturer to include a program to provide reimbursement to owners who incur costs to obtain the accelerated remedy.

(e) Under an accelerated remedy program, the remedy that is provided shall be equivalent to the remedy that would have been provided if the manufacturer's remedy program had not been accelerated. The replacement parts used to remedy the defect or noncompliance shall be reasonably equivalent to those that would have been used if the remedy program were not accelerated. The service procedures shall be reasonably equivalent. In the case of tires, all replacement tires shall be the same size and type as the defective or noncompliant tire, shall be suitable for use on the owner's vehicle, shall have the same or higher load index and speed rating, and, for passenger car tires, shall have the same or better rating in each of the three categories enumerated in the Uniform Tire Quality Grading System. *See* 49 CFR 575.104. In the case of child restraints systems, all replacements shall be of the same type (*e.g.*, rear-facing infant seats with a base, rear-facing infant seats without a base, convertible seats (designed for use in both rear- and forward-facing modes), forward-facing only seats, high back booster seats with a five-point harness, and belt positioning booster seats) and the same overall quality.

(f) In those instances where the accelerated remedy program provides that an owner may obtain the remedy from a source other than the manufacturer or its dealers or authorized facilities by paying for the remedy and/or its installation, the manufacturer shall reimburse the owner for the cost of obtaining the remedy as specified on paragraphs (f)(1) through (f)(3) of this section. Under these circumstances, the accelerated remedy program shall include, to the extent required by the Administrator:

(1) A description of the remedy and costs that are eligible for reimbursement, including identification of the equipment and/or parts and labor for which reimbursement is available;

(2) Identification, with specificity or as a class, of the alternative repair facilities at which reimbursable repairs may be performed, including an explanation of how to arrange for service at those facilities; and

(3) Other provisions assuring appropriate reimbursement that are consistent with those set forth in § 573.13, including, but not limited to, provisions regarding the procedures and needed documentation for making a claim for reimbursement, the amount of costs to be reimbursed, the office to which claims for reimbursement shall be submitted, the requirements on manufacturers for acting on claims for reimbursement, and the methods by which owners can obtain information about the program.

(g) In response to a manufacturer's request, the Administrator may authorize a manufacturer to terminate its accelerated remedy program if the Administrator concludes that the manufacturer can meet all future demands for the remedy through its own sources in a prompt manner. If required by the Administrator, the manufacturer shall provide notice of the termination of the program to all owners of unremedied vehicles and equipment at least 30 days in advance of the termination date, in a form approved by the Administrator.

(h) Each manufacturer shall implement any accelerated remedy program required by the Administrator according to the terms of that program.

3. The authority citation for 49 CFR Part 577 continues to read as follows:

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

4. Part 577 is amended by adding § 577.12 to read as follows:

§ 577.12 Notification pursuant to an accelerated remedy program.

(a) When the Administrator requires a manufacturer to accelerate its remedy program under § 573.14 of this chapter, or when a manufacturer agrees with a request from the Administrator that it accelerate its remedy program in advance of being required to do so, in addition to complying with other sections of this part, the manufacturer shall provide notification in accordance with this section.

(b) Except as provided elsewhere in this section or when the Administrator determines otherwise, the notification under this section shall be sent to the same recipients as provided by § 577.7. If no notification has been provided to owners pursuant to this part, the provisions required by this section may be combined with the notification under §§ 577.5 or 577.6. A manufacturer need only provide a notification under this section to owners of vehicles or items of equipment for which the defect or noncompliance has not been remedied.

(c) The manufacturer's notification shall include the following:

(1) If there was a prior notification, a statement that identifies that notification and states that this notification supplements it;

(2) When the accelerated remedy program has been required by the Administrator, a statement that the National Highway Traffic Safety Administration has required the manufacturer to accelerate its remedy program;

(3) A statement of how the program has been accelerated (*e.g.*, by expanding the sources of replacement parts and/or expanding the number of authorized repair facilities);

(4) Where applicable, a statement that the owner may elect to obtain the recall remedy using designated service facilities other than those that are owned or franchised by the manufacturer or are the manufacturer's authorized dealers, and an explanation of how the owner may arrange for service at those other facilities;

(5) Where applicable, a statement that the owner may elect to obtain the recall remedy using specified replacement parts or equipment from sources other than the manufacturer;

(6) Where applicable, a statement indicating whether the owner will be required to pay an alternative facility and/or parts supplier, subject to reimbursement by the manufacturer; and

(7) If an owner will be required to pay an alternative facility and/or parts supplier, a statement that the owner will be eligible to have those expenditures reimbursed by the manufacturer, and a description of how a consumer may obtain information about reimbursement from the manufacturer consistent with § 577.11(b)(2), (c) and (d).

Issued on: November 26, 2002.

Jeffrey W. Runge,

Administrator.

[FR Doc. 02–30523 Filed 12–4–02; 8:45 am]

BILLING CODE 4910–59–P