

the categories of information or documents during a quarter for which it is required to report pursuant to §§579.21 through 579.26, the manufacturer's report must indicate that no relevant information or documents were received during that quarter. If the due date for any report is a Saturday, Sunday, or a Federal holiday, the report shall be due on the next business day.

\* \* \* \* \*

(h) *When a report involving a claim or notice is not required.* If a manufacturer has reported a claim or notice relating to an incident involving death or injury, the manufacturer need not:

(1) Report a claim or notice arising out of the incident by a person who was not injured physically, and

(2) Include in its number of property damage claims a property damage claim arising out of the incident.

\* \* \* \* \*

■ 11. Section 579.29(b) is amended by adding a new last sentence to read as follows:

**§ 579.29 Manner of reporting.**

\* \* \* \* \*

(b) *Submission of documents.* \* \* \* Each document shall be identified in accordance with the templates provided at NHTSA's early warning Web site, which is identified in paragraph (a)(1) of this section.

\* \* \* \* \*

Issued on: June 5, 2003.

**Jeffrey W. Runge,**  
Administrator.

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 579

[Docket No. NHTSA 2001-8677; Notice 6]

RIN 2127-A192

#### Reporting of Information and Documents About Potential Defects

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

**ACTION:** Final rule; partial response to petitions for reconsideration.

**SUMMARY:** This document responds to petitions to extend the initial period for quarterly reporting and the due date for one-time historical reports established by the final rule published on July 10, 2002, and implementing the early warning reporting provisions of the

Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. Under this rule, motor vehicle and motor vehicle equipment manufacturers will continue to be required to report information and to submit documents that may assist NHTSA to promptly identify defects related to motor vehicle safety.

This document changes the initial reporting period for quarterly incident and statistical data reports from the second quarter of 2003 to the third quarter of 2003, changes the reporting period for one-time historical reports by one quarter, and makes a corresponding change of the reporting date for the one-time historical report to December 31, 2003. The document also defers the initial reporting period for copies of non-dealer field reports for two quarters until the first quarter of 2004, and changes the due dates for the submission of copies of non-dealer field reports.

The agency's response to petitions for reconsideration of certain other provisions of the final rule appears in another notice separately published in the **Federal Register**.

**DATES: Effective Date:** The effective date of the amendments made by this final rule is July 11, 2003. **Applicability Dates:** Various provisions of this final rule are applicable on the dates stated in the regulatory text. **Petitions for Reconsideration:** Petitions for reconsideration of amendments made by this final rule must be received not later than July 28, 2003.

**ADDRESSES:** Petitions for reconsideration of the amendments made by this final rule must refer to the docket or Regulatory Identification Number (RIN) for this rulemaking, and be addressed to the Administrator, National Highway Traffic Safety Administration (NHTSA). You may submit a petition by any of the following methods:

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

- Hand Delivery : Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

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

See Section IV "Privacy Act Statement" for electronic access and filing addresses.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, contact Jonathan White, Office of Defects Investigation, NHTSA (phone: 202-366-5226). For legal issues, contact Taylor Vinson, Office of Chief Counsel, NHTSA (phone: 202-366-5263).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On July 10, 2002, NHTSA published a final rule implementing the early warning reporting (EWR) provisions of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, established by 49 U.S.C. 30166(m) (67 FR 45822). The reader is referred to that document, and the prior Notice of Proposed Rulemaking (NPRM) (66 FR 66190) for further information. The reader is also referred to a response to some issues raised by other petitions for reconsideration of the final rule. 68 FR 18136 (April 15, 2003). We are responding to other issues raised by such petitions in a separate notice published in the **Federal Register**.

The EWR provisions addressed by this notice appear in Subchapter C of 49 CFR part 579, *Reporting of Information and Documents About Potential Defects*, specifically Sections 571.21-29. The final rule establishes a schedule for the reporting of information and documents by calendar quarters. Under that schedule, the first reporting quarter is the second quarter of 2003 (April 1-June 30), with reports and copies of non-dealer field reports due not later than 60 days after the end of the quarter, that is to say, August 29, 2003. See Sections 579.28(a) and (b). In addition, not later than September 30, 2003, all manufacturers of 500 or more motor vehicles annually, manufacturers of child restraint systems, and manufacturers of tires must file a one-time report of historical information on the numbers of warranty claims or warranty adjustments and field reports that they received in each calendar quarter from April 1, 2000 to March 31, 2003. See Section 579.28(c), as amended (68 FR 18143 (April 15, 2003)).

##### II. Petitions for Extension of the Date of Reporting Requirements

NHTSA has received a number of petitions related to the final rule. For example, General Motors Corporation (GM) submitted a petition for reconsideration raising issues about the date established by the final rule for submission of the one-time historical reports. Thereafter, we received a number of related petitions.

On November 22, 2002, the National Association of Trailer Manufacturers (NATM) filed a "Petition for Postponement of Compliance Date for Certain Trailers." NATM sought delayed compliance dates for reporting of information. Shortly thereafter, on December 5, 2002, the National Truck Equipment Association (NTEA) and the Recreational Vehicle Industry Association (RVIA) jointly petitioned NHTSA to "extend for a period of six months" the periods for and the dates that manufacturers of motorhomes, multi-stage vehicles, alterers, and trailers and trailer equipment would report, or, alternatively, "all affected manufacturers that meet the Small Business Administration's definition of 'small entities' as stated in 13 CFR Sec. 121.201." This petition asked that the first quarterly reporting period begin October 1, 2003, with the first report due not later than February 29, 2004, and that the one-time historical report be due on March 31, 2004.

Finally, on March 18, 2003, the Rubber Manufacturers Association (RMA) submitted a petition to postpone the periods for which reporting is required until after NHTSA has responded to RMA's timely petition for reconsideration of various provisions of the final rule. We are responding to RMA's petition for reconsideration in Notice 5.

We have decided to extend the reporting dates, for the reasons discussed below, which we regard as a partial grant of these petitions.

### III. Revisions to the Dates in the EWR Regulation

In the final rule, we addressed how NHTSA plans to handle and utilize information submitted under the rule. See 67 FR at 45865. We noted that 49 U.S.C. 30166(m)(4)(A)(i) and (ii) require that our early warning rule specify how the information reported to us will be used. Among other things, we stated that data submitted by manufacturers would be entered into a new computer system and data warehouse called ARTEMIS—Advanced Retrieval (Tire, Equipment, Motor vehicles) Information System. ARTEMIS is being developed for NHTSA's Office of Defects Investigation (ODI) under an agreement with the Volpe National Transportation Systems Center (Volpe) in Cambridge, Massachusetts. ARTEMIS will provide for centralized storage of information, include a document management system, use data analysis tools, and facilitate the provision of appropriate information to the public.

There are three basic types of EWR data that will be reported quarterly

(with slight variations depending on the type of manufacturer): (1) Information about incidents involving deaths and injuries in claims and notices received by a manufacturer; (2) statistical data about the number of items produced, property damage claims, consumer complaints, warranty claims, and field reports; and (3) copies of non-dealer field reports.

Numerous interpretation questions have been submitted by manufacturers and their associations. The agency has been responding to these questions. In addition, our April 15, 2003, notice (Notice 4) responding to some issues raised in petitions for reconsideration made changes to some requirements, and other changes are being made in the response to other issues raised by these petitions (Notice 5). To ensure that we have consistent data and that manufacturers have time to incorporate all needed changes into their data collection systems, in response to these regulatory changes and in light of NHTSA's interpretations, we are extending the reporting period one quarter. We are correspondingly extending the date these reports are due, to Monday, December 1, 2003. (To make it more convenient for manufacturers to submit their data and to protect against a possible system overload that could occur if every manufacturer tried to submit its data on the afternoon of December 1, we plan to work with the larger manufacturers to develop a schedule under which their data will be submitted over several days at the end of November and/or early December.)

We are extending the requirement for the submission of copies of non-dealer field reports, which must be submitted to ODI pursuant to subsection (d) of Sections 579.21–579.25, for a longer period. Manufacturers use a myriad of data retention and transmission tools and procedures to generate, describe, store, and submit these field reports. In view of the different approaches, various issues must be addressed before manufacturers transmit these field reports electronically to assure that ODI will be able to receive, store, access, and effectively utilize these reports. To capture the unique attributes of each specific field report and to make the field report data retrievable in an effective manner, ODI has decided to create a file naming convention that will allow the field reports to be stored in a relational and accessible manner. Although we have advised the industry that we plan to create such a convention, we have not yet notified manufacturers of its specific terms. We anticipate that we will be able to do so

before the end of the second quarter of 2003.

Because each non-dealer field report will have to be individually reviewed and coded by the manufacturers, to allow manufacturers time to become familiar with the file naming convention, we are deferring the initial reporting period for the submission of copies of non-dealer field reports for two calendar quarters beyond the calendar quarter for which numerical reports will be required, *i.e.*, until the first quarter of 2004.

In addition, since transmission of electronic copies of field reports will utilize a great deal of bandwidth, which could delay or interfere with the transmission of other EWR data, we have decided that the submission date for these documents should be different from the date that other EWR information is due. Thus, we are amending the regulation to provide that copies of these reports will be due 30 days after the other quarterly EWR data are due. This amendment will reduce the burden on the manufacturers' computer facilities and on ARTEMIS.

With regard to one-time historic reporting, we understand that the September 30, 2003 due date is presenting a challenge to some manufacturers, notwithstanding the use of temporary staff. In its petition for reconsideration, GM represented that many of the documents it maintains exist in uncoded systems, requiring manual retrieval, review, and coding into the specified system/component categories, concluding that "GM estimates that it will take multiple labor years—just to compile the historical report." We note that NTEA/RVIA asked for a six-month delay in this requirement as well. An extension beyond September 30 will ease the burden on manufacturers and will also provide ODI with additional time to complete its review of the initial quarterly submissions. The period covered by the one-time historical report is also adjusted by one quarter (*e.g.*, for motor vehicles, the period for which data must be reported begins on July 1, 2000 (rather than April 1, 2000), and ends on June 30, 2003 (rather than March 31, 2003). Therefore, the due date for one-time historical reports submitted pursuant to Section 579.28(c), as amended, will be December 31, 2003.

### IV. 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>.

## V. Rulemaking Analyses

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

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

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

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

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

We have considered the impact of this rulemaking under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. The underlying rulemaking has been determined to be significant by the Office of Management and Budget under E.O. 12866 because of Congressional interest. For the same reason, this action has also been determined to be significant under DOT's regulatory policies and procedures. A detailed discussion of impacts of the underlying rulemaking can be found in the Final Regulatory Evaluation (FRE) that the agency has prepared for the rulemaking completed in July 2002 and filed in the docket. The changes made by today's rule simply delay the reporting and applicability dates of the provisions of the EWR rule. Except for this short-term adjustment, they do not change the reporting requirements.

*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. This

was addressed in the final rule. 67 FR 45870–71. The changes made by today's rule simply delay the reporting and applicability dates of the provisions of the EWR rule. Based on the best information available to us at this time, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

*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 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. This rule regulates the manufacturers of motor vehicles and motor vehicle equipment and 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 Executive Order 13132.

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

*Paperwork Reduction Act.* The final rule requires manufacturers of motor vehicles and motor vehicle equipment to report information and data to NHTSA periodically. Provisions of the final rule, including document retention provisions, are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. To obtain a three-year clearance for information collection, we published a Paperwork Reduction Act notice on June 25, 2002 (67 FR 42843) pursuant to the requirements of that Act (44 U.S.C. 3501 *et seq.*). We received clearance from OMB on December 20, 2002, which will expire on December 31, 2005. The clearance number is 2127–0616. The amendments made by

this rule do not change the overall paperwork burden. They simply delay the reporting and applicability dates of the provisions of the EWR rule.

*Data Quality Act* Section 515 of the FY 2001 Treasury and General Government Appropriations Act (Public Law 106–554, § 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 final rule, 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 made by today's rule simply delay the reporting and applicability dates of the provisions of the EWR rule and do not have any effects on data quality.

*Unfunded Mandates Reform Act.* The Unfunded Mandates Reform Act of 1995 (Public Law 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). The rule did not have unfunded mandates implications. 67 FR 49263 (July 30, 2002). The changes made by today's rule simply delay the reporting and applicability dates of the provisions of the EWR rule and do not create any unfunded mandates within the meaning of this Act.

## List of Subjects in 49 CFR Part 579

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

■ In consideration of the foregoing, 49 CFR chapter V is amended as follows:

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

■ 1. The authority citation for part 579 continues to read as follows:

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

#### Subpart A—General

■ 2. In § 579.5(d), the date of "April 1, 2003," is revised to read "July 1, 2003."

### Subpart C—Reporting of Early Warning Information

■ 3. In § 579.28, paragraphs (a), (b), and (c)(1) are revised and paragraph (n) is added, to read as follows:

#### § 579.28 Due date of reports and other miscellaneous provisions.

(a) *Initial submission of reports.* Except as provided in paragraph (n) of this section, the first calendar quarter for which reports are required under §§ 579.21 through 579.27 of this subpart is the third calendar quarter of 2003.

(b) *Due date of reports.* Except as provided in paragraph (n) of this section, each manufacturer of motor vehicles and motor vehicle equipment shall submit each report that is required by this subpart not later than 30 days after the last day of the reporting period. Notwithstanding the prior sentence, the due date for reports covering the third and fourth calendar quarter of 2003 and the first calendar quarter of 2004 shall be 60 days after the last day of the reporting period.

(c) *One-time reporting of historical information.* (1) No later than December 31, 2003:

(i) Each manufacturer of vehicles covered by §§ 579.21 through 579.24 of this part shall file separate reports providing information on the numbers of warranty claims recorded in the manufacturer's warranty system, and field reports, that it received in each calendar quarter from July 1, 2000, to June 30, 2003, for vehicles manufactured in model years 1994 through 2003 (including any vehicle designated as a 2004 model);

(ii) Each manufacturer of child restraint systems covered by § 579.25 of this part shall file separate reports covering the numbers of warranty claims recorded in the manufacturer's warranty system and consumer complaints (added together), and field reports, that it received in each calendar quarter from July 1, 2000, to June 30, 2003, for child restraint systems manufactured from July 1, 1998, to June 30, 2003, and

(iii) Each manufacturer of tires covered by § 579.26 of this part shall file separate reports covering the numbers of warranty adjustments recorded in the manufacturer's warranty adjustment system for tires that it received in each calendar quarter from July 1, 2000, to June 30, 2003, for tires manufactured from July 1, 1998, to June 30, 2003.

\* \* \* \* \*

(n) *Submission of copies of field reports.* Copies of field reports required under this subpart shall be submitted not later than 30 days after reports are due pursuant to paragraphs (a) and (b) of this section. The first calendar quarter for which copies of field reports are required to be submitted under §§ 579.21(d), 579.22(d), 579.23(d), 579.24(d), and 579.25(d) of this subpart is the first calendar quarter of 2004.

Issued on: June 6, 2003.

**Jeffrey W. Runge,**

*Administrator.*

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