# TABLE OF CONTENTS

Introduction .................................................................................................................................. i

Background .................................................................................................................................. ii

I. Executive Summary .................................................................................................................. 1

II. Compliance with Federal Motor Vehicle Safety Standards ("FMVSS") ................................. 8

III. Early Warning Reporting ("EWR") ....................................................................................... 9
    A. Important Considerations for EWR Requirements ......................................................... 10
    B. Reporting Requirements Applicable to All Manufacturers (Regardless of Size) ............... 10
    C. Additional Early Warning Reports for Manufacturers of 5,000 Trailers or More Annually .......................................................... 16
    D. Penalties for Failing to Comply with EWR Obligations ............................................. 23
    E. Examples ..................................................................................................................... 23

IV. Recalls And Remedies for Defective Trailers or Equipment (Manufacturer’s Decision) .......... 25
    A. Step One: Reporting of Safety Defect ........................................................................... 28
    B. Step Two: Preparation and Submission of the Defect and Noncompliance Report to NHTSA ("Defect/Noncompliance Report") .......................................................... 30
    C. Step Three: Development and Enactment of Recall Remedy ........................................ 33
    D. Step Four: Public Notification Requirements ............................................................... 34
    E. Step Five: Recall Remedy Monitoring ......................................................................... 40
    F. Notification Pursuant to an Administrative Order .......................................................... 42
    G. Penalties for Failing to Comply with Safety-Related Recalls and Remedy Obligations ................................................................................................................. 42
    H. Important Considerations for Safety-Related Recalls .................................................. 43
    I. Example of a Safety Recall (Life Cycle) ........................................................................... 43

V. Recent Agency Enforcement Activities .................................................................................. 45

A Note of Caution ....................................................................................................................... 50

Appendix A – Sample Defect Report ......................................................................................... A-1

Appendix B – Early Warning Report Template ........................................................................ B-1

Appendix C – Relevant Statutes ............................................................................................... C-1

Appendix D – Relevant Regulations ........................................................................................ D-1

Appendix E – Acronyms ............................................................................................................ E-1
INTRODUCTION

The mission of the National Association of Trailer Manufacturers (“NATM”) is to promote trailer safety and the success of the trailer manufacturing industry through education and advocacy. Compliance with federal regulations governing the safe manufacture of trailers is, therefore, paramount to NATM and NATM member companies. In fact, it is an obligation of NATM members to comply with applicable federal regulations governing trailer manufacturing, as well as the reporting requirements regarding safety and other possible defects related to trailers and trailer equipment (including any system, part, or component of a trailer). Navigating the labyrinth of regulations governing such reporting requirements to meet those obligations, however, can be difficult.

K&L Gates LLP has developed this guidance document for the benefit of NATM and NATM members to assist in understanding the safety recall and reporting requirements, including early warning reporting (“EWR”) requirements that are enforced by the National Highway Traffic Safety Administration (“NHTSA”). These requirements are potentially applicable to NATM members that are manufacturers and dealers of light- and medium-duty trailers and trailer equipment. This document is not designed to provide legal advice to NATM members about the applicability or scope of the NHTSA safety recall and EWR requirements that may be relevant in a specific situation; it is instead designed to provide general information about the requirements under the law and the potential significance and consequences of the NHTSA regulations, as well as the administrative process that has been established to enforce these regulations.

As always, NATM staff is willing to help provide guidance to NATM members on these issues where appropriate, but members would be well advised to consult with an attorney in those circumstances where they have specific legal questions regarding compliance with applicable federal regulations.
BACKGROUND

The National Traffic and Motor Vehicle Safety Act of 1966 as amended, 49 U.S.C. § 30101, et seq. (the “Safety Act”), provides for the regulation of motor vehicles and motor vehicle equipment by the U.S. Secretary of Transportation. The Secretary has delegated this regulatory authority under the Safety Act to the National Highway Traffic Safety Administration. 49 C.F.R. §§ 1.95(a), 501.2(a)(1). Under the Safety Act, motor vehicle is defined, in pertinent part, to include “a vehicle . . . drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways . . . .” 49 U.S.C. § 30102(a)(6). Motor vehicle equipment, i.e., trailer equipment, is defined to be “any system, part, or component of a motor vehicle as originally manufactured [or] any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle . . . .” 49 U.S.C. § 30102(a)(7). NHTSA has consistently taken the position that the definition of motor vehicle under the Safety Act includes trailers manufactured for use on public streets, roads and highways. Therefore, for all relevant purposes, most light- and medium-duty trailers designed for use on public streets, roads and highways are considered to be motor vehicles that are subject to the safety mandates established by NHTSA.

As a general matter, the Safety Act and federal regulations issued by NHTSA require trailer manufacturers to notify NHTSA regarding defects and to take corrective steps whenever they discover that their trailers may violate applicable federal motor vehicle safety standards ("FMVSS") or may have a safety-related defect. A trailer manufacturer must notify NHTSA and all trailer purchasers and dealers if and when the manufacturer determines that its trailers are defective and concludes "in good faith" that the defect is related to the safety of the trailer. The trailer manufacturer must also take steps to remedy the safety-related defect, including when necessary through a safety recall. The same general rules apply to the manufacturers of trailer equipment that have a safety-related defect. This guidance document is designed to provide NATM members with an overview of the requirements and relevant steps involved in the NHTSA safety recall process and the obligations to report to NHTSA.

In addition to the recall requirements of the Safety Act, pursuant to the Transportation Recall Enhancement, Accountability, and Documentation Act enacted by Congress in 2000 ("TREAD Act"), Pub. L. No. 106-415, 114 Stat. 1800, NHTSA established certain EWR and related requirements that also apply to trailer manufacturers. 49 U.S.C § 30166(m); 49 C.F.R. Part 579. The TREAD Act and NHTSA regulations require trailer manufacturers to report periodically to NHTSA on a wide variety of information that could indicate the existence of a potential safety defect. For purposes of this guidance, this information is collectively referred to as the EWR obligation. The EWR requirements vary in some respects, depending upon whether the trailer manufacturer produces more or less than 5,000 trailers in a calendar year; however, certain TREAD Act reporting requirements apply to all trailer manufacturers. Thus, it is important to note that every trailer manufacturer, regardless of size or number of trailers manufactured, has an obligation to satisfy the EWR requirements. The scope of the EWR obligation, and not whether a manufacturer actually has an obligation to report, is what varies based on the number of trailers produced by a manufacturer in a calendar year.

The following guidance will begin with a brief executive summary, followed by a discussion regarding a manufacturer’s obligations to comply with the federal motor vehicle safety standards. The guidance then will discuss, in detail, a manufacturer’s obligations to comply with
NHTSA’s EWR requirements. Finally, the guidance will summarize and explain a manufacturer’s obligations to satisfy notification and recall requirements if the manufacturer determines that one of its trailers or item of trailer equipment contains a safety-related defect or otherwise fails to comply with applicable federal motor vehicle safety standards.
I. EXECUTIVE SUMMARY

This executive summary provides a general overview of (a) the EWR requirements applicable to manufacturers of trailers and trailer equipment, and (b) a manufacturer’s obligations to satisfy notification and recall requirements for safety-related defects or failure to comply with applicable federal motor vehicle safety standards. This executive summary is a basic outline of the requirements and does not attempt to provide a complete explanation of the specific details and obligations that apply in every particular circumstance. Manufacturers are strongly encouraged to review this guidance document in its entirety. In particular, manufacturers should review the sections below that outline the specific requirements for each of the various reporting and recall obligations imposed on manufacturers under applicable law. Significant penalties may be imposed on manufacturers that fail to comply with those obligations.

A. EWR Requirements ......................................................................................................... 2

B. Recalls and Remedies for Defective or Noncompliant Trailers or Equipment............. 5
A. **EWR Requirements**

1. **General Rule.** Every trailer manufacturer, regardless of size or number of trailers manufactured, has an obligation to satisfy the EWR requirements. The scope of the EWR obligation, and *not whether a manufacturer actually has an obligation to report*, is what varies based on the number of trailers produced by the manufacturer for sale, sold, offered for sale or introduced in interstate commerce or imported into the United States in a calendar year.

2. **EWR Requirements for Trailer Manufacturers Building Less Than 5,000 Trailers Per Year:**

   (a) Submission to NHTSA of external bulletins or other external communications sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser involving any defect in the trailers, *regardless of whether the defect is safety-related and regardless of the number of trailers produced by the manufacturer*. Notices or bulletins that must be furnished to NHTSA are typically referred to as Technical Service Bulletins ("TSBs"). These bulletins generally focus on non-safety-related defects that might affect a trailer’s performance or longevity, such as parts that fail prematurely or do not operate in the way intended by the manufacturer. Notices or bulletins that do not discuss a defect are not required to be furnished to NHTSA.

   (b) Submission to NHTSA of any report of a safety recall involving the trailer conducted by any foreign country, whether the safety recall was conducted voluntarily by the manufacturer or as required by a foreign government, and *regardless of the number of trailers produced by the manufacturer*. A manufacturer must report to NHTSA any safety recall or other safety campaign in a foreign country that covers a trailer or item of equipment that is identical or substantially similar to a trailer or item of equipment sold or offered for sale in the United States. The required notification of a foreign safety recall or safety campaign must be reported to NHTSA within five working days after the manufacturer made a determination or received written notice from a foreign government to conduct a safety recall or safety campaign covering a trailer or item of equipment that is identical or substantially similar to a trailer or item of equipment sold or offered for sale in the United States.

   (c) Submission to NHTSA of an annual list of substantially similar trailers sold or offered for sale in the United States and in foreign countries. This reporting obligation only applies if the manufacturer sells or offers for sale substantially similar trailers in the United States and in foreign countries. If applicable, the manufacturer must submit a report to NHTSA that identifies each model of trailer that the manufacturer sells or plans to sell during the following year in a foreign country that the manufacturer believes is identical or substantially similar to a trailer sold or offered for sale in the United States, and each such identical or substantially similar trailer sold or offered for sale in the United States.
3. **EWR Requirements for Trailer Manufacturers Building 5,000 or More Trailers Per Year:**

(a) Submission to NHTSA of external bulletins or other communications sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser involving any defect in the trailers, regardless of whether the defect is safety-related. The notices or bulletins that must be furnished to NHTSA are typically referred to as TSBs. These bulletins generally focus on non-safety-related defects that might affect a trailer’s performance or longevity, such as parts that fail prematurely or do not operate in the way intended by the manufacturer. Notices or bulletins that do not discuss a defect are not required to be furnished to NHTSA.

(b) Submission to NHTSA of any report of a safety recall involving the trailer conducted by any foreign country, whether the safety recall was conducted voluntarily by the manufacturer or as required by a foreign government. A manufacturer must report any safety recall or other safety campaign in a foreign country that covers a trailer or item of equipment that is identical or substantially similar to a trailer or item of equipment sold or offered for sale in the United States. The required notification of a foreign safety recall or safety campaign must be reported to NHTSA within five working days after the manufacturer made a determination or received written notice from a foreign government to conduct a safety recall or safety campaign covering a trailer or item of equipment that is identical or substantially similar to a trailer or item of equipment sold or offered for sale in the United States.

(c) Submission to NHTSA of an annual list of substantially similar trailers sold or offered for sale in the United States and in foreign countries. This reporting obligation only applies if the manufacturer sells or offers for sale substantially similar trailers in the United States and in foreign countries. If applicable, the manufacturer must submit a report to NHTSA that identifies each model of trailer that the manufacturer sells or plans to sell during the following year in a foreign country that the manufacturer believes is identical or substantially similar to a trailer sold or offered for sale in the United States, and each such identical or substantially similar trailer sold or offered for sale in the United States.

(d) Submission to NHTSA of claims and notices involving death or injury situations involving the manufacturer’s trailers for the current model year and the preceding nine model calendar years. The manufacturer must report each alleged incident of death or injury based upon the manufacturer’s receipt of a formal written claim or a written notice alleging
that death resulted from possible trailer defect involving a trailer less than
ten calendar years old.

(e) Submission of production information to NHTSA for each reporting
quarter by make, model, model year, and trailer type. The production
information includes trailers manufactured during the current reporting
period and the nine previous model years. The production numbers must
include the cumulative calendar-year production figures through the end
of each reporting period.

(f) Submission to NHTSA regarding the number of property damage claims,
number of warranty claims, and number of consumer complaints
attributable or related to trailers produced during the current and past nine
model years.

(g) Submission to NHTSA of the number of field reports that the
manufacturer receives from its employees, representatives, dealers,
service centers, or fleet owners or operators regarding a problem with a
trailer component or system. To be reportable, the field report must:
(i) be a written or electronic communication; (ii) relate to a trailer
component’s alleged failure, malfunction, lack of durability, or other
performance problem, regardless of the merit of the assessment; and (iii)
relate to a trailer produced during the current or past nine model years.

(h) Submission to NHTSA of all copies of all internal (non-dealer) field reports
produced by the trailer manufacturer that satisfy the following criteria: (i)
received from a manufacturer’s employees or representatives only; (ii)
regarding a problem or dissatisfaction with a trailer or designated trailer
component or system, and assessing the component’s alleged failure,
malfunction, lack of durability, or other performance problem; and (iii)
relating to a trailer produced during the current or past nine model years.

4. EWR Requirements for Trailer Component and Equipment Manufacturers:

(a) Submission to NHTSA of external bulletins or other communications sent
to more than one manufacturer, distributor, dealer, lessor, lessee, owner,
or purchaser involving any defective component, regardless of whether
the defect is safety-related. The notices or bulletins that must be
furnished to NHTSA are typically referred to as TSBs. These bulletins
generally focus on non-safety-related defects that might affect a trailer’s
performance or longevity, such as parts that fail prematurely or do not
operate in the way intended by the manufacturer. Notices or bulletins that
do not discuss a defect are not required to be furnished to NHTSA.

(b) Submission to NHTSA of any report of a safety recall involving a defective
component conducted by any foreign country, whether the safety recall
was conducted voluntarily by the manufacturer or as required by a foreign
government.
(c) Submission to NHTSA of claims and notices involving death or injury situations involving a defective component in a manufacturer’s trailers for the current model year and the preceding nine model calendar years.

5. Calculating the Number of Trailers for EWR Purposes. To calculate the 5,000 trailer threshold, the manufacturer must combine the number of trailers sold or offered for sale during any calendar year by all entities within an expanded definition of manufacturer (which includes the actual manufacturer, any subsidiary or affiliate of the manufacturer, and any subsidiary or affiliate of the parent corporation of the manufacturer). A trailer manufacturer is subject to the 5,000 trailer EWR requirements if the manufacturer sells or offers for sale at least 5,000 trailers during any calendar year for a rolling three-year period. Once the 5,000 trailer number has been satisfied during a calendar year, the trailer manufacturer will be required to satisfy the 5,000 trailer EWR requirements for that year and the next two years (even if the manufacturer sells or offers for sale less than 5,000 trailers in the next two years).

6. When and Where to Report. The EWR reports must be submitted to NHTSA. The timing and mechanism for submitting the reports differ depending upon the type of report, as discussed in further detail below in Section III.

FOR MORE DETAILED INFORMATION REGARDING THE EWR OBLIGATIONS OF A TRAILER MANUFACTURER OR AN EQUIPMENT/COMPONENT MANUFACTURER, SEE SECTION III.

B. Recalls and Remedies for Defective or Noncompliant Trailers or Equipment

1. General Rule. A manufacturer has a duty to initiate a safety recall if the manufacturer (a) learns that its trailers or trailer components or systems contain a defect and the defect is related to motor vehicle safety, or (b) decides that the trailers or trailer components or systems do not comply with an applicable federal motor vehicle safety standard. If a safety defect or noncompliance with a safety standard is found to exist, the manufacturer must provide notice of the safety defect or noncompliance to NHTSA, owners, purchasers, and dealers of the trailer or component, and must remedy the noncompliance or defect without charge to the owner. The manufacturer must provide this notice to NHTSA within five working days after making the safety defect or noncompliance determination.

2. Manufacturer’s Recall and Remedy Obligations.

(a) Step One: Reporting of Safety Defect or Noncompliance. The manufacturer must notify NHTSA of the safety defect or noncompliance within five working days after the manufacturer determines that a safety defect or noncompliance exists.

(b) Step Two: Preparation and Submission of a Defect and Noncompliance Report. The manufacturer must provide notice of the defect or noncompliance to NHTSA in the form of a Defect and Noncompliance Report. The report should provide sufficient information to assess
whether the scope and application of the proposed recall is appropriate. The report must cover the following key elements:

(i) Identification of the manufacturer;

(ii) Identification of the recall population;

(iii) Total number of trailers or equipment potentially containing the safety defect or noncompliance;

(iv) Percentage of trailers or equipment estimated to actually contain the safety defect or noncompliance;

(v) Description of the safety defect or noncompliance and chronology of events that gave rise to the manufacturer’s decision to initiate the recall;

(vi) Defect remedy program; and

(vii) Recall schedule.

(c) Step Three: Development and Enactment of Recall Remedy. The manufacturer must provide a free remedy for the safety defect or noncompliance. For trailers, the remedies may include: (i) repairing the trailer; (ii) replacing the trailer with an identical or reasonably equivalent trailer; or (iii) refunding the purchase price, less depreciation.

(d) Step Four: Public Notification Requirements. The manufacturer must provide notification of the safety defect or noncompliance to the owners, purchasers, dealers, and distributors of the defective or noncompliant trailer or item of equipment. The notification letters must satisfy specific requirements as discussed in detail below in Section III(D).

(e) Step Five: Recall Remedy Monitoring. Each manufacturer conducting a safety defect or noncompliance notification and remedy campaign must submit status reports to NHTSA for six consecutive calendar quarters concerning the progress of the recall campaign. Each report must contain specific information as discussed in detail below in Section III(E).

3. Where to Report. Manufacturers must notify NHTSA of the safety defect or noncompliance, as well as submit other safety-recall reports to NHTSA, using the website http://www.safercar.gov/Vehicle+Manufacturers. The manufacturers must use the report templates provided on this webpage for all required safety-recall submissions. First time users of the portal must sign up and apply for an account on this website. Once an account has been established, manufacturers are to submit any recall-related reports or documents through their account on the portal.
FOR MORE DETAILED INFORMATION REGARDING THE RECALL AND REMEDY OBLIGATIONS OF A TRAILER MANUFACTURER OR AN EQUIPMENT/COMPONENT MANUFACTURER, SEE SECTION IV.
II. COMPLIANCE WITH FEDERAL MOTOR VEHICLE SAFETY STANDARDS ("FMVSS")

As a general matter, an entity “may not manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce . . . a [trailer] into the United States” unless the trailer complies with the applicable FMVSS issued by NHTSA. 49 U.S.C. § 30112(a)(1). There are numerous FMVSS that apply to most trailers depending on their physical features and operational characteristics. The manufacturer of the trailer or trailer equipment must “certify to the distributor or dealer at delivery” that the trailer or equipment complies with the applicable FMVSS. Id. § 30115(a). The manufacturer “may not issue the certificate if, in exercising reasonable care, the [manufacturer] has reason to know the certificate is false or misleading in a material respect.” Id. Certification of a trailer “must be shown by a label or tag permanently fixed to the vehicle.” Id. Certification of trailer equipment “may be shown by a label or tag on the equipment or on the outside of the container in which the equipment is delivered.” Id. The trailer cannot be sold or offered for sale in the U.S. unless it has such a certification label or tag affixed to the trailer.
III. EARLY WARNING REPORTING (“EWR”)

Regulations issued by NHTSA under the TREAD Act require manufacturers of trailers to submit certain information and documentation to NHTSA in order to assist NHTSA in identifying possible defects related to motor vehicle safety. 49 C.F.R. Part 579. For purposes of this guidance document, the TREAD Act reporting and EWR will be collectively referred to as EWR. The EWR regulations require manufacturers of trailers to provide NHTSA certain information about incidents involving death, injury, or property damage, warranty claims, external campaign communications (including TSBs) and field reports. As set forth below, some of the specific EWR requirements vary depending upon whether the manufacturer sold or offered for sale 5,000 or more trailers in a calendar year. 49 C.F.R. §§ 579.24 and 579.27. It is important to note, however, that every trailer manufacturer, regardless of size or number of trailers manufactured, has an obligation to satisfy the EWR requirements. The scope of the EWR obligation is what varies not whether a manufacturer actually has an obligation to report.

A. Important Considerations for EWR Requirements .........................................................10
B. Reporting Requirements Applicable to All Manufacturers (Regardless of Size) ..............10
C. Additional Early Warning Reports for Manufacturers of 5,000 Trailers or More Annually ......................................................................................................................................16
D. Penalties for Failing to Comply with EWR Obligations ...................................................23
E. Examples ......................................................................................................................23
A. Important Considerations for EWR Requirements

1. All trailer manufacturers, regardless of size, must submit to NHTSA a copy of all notices, bulletins, and any other communications sent to more than one manufacturer, distributor, lessor, lessee, owner, or purchaser regarding any defect in its trailers or item of equipment. Defect, in this case, is not only limited to safety-related defects, but also includes any failure or malfunction beyond normal wear and tear or deterioration in use, any failure of performance, or any flaw or unintended deviation from design specifications.

2. All trailer manufacturers, regardless of size, must also submit to NHTSA a copy of all customer satisfaction campaigns, consumer advisories, recalls or other safety activities involving the repair or replacement of trailers or item of equipment that the manufacturer sent to more than one dealer, distributor, lessor, lessee, other manufacturer, owner, or purchaser in the United States.

3. All trailer manufacturers, regardless of size, must report to NHTSA any order or decision in a foreign country to conduct a safety recall or other safety campaign that covers a trailer or item of equipment that is identical or substantially similar to a trailer or item of equipment sold or offered for sale in the United States.

B. Reporting Requirements Applicable to All Manufacturers (Regardless of Size)

1. Copies of External Campaign Communications.

   (a) Under the TREAD Act and related regulations, each manufacturer (of a trailer or item of equipment) must furnish to NHTSA a copy of “all notices, bulletins, and other communications” (including those transmitted by computer, telefax, or other electronic means, as well as warranty and policy extension communiques and product improvement bulletins) sent to more than one manufacturer, distributor, dealer, lessee, lessor, owner or purchaser in the United States, regarding any defect in its vehicles or items of equipment (including any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications), regardless of whether such defect is safety-related. 49 C.F.R. § 579.5(a).

   (i) Important Note. The notices or bulletins (typically referred to as TSBs) that must be furnished to NHTSA are communications that discuss any defect in the trailers, not just a safety-related defect. These bulletins generally focus on non-safety-related defects that might affect a trailer’s performance or longevity, such as parts that fail prematurely or do not operate the way intended by the manufacturer.
(ii) Non-Defect Bulletins (NO OBLIGATION TO FURNISH TO NHTSA). Notices or bulletins that do not discuss a defect in the trailers, whether a safety defect or non-safety defect, are not required to be furnished to NHTSA. For example, a trailer manufacturer may issue a safety bulletin to trailer owners with respect to the proper hitch attachment procedures to follow in order to ensure that owners understand exactly how to attach the trailer in a manner to avoid disengagement while in operation. This safety bulletin does not address a defect in the trailer and, in fact, has nothing to do with the trailer’s integrity. The bulletin merely discusses the proper attachment procedures. The trailer manufacturer is not required to furnish this safety bulletin to NHTSA (because the bulletin does not discuss a defect).

(b) Each manufacturer must furnish to NHTSA a copy of “each communication relating to a customer satisfaction campaign, consumer advisory, recall or other safety activity involving the repair or replacement of a motor vehicle or equipment,” issued by the manufacturer to more than one dealer, distributor, lessor, lessee, other manufacturer, owner, or purchaser in the United States. 49 C.F.R. § 579.5(b). Customer satisfaction campaigns reflect a way by which a manufacturer may offer to repair, adjust, upgrade, replace or otherwise perform service on a vehicle or equipment that is not a safety recall. Customer satisfaction campaigns are intended for relatively minor, potentially annoying issues that could affect the driver’s comfort or the vehicle’s appearance, but would not result in a crash or injuries to the occupants. An example of a customer satisfaction campaign is the replacement of floor mats that did not perform as expected.

(c) Timing. Copies of such external communications must be submitted to NHTSA no more than five business days after the end of the month during which they are issued. Id. § 579.5(d).

(d) How and Where to Submit. A trailer manufacturer must submit copies of its external campaign communications (i.e., notices, bulletins, and other communications) to NHTSA using any one of the following:

(i) By Mail. The copies may be submitted by mail, addressed to the Associate Administrator for Enforcement, National Highway Traffic Safety Administration, Attn: Early Warning Division (NVS-217), 1200 New Jersey Avenue, SE, Washington, DC 20590.

(ii) By Facsimile. The copies may be submitted by facsimile, addressed to the Associate Administrator for Enforcement and transmitted to (202) 366-7882.

(iii) By Email. The copies may be submitted by email to the following email address: tsb@dot.gov.
(e) **Scope.** Each manufacturer must submit to NHTSA copies of such external communications identified above, regardless of the number of trailers sold or offered for sale in a calendar year.

2. **Foreign Recalls and Other Safety Campaigns in Foreign Countries.**

(a) **General Rule.** Each manufacturer (of a trailer or item of equipment) must report to NHTSA any order or decision to conduct a safety recall or other safety campaign in a foreign country that covers a trailer or item of motor vehicle equipment that is identical or substantially similar to a trailer or item of equipment sold or offered for sale in the United States. 49 C.F.R. § 579.11(a).

(i) The manufacturer (of the trailer or item of equipment) subject to the order or decision to conduct a safety recall in a foreign country is required to report this information to NHTSA.

(b) **Content of Report.** Reports of foreign recalls and other safety campaigns must include the following information when submitted (49 C.F.R. § 579.12(a)):

(i) The report must be dated;

(ii) Manufacturer’s name and address;

(iii) Identification of the trailers potentially containing the defect or noncompliance, including a description of the manufacturer’s basis for its determination of the recall;

(iv) The total number of trailers potentially containing the defect or noncompliance (49 C.F.R. § 573.6(c)(3));

(v) A description of the defect or noncompliance, including both a brief and detailed description, of the nature and physical location of the defect or noncompliance (49 C.F.R. § 576.6(c)(5));

(vi) Identification of each foreign country in which the recall or safety campaign is being conducted;

(vii) A statement whether the foreign action is a safety recall or other safety campaign;

(viii) A statement whether the determination to conduct the recall or campaign was made by the manufacturer or foreign government;

(ix) A description of the manufacturer’s plan to remedy the defect or noncompliance;

(x) The date of determination relating to the safety defect and the date the action commenced or will commence in each foreign country;
(xi) Identification of all trailers subject to the action that are identical or substantially similar to those sold or offered for sale in the United States; and

(xii) If a determination has been made by a foreign government, the report must also include a copy of the determination in the original language and, if the determination is in a language other than English, a copy translated into English.

(c) **Timing.** The required notification to NHTSA must be made within five working days after the manufacturer made a determination or received written notice from a foreign government to conduct a safety recall or other safety campaign covering a trailer that is identical or substantially similar to a trailer sold or offered for sale in the United States. 49 C.F.R. § 579.11(a). If all the information required for the report is not available within the five working day period, additional information must be submitted to NHTSA as it becomes available. Id. § 579.12(b).

(d) **How and Where to Submit.** The foreign recall report may be submitted any one of the following ways:

(i) **By Mail.** The report may be submitted by mail, addressed to the Associate Administrator for Enforcement, National Highway Traffic Safety Administration, Attn: Early Warning Division (NVS-217), 1200 New Jersey Avenue, SE, Washington, DC 20590.

(ii) **By Facsimile.** The report may be submitted by facsimile, addressed to the Associate Administrator for Enforcement and transmitted to (202) 366-7882.

(iii) **By Email.** The report may be submitted by email to the following email address: recalls@dot.gov.

(e) **Scope.** Each manufacturer of trailers must submit to NHTSA the report regarding foreign recalls and other safety campaigns in foreign countries, regardless of the number of trailers sold or offered for sale in a calendar year.

3. **Annual List of Substantially Similar Trailers.**

(a) **General Rule.** If a trailer manufacturer sells or offers for sale trailers in the United States and in foreign countries, the manufacturer must submit a report to NHTSA that identifies each model of trailer that the manufacturer sells or plans to sell during the following year in a foreign country that the manufacturer believes is identical or substantially similar to a trailer sold or offered for sale in the United States, and each such identical or substantially similar trailer sold or offered for sale in the United States.
(b) **Timing.** The annual list of substantially similar trailers must be submitted to NHTSA no later than November 1 of each year.

(c) **How and Where to Report.** Manufacturers must submit the annual list through the NHTSA internet link for early warning data submission ([http://www-odi.nhtsa.dot.gov/ewr/](http://www-odi.nhtsa.dot.gov/ewr/)) manufacturers must use the template provided at this website to prepare the list.

4. **Claims and Notices of Death.**

   (a) **General Rule.** For all trailers manufactured during a model year covered by the quarterly reporting period and the nine model years prior to the earliest model year in the reporting period, the manufacturer must report each incident of death, based on the manufacturer’s receipt of (1) a formal written claim (a written demand for compensation) or (2) a written notice alleging that death resulted from possible trailer defect involving a trailer less than ten calendar years old. For each death claim or notice received, the manufacturer must report to NHTSA:

   (i) The trailer’s make, model, model year, and VIN;

   (ii) The date when and state where the incident or accident occurred;

   (iii) The identification number the manufacturer assigns to each such incident; and

   (iv) The trailer system or component alleged to have caused the accident, using the following Designated Codes:

   1. Suspension (02)
   2. Service brake, hydraulic (03)
   3. Service brake, air (04)
   4. Parking brake (05)
   5. Electrical (11)
   6. Exterior lighting (12)
   7. Structure (16)
   8. Latches (17)
   9. Tires (19)

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1 For manufacturers of 5,000 or more trailers per year, the manufacturer must report claims and notices of death and/or injury. The additional reporting requirements for manufacturers of 5,000 or more trailers per year, including the reporting of claims and notices of death and injury, are set forth below in Section B(3).
(10) Wheels (20)

(11) Trailer hitch (21)

(12) Fire (23)

(13) Specified component or system not one of the above (98)

(14) No component or system specified (99)

(v) Such incidents must be reported whether or not the claim or notice has been substantiated.

(b) **Timing.**

(i) Reports of incidents involving death must be submitted quarterly to NHTSA, within 60 days after the close of the preceding reporting quarter. 49 C.F.R. § 579.28(b).

(ii) A manufacturer is not required to submit quarterly reports if no accidents involving deaths occurred during the reporting quarter. 49 C.F.R. § 579.28(h).

(c) **Updating Report Information.**

(i) **General Rule.** As a general rule, a manufacturer is not required to update the foregoing information reported to NHTSA, with the following two exceptions for accidents involving a death or injury:

(1) The manufacturer must provide the VIN number in an updated report if the VIN of the involved trailer was not available at the time of the initial report; and

(2) The manufacturer must provide the code number for the trailer component or system allegedly causing the accident in an updated report if the initial report uses code “99” and the manufacturer subsequently learns of the actual trailer component or system involved.

(ii) **NHTSA Requests.** NHTSA may request additional or clarifying information from a manufacturer at any time to help identify potential defects.

(d) **How and Where to Submit.** All reports and documents must be electronically transmitted to NHTSA. Two alternative methods of transmission are available:
(i) First Alternative Method of Transmission. Prepare and submit periodic reports directly to NHTSA by filling out the NHTSA-provided templates online (http://www-odi.nhtsa.dot.gov/ewr/).

(1) To submit reports electronically through the EWR repository on NHTSA's website and to use the NHTSA-created EWR templates, the trailer manufacturer must first obtain an ID number and secure password from NHTSA, which can be easily applied for online through NHTSA's website. The manufacturer will be required to change its password every 90 days. There is no stigma associated with creating an account. This is simply the first necessary step in order to timely submit EWR reports through the NHTSA EWR repository website.

(2) Templates exist specifically for trailer manufacturers. The templates provide a form to input the required information. A copy of a template is attached to this guidance document as Appendix B.

   a. The template is consistent with Microsoft Excel spreadsheets.

   b. The template will accept ZIP, PDF, .WAV, and .AVI files.

(ii) Second Alternative Method of Transmission. For smaller files, i.e., data files smaller than the size limit of NHTSA's Internet email server, a manufacturer may email reports to NHTSA as attachments to the following email address: odi.ewr@nhtsa.dot.gov.

(1) It is important to note that filing reports by email is not as secure as submitting reports through NHTSA's early warning data repository website.

C. Additional Early Warning Reports for Manufacturers of 5,000 Trailers or More Annually

1. General Rule. A trailer manufacturer whose aggregate number of trailers manufactured for sale, sold, offered for sale, introduced or delivered for introduction into interstate commerce, or imported into the United States during the calendar year of the reporting period or during either of the prior two calendar years is 5,000 or more must submit Early Warning Reports to NHTSA for each calendar quarter. 49 C.F.R. § 579.24. Reporting must include information for trailers manufactured during the current production year and the nine previous model years to the earliest model year in the reporting period (including models no longer in production).
(b) **Calculating the 5,000 Trailer Threshold.** For purposes of the EWR requirements, the definition of manufacturer includes (i) the actual trailer manufacturer, (ii) any parent corporation of the manufacturer, (iii) any subsidiary or affiliate of the manufacturer, and (iv) any subsidiary or affiliate of a parent corporation of the manufacturer. So, to calculate the 5,000 trailer threshold, the manufacturer must combine the number of trailers manufactured by all entities within this expanded definition of manufacturer.

(c) **Applicability of 5,000 Trailer Threshold.** A trailer manufacturer is subject to the 5,000 trailer EWR requirements if the manufacturer sells or offers for sale 5,000 trailers during any calendar year for a rolling three-year period. For example, the manufacturer sells or offers for sale the following number of trailers: (i) 4,500 trailers in 2013; (ii) 4,750 in 2014; and (iii) 5,100 in 2015. The manufacturer would not be required to comply with the 5,000 trailer EWR requirements in 2013 or 2014 (assuming less than 5,000 trailers in 2011 and 2012) but would be required to submit the reports in 2015 as the 5,000 trailer number had been satisfied. For purposes of our example, if the trailer manufacturer sold or offered for sale only 4,900 trailers in 2016, it would still be required to satisfy the 5,000 trailer EWR requirements because the manufacturer sold or offered for sale more than 5,000 trailers during either of the prior two calendar years (i.e., in 2015). The same would apply to 2017 even if the manufacturer did not meet the 5,000 trailer threshold in 2017. In 2018, the manufacturer would not be required to comply with the 5,000 trailer EWR requirements (assuming the manufacturer did not meet the 5,000 trailer threshold in 2018). If the manufacturer hits the 5,000 trailers threshold in 2018, the rolling three-year period for the 5,000 trailers EWR requirements begins again.

2. **Production Information.** For trailers manufactured during the reporting period and nine previous model years, a manufacturer must provide production numbers for each reporting quarter by make, model, model year (calendar year), and trailer type. 49 C.F.R. § 579.24(a). The production numbers must include the cumulative calendar-year production figures through the end of each reporting period. In addition, in each reporting quarter the manufacturer must provide production numbers for each of the nine prior model years by make, model, model year and trailer type. The report must include production numbers for discontinued models. If the records of past production are no longer available, there is no obligation to report this information. The trailer types must be coded. For each model type produced with two brake types (e.g., hydraulic and air), the report must reflect production numbers separately and must be coded.

3. **Claims and Notices of Death and Injury.** For all trailers manufactured during a model year covered by the quarterly reporting period and the nine model years prior to the earliest model year in the reporting period, the manufacturer must report each incident of a death or an injury involving their trailers, based on the manufacturer’s receipt of (1) a formal written claim (a written demand for compensation), or (2) a written notice alleging the death or injury results from a...
possible trailer defect involving a trailer less than ten calendar years old. For each death or injury claim or notice received, the manufacturer must report:

(a) The trailer’s make, model, model year and VIN;

(b) The date when and state where the incident or accident occurred;

(c) The identification number the manufacturer assigns to each incident; and

(d) The trailer system or component alleged to have caused the accident, using the following Designated Codes:

(i) Suspension (02)

(ii) Service brake, hydraulic (03)

(iii) Service brake, air (04)

(iv) Parking brake (05)

(v) Electrical (11)

(vi) Exterior lighting (12)

(vii) Structure (16)

(viii) Latches (17)

(ix) Tires (19)

(x) Wheels (20)

(xi) Trailer hitch (21)

(xii) Fire (23)

(xiii) Specified component or system not one of the above (98)

(xiv) No component or system specified (99)

(e) Incidents are to be reported whether or not the claim or notice has been substantiated.

(f) The manufacturer must report all injuries and the seriousness of the injury is not a factor.
4. **Number of Property Damage Claims.** A trailer manufacturer must report the number of property damage claims (a written demand for compensation) for each **Designated Code trailer component or system allegedly causing an accident**, reporting separately by make, model, and model years. The report is limited to claims attributable to trailers produced during the current and past nine model years.

   (a) The manufacturer must report all accidents involving property damage to a trailer or other tangible property. The amount or dollar value of the damage is not relevant.

   (b) The manufacturer is not required to report the accident if:

   (i) the alleged component or system is not one of the listed Designated Code components or systems (02) – (23);

   (ii) the damage was only to a trailer component covered by a warranty; or

   (iii) the accident resulted in injury or death (which should be reported under the Report of Claims and Notices of Death and Injury instead).

5. **Number of Warranty Claims.** A trailer manufacturer must report the number of warranty claims relating to each Designated Code trailer component or system if the warranty claims are presented and paid pursuant to (a) a warranty program; (b) an extended warranty program; or (c) the manufacturer’s “good will,” i.e., warranty claim paid outside a warranty program. If the warranty claim is not paid, the manufacturer should report the warranty claim as a complaint. The manufacturer must report only warranty claims regarding trailer components or systems codeable as (02) through (23). The report is limited to warranty claims attributable to trailers produced during the current and past nine model years.

   (a) A manufacturer is not required to report the following as a warranty claim:

   (i) Lawsuits alleging breach of warranty or claims for breach of warranty that have not been paid under a warranty program;

   (ii) Repairs or replacements from a recall to address a safety defect or noncompliance reported to NHTSA under its recall regulations; or

   (iii) Warranty claims pertaining to a trailer component or system not coded (02) through (23).
6. **Number of Consumer Complaints.** A trailer manufacturer must report the number of consumer complaints received about each Designated Code trailer component or system. The manufacturer must report only consumer complaints regarding trailer components or systems codeable as (02) through (23). The manufacturer is not required to report consumer complaints for codes (98) or (99). The report is limited to consumer complaints attributable to trailers produced during the current and past nine model years.

   (a) A reportable “consumer complaint” includes oral (e.g., telephonic) complaints, but only if the trailer manufacturer, in the normal course of its business, makes and keeps a written or electronic record of such oral complaints. The manufacturer is not required to maintain such records specifically to comply with the EWR requirements.

   (b) A “complaint” is an electronic or written communication, either expressing dissatisfaction with the trailer or describing the unsatisfactory performance or potential defect in a trailer component or system.

   (c) To be reportable to NHTSA, the complaint must be:

      (i) From a consumer to the manufacturer; and

      (ii) Addressed to the manufacturer, a company officer, the company’s website or email system, or the company’s unit or office designated to receive consumer inquiries or complaints.

7. **Number of Field Reports.** A trailer manufacturer must report the number of field reports that the manufacturer receives from its employees, its representatives, dealers, service centers, or fleet owners or operators regarding a problem with a Designated Code (02) - (23) trailer component or system. The definition of fleet owner includes rental companies, motor carriers, and utility companies.

   (a) To be reportable to NHTSA, the field report must:

      (i) Be a written or electronic communication;

      (ii) Relate to a trailer component’s alleged failure, malfunction, lack of durability, or other performance problem, regardless of the merits of the assessment; and

      (iii) Relate to a trailer produced during the current or past nine model years.

   (b) A manufacturer is not required to report:

      (i) A document or report contained in a litigation file created after the filing of a lawsuit;

      (ii) Reports about trailer components or systems not codeable as (02) through (23); and
(iii) Reports relating to consumer complaints, sales, marketing, or dealer and manufacturer relationships.

8. **Copies of Field Reports.**

   (a) In addition to reporting the number of field reports, a trailer manufacturer must also provide copies of all internal (non-dealer) field reports that satisfy the following criteria:

      (i) Received from the manufacturer’s employees or representatives only;

      (ii) Regarding a problem or dissatisfaction with a trailer or designated codeable trailer component or system, and assessing the component’s alleged “failure, malfunction, lack of durability, or other performance problem;” and

      (iii) Relating to a trailer produced during the past ten years.

   (b) The trailer manufacturer should not submit field reports from dealers or service centers or where the field report addresses trailer components or systems not codeable as (02) through (23).

   (c) The field reports must be submitted electronically to NHTSA and be organized alphabetically by make, model and model year. If a field report refers to more than one make or model of trailer, the manufacturer must submit the report by platform rather than by make or model. If this field report refers to more than one platform, the manufacturer must provide separate copies for each platform. Platform in this context means the basic structure of the trailer including, but not limited to, the majority of the floorplan or undercarriage. Thus, a group of trailers sharing a common structure or chassis will be considered to have a common platform regardless of whether the trailers are of the same type or are of the same make.

9. **Timing.**

   (a) Reports of incidents (i.e., accidents causing death or injury) and numbers of property damage claims, consumer complaints, warranty claims, and field reports must be submitted quarterly to NHTSA, within 60 days after the close of the preceding reporting quarter. 49 C.F.R. § 579.28(b).

   (b) Copies of non-dealer field reports are due 15 days after the due date for the applicable quarterly aggregate reporting data.

   (c) A manufacturer is not required to submit quarterly reports for incidents involving deaths or injuries if no accidents of this type occurred during the reporting quarter. 49 C.F.R. § 579.28(h).
10. **Updating Report Information.**

   (a) **General Rule.** As a general rule, a manufacturer is not required to update the information reported to NHTSA under the EWR requirements, with the following two exceptions for accidents involving a death or injury:

   (i) The manufacturer must provide the VIN number in an updated report if the VIN number of the applicable trailer was not available at the time of the initial report; and

   (ii) The manufacturer must provide the code number for the trailer component or system allegedly causing the accident in an updated report if the initial report uses code “99” and the manufacturer subsequently learns of the actual trailer component or system involved.

   (b) **NHTSA Requests.** NHTSA may request additional or clarifying information from a manufacturer at any time to help identify potential defects.

11. **How and Where to Submit.** All reports and documents must be electronically transmitted to NHTSA. Two Alternative Methods of Transmission are available:

   (a) **First Alternative Method of Transmission.** Prepare and submit periodic reports directly to NHTSA by filling out the NHTSA-provided templates online, available on NHTSA’s website at [http://www-odi.nhtsa.dot.gov/ewr/](http://www-odi.nhtsa.dot.gov/ewr/).

   (i) To submit reports electronically through the EWR repository on NHTSA’s website and to use the NHTSA-created EWR templates, the trailer manufacturer must first obtain an ID number and secure password from NHTSA, which can be easily applied for online through NHTSA’s website. The manufacturer will be required to change its password every 90 days. There is no stigma associated with creating an account. This is simply the first necessary step in order to timely submit EWR reports through the NHTSA EWR repository website.

   (ii) Templates exist specifically for trailer manufacturers. The templates provide a form to input the required information. A copy of a template is attached to the guidance document as Appendix B.

      (1) The template is consistent with Microsoft Excel spreadsheets.

      (2) The template will accept ZIP, PDF, .WAV, and .AVI files.
(b) Second Alternative Method of Transmission. For smaller files, i.e., data files smaller than the size limit of NHTSA’s Internet email server, a manufacturer may email reports to NHTSA as attachments to odi.ewr@nhtsa.dot.gov. It is important to note that filing reports by email is not as secure as submitting reports through NHTSA’s early warning data repository website.

D. Penalties for Failing to Comply with EWR Obligations

1. Civil Penalties.

(a) For failure to submit copies of external campaign communications, including TSBs, the penalty is up to $7,000 per day for each violation, where a separate violation occurs for each trailer or item of equipment and for each failure or refusal to submit copies. 49 C.F.R. § 578.6(a).

(b) For EWR falling under Section B (more than 5,000 trailers) and Section C (less than 5,000 trailers), the penalty is up to $7,000 per day for failing to make required reports to NHTSA. 49 C.F.R. § 578.6(a)(3).

(c) Maximum cumulative penalty of $17,350,000. Id.

(d) Other penalties may apply.

2. Criminal Penalties.

(a) Making a false report to NHTSA knowingly and willfully is punishable criminally under 18 U.S.C. § 1001. The potential criminal penalties are a criminal fine, imprisonment of not more than five years, or both.

(b) If done with the intent to mislead NHTSA with respect to a safety-related defect that results in death or serious injury, the potential criminal penalties are a criminal fine, 15 years in jail, or both.

E. Examples

1. Trailer Company ABC manufacturers 1,500 utility trailers annually. During a routine quality control review, Trailer Company ABC determines that a particular weld is not holding properly for the trailer flooring after a year in service. Trailer Company ABC determines that it is a non-safety defect and issues a TSB to all of its dealers. Trailer Company ABC must file a report, including a copy of the TSB, with NHTSA.

2. XYZ Corp. has three subsidiary and affiliated companies that manufacture trailers. XYZ Corp. Subsidiary A manufactures 1,000 units; XYZ Corp. Subsidiary B manufactures 1,500 units; and XYZ Corp. Affiliate C manufactures 3,000 units. XYZ Corp., therefore, manufactures 5,500 trailers and is required to submit quarterly EWR paperwork with NHTSA.
3. Trailer Manufacturer ABC manufactures 3,000 livestock trailers. Eight years after the sale of a livestock trailer to a customer, Trailer Manufacturer ABC receives a written notice alleging that one of its livestock trailers caused a death. Trailer Manufacturer ABC must file a report with NHTSA.

4. ABC Trailer Company manufactures 1,500 trailers. ABC Trailer Company receives a notice alleging that its trailers have caused an injury to a person. ABC Trailer Company is not required to file a report with NHTSA.

5. Trailer Company XYZ manufactures 6,000 horse trailers. Trailer Company XYZ receives a notice alleging that the horse trailer caused a serious injury to the owner of the trailer. Trailer Company XYZ must report to NHTSA the notice of injury.
IV. **RECALLS AND REMEDIES FOR DEFECTIVE TRAILERS OR EQUIPMENT (MANUFACTURER’S DECISION)**

Notwithstanding its certification of a trailer as complying with the applicable FMVSS, a trailer manufacturer may subsequently determine that noncompliance with FMVSS or a safety-related defect exists in a trailer that the manufacturer has produced. In that case, the manufacturer has a duty to initiate a safety recall of the trailers if it (a) learns the trailers or trailer components or systems contain a defect and decides in good faith that the defect is related to motor vehicle safety, or (b) decides in good faith that the trailers do not comply with applicable FMVSS. If noncompliance with FMVSS or a safety-related defect is found to exist, the manufacturer is required to furnish NHTSA and owners, purchasers, and dealers of the trailer with notice of the noncompliance or defect and to remedy the noncompliance or defect without charge to the owner. 49 U.S.C. §§ 30118 - 30120; 49 C.F.R. Parts 573 and 577.

The FMVSS set the minimum performance requirements for those parts of the trailer that most affect its safe operation (e.g., brakes, tires, lighting, chassis) or that protect drivers and passengers from death or serious injury in the event of a crash (e.g., air bags, safety belts, energy absorbing steering columns). These federal standards are applicable to all trailers and trailer-related equipment manufactured or imported for sale in the United States and certified for use on public roads and highways. A manufacturer must certify that its trailers or trailer equipment satisfy these minimum performance requirements.

For safety-related defects, the Safety Act defines motor vehicle safety as “the performance of a [trailer] or [trailer] equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a [trailer], and against unreasonable risk of death or injury in an accident . . . .” 49 U.S.C. § 30102(a)(8). A defect includes “any defect in performance, construction, a component, or material of a [trailer] or [trailer] equipment.” Id. § 30102(a)(2). Generally, a safety-related defect would be considered a problem that exists in a trailer or item of trailer equipment that (a) poses a risk to motor vehicle safety; and (b) may exist in a group of trailers of the same design, manufacture, or items of equipment of the same type and manufacture.

A few examples—not an exhaustive list—of defects that are considered safety-related include:

- Critical vehicle components that break, fall apart, or separate from the vehicle, causing potential loss of vehicle control or injury to persons inside or outside the vehicle;
- Wheels that crack or break, resulting in loss of vehicle control;
- Rivets that shear or pull out under load;
- Trailer tongue hardware with inadequate fatigue strength that can result in the failure of the trailer tongue bolt and a loss of control of the tow vehicle;
- Cracks in suspension components that cause the axle and suspension assembly to fall out from under the trailer, increasing the risk of a crash;
Latches on a fold flat ramp gate that become disengaged as a result of vibrations during towing, which may cause the gate to fall and be dragged behind the trailer, increasing the risk of a crash;

Wiring system problems that result in a fire or loss of lighting; and

Improperly designed studs that attach the wheels to the axle hubs, which may break and result in loss of vehicle control.

The following are some examples of defects that are NOT considered safety-related:

Ordinary wear and tear of equipment that has to be inspected, maintained and replaced periodically, such as shock absorbers, brake pads and shoes, and lighting;

Nonstructural or body panel rust; and

Quality of paint or cosmetic blemishes.

The manufacturer must notify NHTSA within five working days after determining the existence of a noncompliance or a safety-related defect. 49 C.F.R. § 573.6. Alternatively, where a manufacturer refuses to voluntarily issue the recall, NHTSA may, on its own part, determine the existence of a noncompliance or a safety-related defect in a particular trailer or item of trailer equipment and order the responsible manufacturer to recall the product. 49 U.S.C. § 30118(b).

The challenge for manufacturers is to determine what actually constitutes a safety-related defect or noncompliance for notification purposes. The definitions and examples above provide guidance, but, ultimately, the manufacturer must consider all of the relevant information (such as frequency and severity) to determine whether a defect poses an unreasonable risk to safety. (For insight on what may constitute an unreasonable risk to safety, please see H.1. of this section.)

Once the manufacturer makes a determination that a defect poses an unreasonable risk to safety—or should have determined in the exercise of good faith that the defect poses an unreasonable risk to safety—the manufacturer must notify NHTSA within five working days. If the manufacturer is unable to comply with the five-day requirement, the manufacturer should attempt to comply as soon as commercially practical. NHTSA has recently been taking an aggressive stance regarding the five-day rule for reporting a safety-related defect to NHTSA. If a trailer manufacturer receives information or conducts an investigation that may implicate a safety-related defect, it is important for the trailer manufacturer to contact an attorney for specific legal advice regarding whether notification to NHTSA is required or warranted under the circumstances.

As a general matter, the decision to institute a safety recall is made by the manufacturer of the defective trailer or item of equipment. Although NHTSA has the authority to institute an involuntary safety recall, the vast majority of safety-related recalls are voluntarily instituted by the manufacturer.
The following will outline the steps that a manufacturer must satisfy in order to comply with its responsibilities to recall and to remedy defective trailers or trailer equipment items when the manufacturer determines that a trailer or item of equipment produced by the manufacturer contains a defect that relates to vehicle safety or fails to conform to the applicable FMVSS.

A. Step One: Reporting of Safety Defect

B. Step Two: Preparation and Submission of the Defect and Noncompliance Report to NHTSA (“Defect/Noncompliance Report”)

C. Step Three: Development and Enactment of Recall Remedy

D. Step Four: Public Notification Requirements

E. Step Five: Recall Remedy Monitoring

F. Notification Pursuant to an Administrative Order

G. Penalties for Failing to Comply with Safety-Related Recalls and Remedy Obligations

H. Important Considerations for Safety-Related Recalls

I. Example of a Safety Recall (Life Cycle)
Step One: Reporting of Safety Defect

1. Reporting Responsibility. The manufacturer of the trailer or item of equipment is required to notify NHTSA of the safety defect or noncompliance with applicable FMVSS. 49 C.F.R. § 573.6(a).

(a) There are two variations to the general requirement that the manufacturer must provide such notice: one for multi-stage trailers and another for situations where an item of original equipment was installed on the trailers of only one manufacturer.

(i) Multi-Stage Trailers. For trailers built in more than one stage, and that have more than one manufacturer, notification by any one of the manufacturers is sufficient. Typically, the manufacturer responsible for the defective part at issue would assume responsibility for the notice requirement. However, all manufacturers involved need to ensure that such notice is provided by at least one of them.

(ii) Original Equipment in Trailers of One Manufacturer. For an item of original equipment used in the trailers of only one manufacturer, notification and reporting by either the original equipment or trailer manufacturer satisfies the reporting obligations of both. Otherwise, the equipment manufacturer must report as to its equipment, and the trailer manufacturer must report as to its trailers. Once again, as a practical matter, the equipment manufacturer and the trailer manufacturer must coordinate their communication plan with NHTSA in such circumstances.

(iii) Important Practice Note. The trailer manufacturer and the equipment manufacturer must coordinate their communication plan with NHTSA; however, it is important that at least one of the manufacturers submits a report to NHTSA because both manufacturers are liable. This is true even if one of the manufacturers agreed to submit the report for both but failed to do so.

(b) General Rule. As a general matter, in terms of responsibility for conducting the safety recall, trailer manufacturers are responsible for their trailers and all original equipment installed on them. This means that even if the safety defect or noncompliance is an item of equipment on the trailer that the trailer manufacturer did not manufacture, the trailer manufacturer is still responsible for notifying owners and providing a free remedy (subject to the variations identified above). The trailer manufacturer and the equipment manufacturer may coordinate such that the original manufacturer performs the repairs and reports the numbers of trailers remedied to NHTSA. No matter what arrangements are made, however, the ultimate responsibility for performance of the recall campaign remains with the trailer manufacturer.
(c) **Examples:**

(i) Trailer Company ABC receives notice from XYZ Corp. that the hitch pin that XYZ Corp. manufactures and that Trailer Company ABC installs on its trailers has a defect and could shear off during use. XYZ Corp. has notified all 20 users of its hitch pins of this defect, and Trailer Company ABC has notified all 20 of its dealers and every consumer of the issue. Both Trailer Company ABC and XYZ Corp. are required to report the safety defect to NHTSA. This notification requirement applies regardless of the number of trailers that Trailer Company ABC manufactures; Trailer Company ABC must notify NHTSA even if Trailer Company ABC only manufactures 100 trailers per year.

(ii) XYZ Corp. manufactures and provides unique one-of-a-kind lights *only to* Trailer Company ABC. XYZ Corp. does not provide those lights to any other manufacturer. XYZ Corp. notifies Trailer Company ABC of a defect in those lights, and XYZ Corp. notifies all 500 of its customers of the issue. XYZ Corp. and Trailer Company ABC coordinate their communication plan to NHTSA and decide that Trailer Company ABC will report the safety defect to NHTSA. Because Trailer Company ABC notified NHTSA of the safety defect, XYZ Corp. is not required to also notify NHTSA. The notification obligations were satisfied by Trailer Company ABC.

2. **When to Report.** The manufacturer must report the safety defect or noncompliance to NHTSA within five working days after the manufacturer determines that a safety defect or noncompliance exists. *Id.* § 573.6(b).

(a) A manufacturer does not need to have identified the cause of the defect or noncompliance in order to make the decision to provide this report. The absence of this information, or any uncertainty about the specific cause or ultimate consequences, is not grounds for a manufacturer to delay its reporting of the safety defect or noncompliance to NHTSA. Therefore, even if the manufacturer has not completed its root cause analysis, but has sufficient information to conclude that the defect is related to the safety of the trailer, it has an obligation to report such defect to NHTSA.

(b) Moreover, even if aspects of the information that is required to fully describe the safety defect or noncompliance are unknown or cannot be determined with certainty, notification to NHTSA must still be made within five working days based on information available at the time. The report to NHTSA (which is more fully described below) can be supplemented on an ongoing basis as additional relevant information becomes available.
B. Step Two: Preparation and Submission of the Defect and Noncompliance Report to NHTSA ("Defect/Noncompliance Report")

1. Timing. As outlined in Step One above, within five working days after a safety defect or noncompliance is identified, the manufacturer must provide notice of the safety defect or noncompliance to NHTSA in the form of the Defect/Noncompliance Report. Id. A complete Defect/Noncompliance Report should provide sufficient information to assess whether the scope and application of the proposed recall is appropriate, whether the problem possibly extends to other vehicles or conditions, and the adequacy of the proposed public notification and remedy campaign. The information required in the Defect/Noncompliance Report is set forth in Part 573 of Title 49 of the U.S. Code; therefore, NHTSA often refers to such reports as Part 573 reports.

2. Defect/Noncompliance Report. To accomplish its general purposes, the Defect/Noncompliance Report must cover the following key elements:

   (a) Identification of the Manufacturer. The Defect/Noncompliance Report must identify the full corporate name of the manufacturer and the brand name and/or trademark owners of the defective trailer or item of equipment. If the recalled trailer or item of equipment is imported, the Defect/Noncompliance Report must also identify the name and address of the U.S. designated agent of the foreign manufacturer. Id. § 573.6(c)(1). Foreign manufacturers offering a trailer or item of equipment for import in the United States are required to designate an agent on whom service of notices and process in administrative and judicial proceedings may be made. 49 U.S.C. § 30164(a). The designated agent is typically a third party engaged in the business of serving as a designated agent; however, the designated agent may be any agent authorized by the manufacturer to accept service on its behalf, even the importer of record for that foreign manufacturer.

   (b) Identification of the Recall Population. The Defect/Noncompliance Report must identify the trailers or items of equipment being recalled.

      (i) If it is a trailer, the Defect/Noncompliance Report must include the make, line, model year, inclusive dates of manufacture, and any other information to describe the trailer at issue. 49 C.F.R. § 573.6(c)(2).

      (ii) If it is an item of equipment, the Defect/Noncompliance Report must include the generic name of the component (e.g., tires, axles, etc.), part number (for tires, a range of tire identification numbers), size and function if applicable, the inclusive dates (month and year) of manufacture if available, brand (or trade) name, model name, model number, as applicable, and any other information necessary to describe the items. The Defect/Noncompliance Report must also include the identity by

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2 A sample Defect/Noncompliance Report is attached as Appendix A.
name, business address, and business telephone number of every manufacturer that purchases the defective or noncompliant item of equipment for use or installation in new trailers or as a component in new items of equipment.

(iii) In the case of trailers or items of equipment in which the component that contains the defect or noncompliance was manufactured by a different manufacturer than the reporting manufacturer (e.g., the trailer manufacturer is submitting the report and the defect is in an item of equipment manufactured by a different manufacturer), the Defect/Noncompliance Report must identify the component, the component’s country of origin (if known), and the manufacturer’s name, business address, and business telephone number. If the reporting manufacturer does not know the identity of the component manufacturer, the Defect/Noncompliance Report should identify the entity from which the component was obtained.

(c) Total Number of Trailers or Equipment Potentially Containing the Safety Defect. The Defect/Noncompliance Report is required to identify the total number of trailers or items of equipment potentially containing the safety defect or noncompliance. Id. § 573.6(c)(3).

(d) Percentage of Trailers or Equipment Estimated to Actually Contain the Safety Defect. The Defect/Noncompliance Report is also required to identify the approximate percentage of those trailers or items of equipment estimated to actually contain the defect. Id. § 573.6(c)(4). In other words, of the total number of trailers or items of equipment that potentially contains the safety defect or noncompliance, what percentage of those trailers or items of equipment is estimated to actually have the defect. This percentage is based strictly upon the total number of trailers or items of equipment potentially containing the safety defect or noncompliance. For example, a sample Defect/Noncompliance Report might indicate the following:

**Population:**

Number of Trailers Potentially Involved: 544  
Estimated Percentage with Defect: 70

(e) Description of the Safety Defect and Chronology of Events. The Defect/Noncompliance Report must also contain a detailed description of the defect including, at a minimum, a discussion of the nature (addressing the contributing factors and causes of the problem), physical location, and consequence of the defect. The Defect/Noncompliance Report must provide a chronological summary of all the principal events that were the basis for the determination that the defect exists. The chronology should describe the events that gave rise to the manufacturer’s decision to initiate a recall. For example:
On May 12, 2015, [trailer manufacturer] was notified by a customer that they had experienced [description of the problem]. On May 15, 2015, [trailer manufacturer] discontinued its use of the problem part and isolated them until further testing was completed. An investigation into the safety risk, cause, and scope of the population was initiated. On May 25, 2015, after conducting the investigation, [trailer manufacturer] concluded that a safety-related problem existed with the problem part and decided to initiate a recall. On June 1, 2015, [trailer manufacturer] made a change to the product line.

This summary should include all warranty claims, field or service reports, and other relevant information such as numbers of crashes, injuries, and fatalities associated with the problem. In the case of noncompliance with FMVSS, the Defect/Noncompliance Report must identify the test results and other information that the manufacturer considered in determining the existence of the noncompliance. Id. §§ 573.6(c)(5)-(7). Photographs or illustrations of the problematic area or part should be provided where appropriate.

(f) **Defect Remedy Program.** The Defect/Noncompliance Report must include a description of the remedy program that the manufacturer plans to implement to fix the defect. Id. § 573.6(c)(8). The remedy program must include a plan for reimbursing owners/purchasers that paid to fix the defect prior to the issuance of the manufacturer’s owner notification. Finally, the remedy program should include a full description of what the remedy will be and how the remedy will be implemented. Id. For example, a common remedy includes an offer to replace or to repair the problematic part of the trailer by a dealer free of charge as part of the implementation plan.

(g) **Recall Schedule.** The Defect/Noncompliance Report must also identify the estimated dates on which the manufacturer plans to mail notifications to owners, dealers, and distributors about the safety defect or noncompliance. Manufacturers are required to notify owners within a reasonable period of time after the manufacturer first decides that its products contain a safety defect or noncompliance. The notification to owners must be furnished no later than 60 days from the date the manufacturer files its Defect/Noncompliance Report. 49 C.F.R. § 577.7(a)(1). The Owner Letter (defined below) is sent after NHTSA acknowledges the Defect/Noncompliance Report and approves its contents. The manufacturer has a duty to provide this notification to “each person who is registered under State law as the owner of the [trailer] and whose name and address are reasonably ascertainable by the manufacturer through State records or other sources available to” the manufacturer. Id. § 577.7(a)(2)(i).
3. **Where to Report.** Manufacturers are required by statute to submit their Defect/Noncompliance Report via certified mail; however, NHTSA issued a regulation that directs manufacturers to submit the Defect/Noncompliance Report and other safety-recall reports to NHTSA using the website [http://www.safercar.gov/Vehicle+Manufacturers](http://www.safercar.gov/Vehicle+Manufacturers). 40 C.F.R. 573.9. The regulation further provides that manufacturers must use the report templates provided on this webpage for all required safety-recall submissions. The required form of the Defect/Noncompliance Report template will depend upon the type of product that is the subject of the Defect/Noncompliance Report, such as (a) Defect and/or Noncompliance Information Report Form – Vehicles (to be used for trailers); and (b) Defect and/or Noncompliance Information Report Form – Equipment (to be used for items of equipment). First time users of the new recalls portal must first register and apply for an account using the NHTSA website, [http://www.safercar.gov/Vehicle+Manufacturers](http://www.safercar.gov/Vehicle+Manufacturers). Once an account has been established, manufacturers are to submit any recall-related reports or documents through the manufacturer’s recall portal.

4. **NHTSA’s Response to Defect/Noncompliance Report.** Upon receipt of a Defect/Noncompliance Report, NHTSA will review the report and assign a unique recall identification number. NHTSA will then send a written acknowledgement letter to the manufacturer. Finally, NHTSA will make the Defect/Noncompliance Report public by entering the Defect/Noncompliance Report into its information system, which is publicly accessible through NHTSA’s websites [www.safercar.gov](http://www.safercar.gov) and [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov). It may take up to 30 days before NHTSA sends the written acknowledgement letter to the manufacturer and makes the Defect/Noncompliance Report available to the public on the NHTSA website.

C. **Step Three: Development and Enactment of Recall Remedy**

1. **Statutory and Regulatory Requirements.** Manufacturers of a recalled trailer or item of equipment are required to provide a free remedy for the safety defect or noncompliance, with certain very limited exceptions. 49 U.S.C. § 30120(b)(1). Manufacturers and distributors must repurchase from their distributors and dealers the item of equipment, or, in the case of trailers, immediately provide the parts and equipment needed to remedy the trailer and reimburse the installing distributor or dealer for time and labor involved in the repair or replacement work. The “without charge” remedy requirement does not apply if the trailer or replacement equipment was bought by the first purchaser more than ten calendar years, or the tire, including an original equipment tire, was bought by the first purchaser more than five calendar years before notice of a defect is given. *Id.* § 30120(g).

2. **Remedies.** Trailers may be remedied in any of three ways: (a) by repairing the trailer; (b) by replacing the trailer with an identical or reasonably equivalent trailer; or (c) by refunding the trailer’s purchase price, less a reasonable amount for depreciation. Replacement equipment may be remedied by either repairing it or replacing it with identical or reasonably equivalent equipment. The manufacturer ultimately has the discretion to decide which of the remedies to offer purchasers. 49 U.S.C. § 30120(a) (“the manufacturer shall remedy the
defect or noncompliance in any of the following ways the manufacturer chooses”). However, as part of its review of the Defect/Noncompliance Report, NHTSA will determine if the manufacturer’s proposed remedy is appropriate under the circumstances. If NHTSA determines that the remedy is not appropriate, NHTSA may request (or mandate) that the manufacturer revise its proposed remedy for the recall.

3. **Time for Remedies.** If the free remedy offered is a repair, the manufacturer is required to conduct that repair within a reasonable amount of time after the purchaser presents the item for repair. A failure to conduct the repair within 60 days after the purchaser presents the item for repair is evidence of a failure to repair within a reasonable time. However, NHTSA may extend the 60-day period for good cause shown. If the repair is not done adequately within a reasonable amount of time, the manufacturer must replace the item with an identical or reasonably equivalent item or, for a trailer, refund its purchase price less a reasonable amount for depreciation.

4. **Reimbursement for Pre-Notification Remedies.** If an owner or purchaser of a defective trailer or item of equipment fixes the problem at his or her own cost before the manufacturer has notified NHTSA or issued its owner notifications, the manufacturer must reimburse the owner or purchaser for such costs (subject to certain limitations). 49 C.F.R. § 573.13(a). A manufacturer must include in its Defect/Noncompliance Report a plan for reimbursing an owner or purchaser who paid to remedy the defect or noncompliance in advance of the manufacturer’s owner notifications. This plan must contain several items, including a date range within which an owner’s payment of costs would qualify for reimbursement, the amount of costs to be reimbursed an owner, and an address to which claimants may mail reimbursement claims.

**D. Step Four: Public Notification Requirements**

1. **Lists of Purchasers, Owners, Dealers, and Distributors.** Each manufacturer of a trailer must "maintain, in a form suitable for inspection, a list of the names and addresses of registered owners . . . or most recent purchasers where the registered owners are unknown for [each trailer] involved in a defect or noncompliance notification campaign . . . ." 49 C.F.R. § 573.8(a). The manufacturer should compile the list of names and addresses of registered owners using State motor vehicle registration records or other sources (e.g., such as names and addresses provided by dealers or distributors). *Id.* The list must include the vehicle identification number of all affected trailers and show the status of remedy with respect to each owner involved in the notification campaign, updated as of the end of each quarterly reporting period. *Id.* Each list must be maintained for five years, beginning with the date on which the Defect/Noncompliance Report is initially submitted to NHTSA. *Id.*

2. **General Rule.** When a manufacturer identifies a safety defect or noncompliance in one of its products, the manufacturer must notify its owners, purchasers, dealers and distributors of that defect or noncompliance. 49 C.F.R. § 577.5(a).
3. Notifications to Owners and Purchasers ("Owner Letters"). The notifications to owners and purchasers must include a description of the defect, the measures to be taken to remedy the defect (and that the remedy is without charge), and the steps that must be taken to receive reimbursement (subject to any relevant limitations) if the defect was repaired prior to receipt of the notification letter. Specifically, the Owner Letter must include the following information or statements:

(a) The outside of each envelope must include a notation that includes the phrase “SAFETY RECALL NOTICE,” in all capital letters. 49 C.F.R. § 577.5(a). The envelope must also display the following label,\(^3\) which must be 1”x3” in size and placed on the front of the envelope:

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IMPORTANT SAFETY RECALL INFORMATION

Issued in Accordance With Federal Law

U.S. Department of Transportation
NHTSA
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(b) At the top of the Owner’s Letter, there must be a statement “IMPORTANT SAFETY RECALL” in all capital letters. 49 C.F.R. § 577.5(b). For trailer recalls, in the case of a safety defect, immediately below this statement there must be the statement “This notice applies to your vehicle, (manufacturer to insert VIN for the particular vehicle).” 49 C.F.R. § 577.5(b).

(c) The Owner Letter must start with the following opening statement: “This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act.” 49 C.F.R. § 577.5(b).

(d) In the case of a safety defect, the next statement must be “[Manufacturer’s name] has decided that a defect which relates to motor vehicle safety exists in [identify the vehicles or replacement equipment].” 49 C.F.R. § 577.5(c)(1). In the case of noncompliance, the second statement must be “[Manufacturer’s name] has decided that [identify the vehicles or replacement equipment] fail to conform to Federal Motor Vehicle Safety Standard No.[insert the number and title of the standard].” \textit{Id.}

\(^3\) The new required label can be downloaded at \url{http://www.safercar.gov/Vehicle+Manufacturers/}. 
(e) Following the above statements, the Owner Letter must include a clear description of the defect or noncompliance, including (1) an identification of the vehicle system or items of equipment involved; (2) a description of the malfunction that may occur due to the defect or noncompliance; (3) a description of any operation or other conditions that may cause the malfunction to occur; and (4) identification of any precautions owners may want to take to avoid or reduce the safety-related risk associated with the defect or noncompliance. 49 C.F.R. § 577.5(e). Such precautions may include, for example, (i) not operating the trailer until the necessary repair has been performed, (ii) not allowing passengers to ride in the passenger seat for improper airbag deployment, or (iii) avoiding driving in the rain for a windshield wiper system that does not operate properly.

(f) The Owner Letter must include the following:

(i) An evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance. 49 C.F.R. § 577.5(f). This evaluation must be crafted in a specific manner depending upon whether a vehicle crash is a potential outcome of the defect or noncompliance. If a crash is a potential risk, the Owner Letter must include either a statement that the defect or noncompliance can cause a crash without warning, or a description of the warning that may occur coupled with a statement that if the warning is not heeded, a crash can occur. 49 C.F.R. § 577.5(f)(1). If a crash is not a potential risk, the Owner Letter must include a statement indicating the general type of injury to vehicle occupants or persons outside the vehicle that can result from the defect or noncompliance and, where applicable, a description of any warning that may occur. 49 C.F.R. § 577.5(f)(2). Non-crash related warnings address risks arising from incidents that could result in injuries not caused by a crash, such as the following: “A short circuited grid heater could result in a vehicle fire and injury to vehicle occupants.”

(ii) As explained above, except for very limited exceptions, the manufacturer is required under the Safety Act to remedy the defect or noncompliance without charge and, when providing a remedy without charge, the manufacturer must include the following in the Owner Letter:

(1) A statement of the measures to be taken to remedy the defect or noncompliance. 49 C.F.R. § 577.5(g).

(2) A statement that the manufacturer will cause the defect or noncompliance to be remedied without charge, and whether the remedy will be by repair, replacement, or refund, less depreciation, of the purchase price. 49 C.F.R. § 577.5(g)(1).
(3) A statement specifying the earliest date on which the remedy is available without charge. 49 C.F.R. § 577.5(g)(1)(ii). In the case of remedy by repair, this date must be the earliest date on which the manufacturer reasonably expects that its dealers or other services facilities will receive the necessary parts and instructions.

(4) In the case of remedy by repair through the manufacturer’s dealers or other facilities, the Owner Letter must provide:
   
a. A general description of the work involved in repairing the defect or noncompliance; and
   
b. The manufacturer’s estimate of the time reasonably necessary to perform the labor required to correct the defect or noncompliance.

(5) In the case of remedy by repair through service facilities other than those of the manufacturer or its dealers, the Owner Letter must provide:
   
a. The name and part number of each part that must be added, replaced, or modified;
   
b. A description of any modification that must be made to existing parts, which must also be identified by name and part number;
   
c. Information as to where needed parts will be available;
   
d. A detailed description of each step required to correct the defect or noncompliance;
   
e. The manufacturer’s estimate of time reasonably necessary to perform the labor required to correct the defect or noncompliance; and
   
f. The manufacturer’s recommendations of service facilities where the owner should have the repairs performed.

(6) In the case of remedy by replacement, the Owner Letter must provide a description of the trailer or item of replacement equipment that the manufacturer will provide as a replacement for the defective or noncomplying trailer or equipment.
(7) In the case of remedy by refund of purchase price, the Owner Letter must provide the method or basis for the manufacturer’s assessment of depreciation.

(8) A statement informing the owner that he or she may submit a complaint to the Administrator, NHTSA, 1200 New Jersey Ave., SE, Washington, DC 20590, call the toll-free Vehicle Safety Hotline (1-888-327-4236), or go to http://www.safercar.gov if the owner believes that the manufacturer has failed or is unable to remedy the defect or noncompliance without charge. 49 C.F.R. § 577.5(g)(vii).

(9) Instruct owners that they may be eligible to receive reimbursement if they paid to have the defect or noncompliance repaired or replaced before receiving the manufacturer’s letter, and describe how they can obtain information about reimbursement. 49 C.F.R. § 577.11. These instructions must: (1) identify the trailer or equipment that is the subject of the recall and the underlying problem; (2) state that the manufacturer has a program for reimbursing pre-notification remedies and identify the type of remedy eligible for reimbursement; (3) identify any limits on the time period in which the repair or replacement of the recalled vehicle or equipment must have occurred; (4) identify any restrictions on eligibility for reimbursement that the manufacturer is imposing; (5) specify all necessary documentation that must be submitted to obtain reimbursement; (6) explain how to submit a claim for reimbursement; and (7) identify the office and address of the manufacturer where a claim can be submitted by mail and any authorized dealers or facilities where a claimant may submit a claim for reimbursement. 49 C.F.R. § 577.11(d).

(iii) If the manufacturer is not required under the Safety Act to remedy the defect or noncompliance without charge (i.e., one of the very limited exceptions apply) and the manufacturer will not voluntarily provide the remedy, the following must be included in the Owner Letter:

(1) A statement that the manufacturer is not required by the Safety Act to remedy without charge;

(2) A statement of the extent to which the manufacturer will voluntarily remedy, including the method of remedy and any limitations or conditions imposed by the manufacturer on the remedy; and
(3) The manufacturer’s opinion whether the defect or noncompliance can be remedied by repair. If the manufacturer believes that repair is possible, the statement must include the information in Section D(3)(f)(ii)(5) above, except that the manufacturer must indicate the suggested list price of each replacement part and the manufacturer’s estimate of the date on which the parts will be generally available.

(iv) Notify the recipient that federal regulations require that any vehicle lessor receiving the recall notice must forward a copy of the Owner Letter to the vehicle lessee within ten days. 49 C.F.R. § 577.5(h).

(g) **Manner.** Owner Letters concerning trailers must be sent via first class mail to each person registered under state law as an owner, or if that person is not known, the most recent purchaser known to the manufacturer. 49 C.F.R. § 577.7(a)(2). Owner Letters concerning replacement equipment must be sent via first class mail to the most recent purchaser known to the manufacturer. 49 C.F.R. § 577.7(a)(2). The manufacturer has an obligation to send the Owner Letter to each registered owner whose name and address are reasonably ascertainable through State records or other sources available to the manufacturer. *Id.*

(h) **Timing.** A manufacturer must furnish the Owner Letter no later than 60 days from the date that the manufacturer files the Defect/Noncompliance Report with NHTSA. 40 C.F.R. § 577.7(a)(1). The Owner Letter is sent after NHTSA acknowledges the Defect/Noncompliance Report and approves its contents. If the remedy for the defect or noncompliance is not known or available at the time of notification, the manufacturer must issue a second notification to owners within a reasonable time after the remedy is determined. For purposes of this second notification, a reasonable time is no later than 60 days after the remedy is determined.

4. **Notifications to Dealers and Distributors (“Dealer Letters”).** The notifications sent to dealers and distributors must meet many of the same requirements as for Owner Letters. 49 C.F.R. § 577.13.

(a) The Dealer Letter must include: (1) a clear statement that identifies the notification as being a safety recall notice; (2) an identification of the recalled product; (3) a description of the safety defect or noncompliance; (4) a brief evaluation of the risk to motor vehicle safety from that defect or noncompliance; (5) a description of the remedy; and (6) the estimated date on which the remedy will be available. 49 C.F.R. § 577.13.

(b) In addition, the Dealer Letter must also include a reminder warning that it is a violation of federal law to sell or resell products covered by a safety defect recall.
(c) Dealer Letters must be sent by certified mail, verifiable electronic means such as emails, or other means providing for more expeditious and verifiable transmission. The letters are sent to all dealers and distributors known to the manufacturer exercising reasonable diligence.

(d) **Timing.** Dealer Letters must be furnished within a reasonable time after the manufacturer first determines that a defect exists. 49 C.F.R. § 577.7(c)(1). If the defect or noncompliance presents an immediate and substantial threat to motor vehicle safety, the manufacturer must transmit the Dealer Letter within three business days of its transmittal of the Defect/Noncompliance Report to NHTSA. 49 C.F.R. § 577.7(c)(1). An “immediate and substantial threat” defect is one that presents an immediate danger in new trailers. 70 F.R. 38809-10. The following is an example of an immediate and substantial threat: “[Manufacturer] recalled its Model Year 2006 [trailer because] the vacuum brake booster may not have been crimped together and could come apart. If it does, the master cylinder will be disconnected and the vehicle will have complete brake failure.” Id. 38810.

5. **Approval.** A manufacturer must submit a draft of the proposed owner notification letter (i.e., the Owner Letter) through the recalls portal for approval at least five business days before they are to be mailed. A recall analyst in the Office of Defect Investigation will review the draft and provide any comments, edits, and approvals of the draft to the manufacturer through email. Please note, the five-business day pre-approval requirement applies to a defect or noncompliance that does not present an “immediate and substantial threat.” For “immediate and substantial threat” defects or noncompliance, the Dealer Letter must be transmitted within three business days of the manufacturer’s transmittal of the Defect/Noncompliance Report to NHTSA through the recalls portal.

E. **Step Five: Recall Remedy Monitoring**

1. **Quarterly Status Reports.** Each trailer manufacturer that is conducting a safety defect or noncompliance notification and remedy campaign must submit a status report to NHTSA for six consecutive calendar quarters concerning the progress of the recall campaign, beginning with the quarter in which the campaign was initiated. 49 C.F.R. § 573.7(a). Each quarterly report must contain the following information regarding the campaign:

   (a) The notification campaign number assigned by NHTSA;

   (b) The date that the notification began and the date completed;

   (c) The number of trailers or items of equipment involved in the notification campaign;

   (d) The cumulative number of trailers and equipment items that have been inspected and repaired and the number of trailers and equipment items inspected and determined not to need repair;
(e) The cumulative number of trailers or equipment items determined to be unreachable for inspection due to export, theft, scrapping, failure to receive notification, or other reasons (the number of trailers or equipment items in each category must be specified);

(f) For reports by equipment manufacturers, the number of equipment items repaired and/or returned by dealers, other retailers, and distributors to the manufacturer prior to their first sale to the public; and

(g) For recalls that involve the replacement of trailer tires, the manufacturer must provide:

(i) “The aggregate number of recalled tires that the manufacturer becomes aware have not been rendered unsuitable for resale for installation on a motor vehicle”;

(ii) “The aggregate number of recalled tires that the manufacturer becomes aware have been disposed of in violation of applicable state and local laws”; and

(iii) “A description of any failure of a tire outlet to act in accordance with the directions in the manufacturer’s recall/remedy plan, including identification of the outlet(s) in question.”

2. Submission Requirements. The quarterly status reports must be submitted in accordance with the following schedule:

(a) For the first calendar quarter, on or before April 30;

(b) For the second calendar quarter, on or before July 30;

(c) For the third calendar quarter, on or before October 30; or

(d) For the fourth calendar quarter, on or before January 30.

3. Where to Submit. Manufacturers must use the quarterly report form available on the manufacturer’s recall portal account through NHTSA’s safety-recall website (http://www.safercar.gov/Vehicle+Manufacturers). The quarterly reports are submitted to NHTSA through this website.

4. Follow-up Notification. If NHTSA decides that a notification of a safety-related defect sent by a manufacturer has not resulted in an adequate number of trailers being returned for remedy, NHTSA may direct the manufacturer to send follow-up notifications to disclose such information as required by NHTSA in order to maximize the number of owners and purchasers that present their trailers for remedy.
F. Notification Pursuant to an Administrative Order

1. General Rule. The vast majority of safety-related recalls are voluntarily conducted by the manufacturer. The recall may be due to a unilateral decision by the manufacturer or in consultation with NHTSA. A manufacturer's refusal to conduct a safety recall of its product, even after NHTSA has specifically requested that it do so, are relatively infrequent. The reasons for refusal vary but common themes include a denial of the safety-relatedness of the defect or noncompliance, an alleged lack of financial resources to conduct the recall, or a failure to recognize the applicability of the Safety Act or NHTSA regulations. In such instances, NHTSA may be forced to issue an administrative order requiring that the manufacturer conduct the safety recall.

2. Notifications. As a general matter, the Owner and Dealer Letters that are issued as a result of an administrative order issued by NHTSA must meet the same requirements as those for required safety recalls as outlined above. 49 C.F.R. § 577.6(a). The Owner and Dealer Letters, however, usually contain additional language that varies depending upon the particular circumstances surrounding the mandated notification. Id. § 577.6(b). Given the variety of circumstances and related disclosures and the relative rarity of administratively ordered safety recalls, this guidance document does not provide a discussion or otherwise summarize the additional requirements for those notifications.

G. Penalties for Failing to Comply with Safety-Related Recalls and Remedy Obligations

NHTSA has issued significant penalties—in the millions of dollars—over the past several years for failure to comply with safety-related recalls and remedy obligations. All indications are that the agency will continue aggressive enforcement efforts.

1. Civil Penalties.

(a) Up to $7,000 for each violation. 49 C.F.R. § 578.6(a). A separate violation occurs for each trailer or item of equipment and for each failure or refusal to perform as required under the Safety Act and NHTSA regulations. Id.

(b) Maximum cumulative civil penalty of $17,350,000. Id.

(c) Other penalties may apply.

2. Criminal Penalties.

(a) Making a false report to NHTSA knowingly and willfully is punishable criminally under 18 U.S.C. § 1001. The potential criminal penalties are a criminal fine, imprisonment of not more than five years, or both.

(b) If done with the intent to mislead NHTSA with respect to a safety-related defect that results in death or serious injury, the potential criminal penalties are a criminal fine, 15 years in jail, or both.
Important Considerations for Safety-Related Recalls

1. To determine if a safety-related defect exists, the trailer manufacturer should look at the frequency and severity of an issue and review this information against supporting documentation, including field reports, warranty claims, consumer complaints, and any investigations into the matter.

2. Once the manufacturer determines that a safety-related defect or noncompliance exists (whether in the trailer or an item of equipment on the trailer), the trailer manufacturer must submit a Defect/Noncompliance Report through the NHTSA recalls portal (http://www.safercar.gov/Vehicle+Manufacturers) within five working days. If the safety-related defect or noncompliance is an item of equipment, both the trailer manufacturer and the supplier of the equipment have five days to submit a Defect/Noncompliance Report to NHTSA.

3. If a safety-related defect or noncompliance is an item of equipment on a trailer that the trailer manufacturer did not manufacture, the trailer manufacturer is still responsible for complying with the recall and remedy obligations under the Safety Act and NHTSA regulations, along with the manufacturer of the item of equipment.

Example of a Safety Recall (Life Cycle)

1. Trailer Manufacturer ABC ("ABC") manufactures a utility trailer for sale to customers throughout the United States. ABC produces and sells 714 units to its dealers for model year 2014.

2. On February 25, 2015, ABC received a customer complaint that both latches on the fold flat ramp gate had failed while in tow, causing the ramp to fail. ABC began an investigation into the complaint. The investigation included a review of warranty records and a thorough inspection of the trailer model to determine if a design or manufacturing problem existed and, if so, the extent of the problem.

3. On February 27, 2015, ABC identified the problem. The affected trailers are equipped with a fold flat ramp gate system and vibrations from towing the trailer may cause the ramp gate latches to fail. If both ramp gate latches fail while the trailer is in tow, the ramp gate would fall from the upright position and be dragged behind the trailer. This could result in an increased risk of a crash. ABC, therefore, concluded that this problem represented a safety-related defect.

4. On March 6, 2015, ABC submitted a Defect/Noncompliance Report to NHTSA regarding the safety-related defect. In the Defect/Noncompliance Report, ABC identified the trailers involved in the recall, the number of trailers potentially involved, and the total number potentially affected by the recall. ABC also described the defect, its cause, the consequence of the defect condition, and a chronology of the principal events that were the basis for the determination of the defect. Finally, ABC described its proposed remedy for the defect, including its recall schedule.
5. ABC sent the initial safety-recall notification letter to dealers on April 5, 2015 and shipped the replacement parts to the dealers by April 5, 2015 as well.

6. ABC also investigated the identity of the retail purchasers and registered owners of the trailers through records provided by its dealers and through a search of applicable State records. ABC began sending the initial safety-recall notification to the retail purchasers and registered owners as soon as they were identified and completed the process by May 15, 2015.

7. ABC submitted quarterly status reports to NHTSA concerning the progress of the recall campaign. ABC must continue to submit quarterly status reports for six consecutive quarters.
V. RECENT AGENCY ENFORCEMENT ACTIVITIES

The following are recent enforcement actions taken by the NHTSA regarding various trailer and motor vehicle manufacturers that failed to timely and adequately disclose critical information regarding known safety defects as required under the Safety Act and the EWR requirements. The following discusses the consent orders and the issues that gave rise to the penalties imposed by NHTSA on those motor vehicle and equipment manufacturers. These are actual enforcement actions, although the specific companies are not identified by name and instead are referred to generically as Manufacturers A, B, C, D, and E.

A. Manufacturer A

1. Manufacturer A is a manufacturer of motor vehicle equipment, including specialty heavy-duty vehicle chassis and emergency-response vehicles.

2. Manufacturer A failed to submit services bulletins to NHTSA in accordance with its EWR requirements over a ten-year period commencing in April 2003, including at least 244 service bulletins issued by Manufacturer A during that time.

3. After being contacted by NHTSA in March 2013 for its failure to submit the service bulletins, Manufacturer A began submitting copies of the service bulletins issued during the previous year. NHTSA reviewed the service bulletins issued by Manufacturer A from April 2003 to March 2013 and concluded that the conditions addressed in six of the service bulletins (which had been handled by Manufacturer A as non-safety campaigns) should have been reported to NHTSA as safety-related defects. The conditions included the following: (a) the adhesive used to attach the rotation interlock magnet in fire apparatus vehicles degrades, allowing the magnet to detach and be free to move without warning; (b) the relay arm in a motor home chassis may come into contact with the ABS modulator valve while the wheels are turning and the relay rod arm is in the full forward position, which may reduce stopping distance or cause the vehicle to pull to one side; and (c) the sway bar end links in a motor home chassis may bend or break during a binding condition when the vehicle suspension is in jounce.

4. Ultimately, Manufacturer A admitted that it violated the Safety Act between April 2003 and March 2013 by failing to furnish NHTSA copies of the service bulletins as required by the EWR requirements. Manufacturer A also admitted that it did not timely determine whether safety-related defects existed in its vehicles or equipment and, as a result, failed to submit a Defect/Noncompliance Report to NHTSA within five working days after it should have known that certain defects were safety-related defects.

5. As part of the consent order entered into between NHTSA and Manufacturer A, Manufacturer A agreed to pay a civil penalty in the total amount of $9,000,000 ($1,000,000 payment, $5,000,000 deferred penalty held in abeyance pending successful completion of performance obligations, and $3,000,000 to use to complete certain performance obligations).
B. Manufacturer B

1. Manufacturer B is a manufacturer of camper trailers, which fall within the definition of a motor vehicle under the Safety Act.

2. Manufacturer B admitted that it failed to satisfy its EWR obligations. Specifically, Manufacturer B failed to report to NHTSA accurate information on deaths and injuries, the number of property damage claims, consumer complaints, warranty claims, and field reports. Manufacturer B also failed to file with NHTSA certain field communications or reports of Canadian safety campaigns. Finally, Manufacturer B also failed to provide NHTSA with copies of notices, bulletins, and other communications sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser.

3. In addition, Manufacturer B failed to file certain quarterly recall response rate reports in a timely manner and some of the reports may have contained incomplete information. Manufacturer B also sent Dealer Letters to dealers without the required statement informing dealers that federal law prohibits the sale of vehicles with a safety-related defect or noncompliance with FMVSS.

4. Ultimately, Manufacturer B admitted that it violated the Safety Act. Manufacturer B also admitted that it did not timely determine whether safety-related defects existed in its vehicles or equipment and, as a result, failed to submit a Defect/Noncompliance Report to NHTSA within five working days after it should have known that certain defects were safety-related defects.

5. As part of the consent order entered into between NHTSA and Manufacturer B, Manufacturer B acknowledged that it was subject to a civil penalty of up to $35,000,000. Manufacturer B agreed to pay a civil penalty of $5,000,000 in one lump sum. Manufacturer B also agreed that if it commits further violations of the Safety Act during the three-year term of the consent order, Manufacturer B may be potentially obligated to pay additional sums up to a maximum of $30,000,000.

6. In addition, as part of the consent order, Manufacturer B also agreed to retain an independent monitor to review and to audit Manufacturer B’s performance under the consent order, including compliance with the Safety Act requirements for EWR, reporting defects posing an unreasonable risks to safety, and recall implementation. The independent monitor was charged with conducting five audits during the three-year term, taking place in six-month intervals. If, following an audit, Manufacturer B is found to have violated the Safety Act or the terms of the consent order, Manufacturer B will be subject to stipulated civil penalties of $3,000,000 for the first violation, $7,000,000 for the second, and $20,000,000 for the third.
C. Manufacturer C

1. Manufacturer C is a manufacturer of air bag inflators that were installed in certain vehicles sold or registered in the United States.

2. As of October 30, 2014, over 7 million motor vehicles had been recalled to replace defective equipment manufactured by Manufacturer C.

3. On October 30, 2014 and November 18, 2014, as part of NHTSA’s ongoing oversight of these recalls and its investigation into the defect, NHTSA issued two special orders upon Manufacturer C demanding information and documents in order to assist NHTSA’s investigation. NHTSA alleged that Manufacturer C failed to fully respond to the orders and was uncooperative with NHTSA’s investigation into the recalls and the safety-related defect.

4. By letter dated February 20, 2015, NHTSA invoked a civil penalty of $14,000 per day, starting February 20, 2015, for each day that Manufacturer C remains delinquent in meeting its obligations under the two special orders to produce documents and information to NHTSA. The letter further informed Manufacturer C that, if Manufacturer C does not comply with the two special orders, NHTSA would begin noticing depositions of Manufacturer C employees.

5. On May 18, 2015, Manufacturer C and NHTSA entered into a consent order with respect to the safety-related defect that may arise in some of the air bag inflators manufactured by Manufacturer C. As part of the consent order, Manufacturer C filed four Defect/Noncompliance Reports with NHTSA.

6. The key provisions of the consent order are (a) Manufacturer C must fully cooperate with NHTSA in all actions and proceedings that are part of NHTSA’s ongoing investigation and oversight of the defective Manufacturer C equipment, including the direction of testing and evaluation of the remedy (including organizing and prioritizing the remedy); (b) the investigation remains open; (c) Manufacturer C must, at NHTSA’s direction, file amended defect notifications based on automaker expansions of their recalls; (d) further civil penalties are possible depending on the findings of NHTSA’s investigation; (e) Manufacturer C must provide a plan on efforts to maximize completion efforts; (f) Manufacturer C must provide test data establishing service life of remedy inflators; and (g) the $14,000 per day civil penalties for failure to provide the required information ends (with Manufacturer C responsible to pay the accrued penalties between February 20, 2015 and May 18, 2015).
D. Manufacturer D

1. Manufacturer D is a manufacturer of motor vehicles.

2. In February and March 2014, Manufacturer D recalled more than 2.6 million motor vehicles from model years 2003 through 2011 for a safety-related defect.

3. The safety-related defect concerned a condition in which the vehicle’s ignition switch may unintentionally move from the “run” position to the “accessory” or “off” position resulting in a loss of power. This risk may be increased if the key ring is carrying added weight or the vehicle goes off road or experiences some other impact related event. In addition, the timing of the ignition switch movement relative to the activation of the sensing algorithm of the crash event may result in the airbags not deploying.

4. On February 26, 2014, NHTSA opened a civil enforcement investigation to evaluate the timing of Manufacturer D’s defect decision-making and reporting of the safety-related defect to NHTSA.

5. Manufacturer D purportedly first became aware of the potential for ignition switch problems in 2001. By 2005, Manufacturer D had received numerous consumer complaints and field reports of keys moving out of the “run” position, resulting in the vehicles losing power. Manufacturer D’s engineers opened engineering inquiries into the problem and proposed numerous solutions, which were rejected because the solutions did not present an acceptable business case. At that time, Manufacturer D had determined—or in NHTSA’s view should have determined in the exercise of good faith—that a safety-related defect in the ignition switch existed, but it did not initiate the recalls.

6. In fact, Manufacturer D did not initiate the recalls until February and March 2014. In the consent order, Manufacturer D admitted that it violated the Safety Act by failing to provide notice to NHTSA of the safety-related defect within five working days.

7. Under the consent order, Manufacturer D agreed to pay the maximum civil penalty of $35,000,000 and to take part in unprecedented oversight requirements as a result of the findings of NHTSA’s timeliness investigation. Manufacturer D agreed to significant internal changes to its review of safety-related issues and to improve its ability to take into account the possible consequences of potential safety-related defects. These changes include: (a) improving Manufacturer D’s ability to analyze data to identify potential safety-related defects; (b) encouraging and improving information sharing across functional areas and disciplines; (c) increasing the speed with which recall decisions are made; and (d) improving communications with NHTSA regarding actual or potential safety-related defects. Manufacturer D must submit its improvement plan to NHTSA for approval and feedback.

8. Manufacturer D also agreed to pay an additional civil penalty of $7,000 per day for each day, beginning April 4, 2014, and each day thereafter up to and
including the date on which Manufacturer D provides the written factual report to NHTSA regarding Manufacturer D’s failure to fully respond to NHTSA.

E. Manufacturer E

1. Manufacturer E is a manufacturer of motor vehicles.

2. In 2007, following a series of reports alleging unintended acceleration in Manufacturer E’s vehicles, NHTSA opened a defect investigation and identified several models it believes might be defective. The safety-related defect caused unintended acceleration and was attributed to floor mat entrapment, where accelerators become entrapped at fully or near-fully depressed levels by improperly secured or incompatible floor mats. Manufacturer E disputed the need for a safety-related recall and hid other information from NHTSA regarding related defects.

3. Specifically, Manufacturer E minimized the scope of the floor mat entrapment defect, made misleading public statements to consumers, and concealed from NHTSA a separate but related safety-defect issue (a problem with accelerators getting stuck at partially depressed level, referred to as “sticky pedal”). In fact, contrary to public statements made by Manufacturer E in late 2009 saying that it had “addressed” the “root cause” of the unintended acceleration through a limited safety recall addressing floor mat entrapment, Manufacturer E had actually conducted internal tests revealing that certain of its unrecalled vehicles bore design features rendering them just as susceptible to floor mat entrapment as some of the recalled vehicles. Prior to those public statements, Manufacturer E took steps to hide the sticky pedal problem from NHTSA.

4. NHTSA and the U.S. Department of Justice (“DOJ”) conducted a four-year investigation of Manufacturer E and concluded that Manufacturer E had concealed information about defects from consumers and government officials.

5. On March 19, 2014, Manufacturer E and DOJ entered into a Deferred Prosecution Agreement. Pursuant to the Agreement, Manufacturer E agreed, among other things, to (a) waive indictment and consent to the filing of a one-count felony information charging Manufacturer E with committing wire fraud; (b) accept responsibility; (c) pay a $1.2 Billion penalty in the form of a civil forfeiture, which constitutes the largest ever criminal penalty imposed by DOJ on an automotive company; (d) refrain from future criminal conduct and cooperate fully with DOJ / NHTSA; and (e) retain a monitor to review and assess (i) whether Manufacturer E’s policies, procedures, or practices ensure that Manufacturer E’s public statements related to motor vehicle safety are true; (ii) the effectiveness of Manufacturer E’s policies, procedures, or practices for making information relating to accidents in the US available to Manufacturer E’s engineers and product safety executives, and (iii) whether Manufacturer E’s policies, procedures, or practices regarding the generation of reports in the US ensure compliance with the Safety Act and NHTSA regulations. In exchange, DOJ agreed to defer prosecution for a period of three years, after which time (assuming Manufacturer E complies in all respects with the Agreement), DOJ will seek to dismiss the charges.
A NOTE OF CAUTION

This guidance document is intended to provide general information to NATM’s members about NHTSA’s safety-recall notification and remedy requirements and EWR requirements.

This document is not intended to provide, and should not be relied upon as providing, legal advice on any particular situation or set of facts. The information set forth herein provides a high-level summary of the relevant topics and is not intended to be an exhaustive or detailed analysis of all the relevant laws, regulations, and potential issues. Many of the areas—particularly the complicated exceptions—are replete with subtle nuances and unclear interpretations. Accordingly, certain issues may require more thorough and specific examination in a particular case and NATM members are advised to make their own determinations or seek outside assistance in such situations.

Since violations of the relevant safety recall and EWR requirements can lead to adverse publicity, reputational damage, and even civil or criminal sanctions, NATM members are strongly advised not to rely solely on this guidance document, but instead should consult the actual language of the laws and regulations at issue and seek further guidance from NHTSA and/or outside advisors if there is any doubt about the applicability, scope, or interpretation of the various requirements.
Appendix A

Sample Defect Report
Part 573 Safety Recall Report

Manufacturer Name:
Submission Date: APR 03, 2015
NHTSA Recall No.: 15V-207
Manufacturer Recall No.: 15-230

Population:
Number of potentially involved: 25
Estimated percentage with defect: 100

Vehicle Information:
Vehicle: 2015-2015
Vehicle Type: TRAILERS
Body Style:
Power Train: NR
Descriptive Information: Units manufactured with 5200# axles manufactured by
Production Dates: MAR 18, 2015 - MAR 23, 2015

VIN (Vehicle Identification Number) Range
Begin: 4YDT3132XF1533089   End: 4YDT29927F1533155
Not sequential VINS

Vehicle: 2015-2015
Vehicle Type: TRAILERS
Body Style:
Power Train: NR
Descriptive Information: Units manufactured with 5200# axles manufactured by
Production Dates: MAR 18, 2015 - MAR 23, 2015

VIN (Vehicle Identification Number) Range
Begin: 4YDT2462XFP940911   End: 4YDF26223FP940926
Not sequential VINS

Description of Defect:
Description of the Defect: 5200# axles manufactured between March 18 and March 23, 2015 may have been assembled with wheel studs which could potentially break.
Description of the Safety Risk: If a wheel stud would break, the clamp pressure of the wheel could be compromised. This could result in the separation of the wheel from the vehicle leading to an increased risk of property damage and/or vehicle crash.
Description of the Cause: The affected axle hubs were produced with wheel studs which could potentially break.

Identification of Any Warning that can Occur: Missing lug nuts

Supplier Identification:
Component Manufacturer
Name:
Address:

Country: United States

Chronology:
On 3-26-15 engineering was notified by production that 3 units on the assembly line had broken wheel studs. The axle vendor was notified. Upon investigation it appears likely that the wheel studs of a specific lot were embrittled, causing the breakage.

Description of Remedy:
Description of Remedy Program: Owners of units which were shipped prior to inspection will be notified and the wheel hubs will be replaced.

How Remedy Component Differs from Recalled Component: The remedy components were manufactured by other suppliers or a different production lot.

Identify How/When Recall Condition was Corrected in Production: All loose axle inventories were quarantined and then replaced with axles produced with wheels studs from a different lot. Completed vehicles with axles built within the specified date range were identified and the wheel hubs were replaced.

Recall Schedule:
Description of Recall Schedule: will notify the dealers and owners of the recreational vehicles by letter. A final copy of the owner letter will be provided to NHTSA, along with the dealer repair procedures.

Planned Dealer Notification Date: APR 07, 2015 - APR 07, 2015

Planned Owner Notification Date: APR 07, 2015 - APR 07, 2015

* NR - Not Reported
Appendix B

Early Warning Report Template
EARLY WARNING REPORT TEMPLATE

An Early Warning Report contains six separate sections. The following template outlines the information necessary to complete each section.

Report Information .......................................................................................................................... B-2
Production Information ................................................................................................................. B-3
Consumer Complaints .............................................................................................................. B-4
Property Damage ........................................................................................................................ B-5
Warranty Claims ........................................................................................................................ B-6
Field Reports .............................................................................................................................. B-7
Report Information

Manufacturer Name: ___________________________________________________________

Report Quarter:_______________________________________________________________

Report Year:_________________________________________________________________

Report Name: *Trailers (auto generated)*

Report Version:_______________________________________________________________

Report Generated Date: _______________________________________________________ 

Report Contact Name:__________________________________________________________

Report Contact Email:__________________________________________________________

Report Contact Phone:_________________________________________________________

NHTSA Template Revision No: 1.2 (*auto generated*)
Production Information

Make: ____________________________________________________________

Model: ____________________________________________________________

Model Year: _________________________________________________________

Type: ________________________________________________________________

Brake System: ________________________________________________________

Total Production: _____________________________________________________
Consumer Complaints

Make: ________________________________________________________________

Model: _______________________________________________________________

Model Year: _____________________________________________________________

Suspension-02: _________________________________________________________

Service Brake-03: _______________________________________________________

Service Brake Air-04: ____________________________________________________

ParkingBrake-05: _________________________________________________________

Electrical-11: ___________________________________________________________

Ext Lighting-12: ________________________________________________________

Structure-16: ___________________________________________________________

Latch-17: __________________________________________________________________

Tires Related-19: _______________________________________________________

Wheels-20: __________________________________________________________________

Trailer Hitch-21: _________________________________________________________

Fire Related-23: __________________________________________________________________
Property Damage

Make: ________________________________________________________________

Model: ________________________________________________________________

Model Year: ____________________________________________________________

Suspension-02: __________________________________________________________

Service Brake-03: _______________________________________________________

Service Brake Air-04: ____________________________________________________

ParkingBrake-05: ________________________________________________________

Electrical-11: __________________________________________________________

Ext Lighting-12: _________________________________________________________

Structure-16: __________________________________________________________

Latch-17: ______________________________________________________________

Tires Related-19: _______________________________________________________ 

Wheels-20: _____________________________________________________________

Trailer Hitch-21: _______________________________________________________

Fire Related-23: ________________________________________________________
Warranty Claims

Make: ________________________________

Model: ______________________________

Model Year: __________________________

Suspension-02: _______________________

Service Brake-03: ____________________

Service Brake Air-04: __________________

ParkingBrake-05: ______________________

Electrical-11: _________________________

Ext Lighting-12: ______________________

Structure-16: _________________________

Latch-17: ____________________________

Tires Related-19: _____________________

Wheels-20: __________________________

Trailer Hitch-21: _____________________

Fire Related-23: _____________________
Field Reports

Make: ________________________________________________________________

Model: _______________________________________________________________

Model Year: __________________________________________________________

Suspension-02: _______________________________________________________ 

Service Brake-03: ____________________________________________________ 

Service Brake Air-04: ________________________________________________ 

ParkingBrake-05: ____________________________________________________ 

Electrical-11: ______________________________________________________ 

Ext Lighting-12: ____________________________________________________ 

Structure-16: ______________________________________________________ 

Latch-17: __________________________________________________________ 

Tires Related-19: __________________________________________________ 

Wheels-20: _________________________________________________________ 

Trailer Hitch-21: __________________________________________________ 

Fire Related-23: ___________________________________________________ 

revised 7/1/2016
Appendix C

Relevant Statutes
RELEVANT STATUTES

UNITED STATES CODE
TITLE 49—TRANSPORTATION
SUBTITLE VI—MOTOR VEHICLE AND DRIVER PROGRAMS
PART A—GENERAL
CHAPTER 301—MOTOR VEHICLE SAFETY

Section

30101. Purpose and policy ................................................................. C-2
30112(a)(1). Prohibitions on manufacturing, selling, and importing noncomplying motor vehicles and equipment ................................................................. C-3
30115(a). Certification of compliance .............................................. C-4
30118. Notification of defects and noncompliance ........................................ C-5
30119. Notification procedures ....................................................... C-6
30120. Remedies for defects and noncompliance ............................... C-8
30166(m). EWR requirements ....................................................... C-13

Additional information regarding NHTSA statutory authorities is available on the NHTSA website at http://www.nhtsa.gov/Laws+&+Regulations/NHTSA+Statutory+Authorities.
### § 30101. Purpose and policy

The purpose of this chapter is to reduce traffic accidents and deaths and injuries resulting from traffic accidents. Therefore it is necessary—

1. To prescribe motor vehicle safety standards for motor vehicles and motor vehicle equipment in interstate commerce; and
2. To carry out needed safety research and development.

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1 So in original. Probably should be "31100".

2 So in original. Does not conform to section catchline.
§ 30112. Prohibitions on manufacturing, selling, and importing noncomplying motor vehicles and equipment

(a) General.—(1) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a person may not manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or motor vehicle equipment manufactured on or after the date applicable under this chapter takes effect unless the vehicle or equipment complies with the applicable motor vehicle safety standards prescribed under this chapter.

(2) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a school or school system may not purchase or lease a new 15-passenger van if it will be used significantly by, or on behalf of, the school or school system to transport preprimary, primary, or secondary school students to or from school or an event related to school, unless the 15-passenger van complies with the motor vehicle standards prescribed for school buses and multifunction school activity buses under this chapter.

(3) Except as provided in this section, sections 30114, subsections (i) and (j) of section 30120, and subchapter III, a person may not sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States any motor vehicle or motor vehicle equipment if the vehicle or equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b). Nothing in this paragraph may be construed to prohibit the importation of a new motor vehicle that receives a required recall remedy before being sold to a consumer in the United States.

(b) Nonapplication.—This section does not apply to—

(1) the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of a motor vehicle or motor vehicle equipment after the first purchase of the vehicle or equipment in good faith other than for resale;

(2) a person—

(A) establishing that the person had no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment contains a defect related to motor vehicle safety standards prescribed under this chapter;

(B) holding, without knowing about the noncompliance and before the vehicle or equipment is first purchased in good faith other than for resale, a certificate issued by a manufacturer or importer stating the vehicle or equipment complies with applicable motor vehicle safety standards prescribed under this chapter; or

(C) having no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment does not comply with applicable motor vehicle safety standards prescribed under this chapter.

(3) a motor vehicle or motor vehicle equipment intended only for export, labeled for export, and equipment after the first purchase of the vehicle or equipment in good faith other than for resale, a certificate issued by a manufacturer or importer stating the vehicle or equipment complies with applicable motor vehicle safety standards prescribed under this chapter.
§ 30114. Special exemptions

The Secretary of Transportation may exempt a motor vehicle or item of motor vehicle equipment from section 30112(a) of this title on terms the Secretary decides are necessary for research, investigations, demonstrations, training, competitive racing events, show, or display.


HISTORICAL AND REVISION NOTES

Revised Section | Source (U.S. Code) | Source (Statutes at Large)
--- | --- | ---

The word “conditions” is omitted as being included in “terms,” and the word “studies” is omitted as being included in “research.” The word “solely” is omitted as unnecessary.

AMENDMENTS

1998—Pub. L. 105–178 substituted “competitive racing events, show, or display” for “or competitive racing events.”

Transition Rule

Pub. L. 105–178, title VII, §7107(b), June 9, 1998, 112 Stat. 469, provided that: “A person who is the owner of a motor vehicle located in the United States on the date of enactment of this Act (June 9, 1998) may seek an exemption under section 30114 of title 49, United States Code, as amended by subsection (a) of this section, for a period of 6 months after the date regulations of the Secretary of Transportation promulgated in response to such amendment take effect.”

§ 30115. Certification of compliance

(a) IN GENERAL.—A manufacturer or distributor of a motor vehicle or motor vehicle equipment shall certify to the distributor or dealer at delivery that the vehicle or equipment complies with applicable motor vehicle safety standards prescribed under this chapter. A person may not issue the certificate if, in exercising reasonable care, the person has reason to know the certificate is false or misleading in a material respect.

Certification of a vehicle must be shown by a label or tag permanently fixed to the vehicle. Certification of equipment may be shown by a label or tag on the equipment or on the outside of the container in which the equipment is delivered.

(b) CERTIFICATION LABEL.—In the case of the certification label affixed by an intermediate or final stage manufacturer of a motor vehicle built in more than one stage, each intermediate or final stage manufacturer shall certify with respect to each applicable Federal motor vehicle safety standard—

(1) that it has complied with the specifications set forth in the compliance documentation provided by the incomplete motor vehicle manufacturer in accordance with regulations prescribed by the Secretary; or

(2) that it has elected to assume responsibility for compliance with that standard.

If the intermediate or final stage manufacturer elects to assume responsibility for compliance with the standard covered by the documentation provided by an incomplete motor vehicle manufacturer, the intermediate or final stage manufacturer shall notify the incomplete motor vehicle manufacturer in writing within a reasonable time of affixing the certification label. A violation of this subsection shall not be subject to a civil penalty under section 30165.


HISTORICAL AND REVISION NOTES

Revised Section | Source (U.S. Code) | Source (Statutes at Large)
--- | --- | ---

The words “fail to issue a certificate required by section 1463 of this title” in 15:1397(a)(1)(C) and the text of 15:1397(a)(1)(E) (related to 15:1403) are omitted as surplus. The word “certify” is substituted for “furnish . . . the certification” in 15:1403 to eliminate unnecessary words. The words “the time of” and “of such vehicle or equipment by such manufacturer or distributor” are omitted as surplus. The words “prescribed under this chapter” are substituted for “the standard” for clarity and consistency in this chapter.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–277, §101(g) [title III, §351(a)(2)], inserted “(including an exemption under subsection (b)(3)(B)(i) relating to a bumper standard prescribed under chapter 325 of this title)” after “a motor vehicle safety standard prescribed under this chapter.”


Subsec. (c)(1). Pub. L. 105–277, §101(g) [title III, §351(a)(2)], inserted “or a bumper standard prescribed under chapter 325 of this title,” after “motor vehicle safety standard prescribed under this chapter.”

Subsec. (d). Pub. L. 105–277, §101(g) [title III, §351(a)(3)], inserted “or a bumper standard prescribed under chapter 325 of this title” after “each motor vehicle safety standard prescribed under this chapter.”

1998—Pub. L. 105–178, title VII, §7107(a), June 9, 1998, 112 Stat. 469, provided that: “A person who is the owner of a motor vehicle located in the United States on the date of enactment of this Act (June 9, 1998) may seek an exemption under section 30114 of title 49, United States Code, as amended by subsection (a) of this section, for a period of 6 months after the date regulations of the Secretary of Transportation promulgated in response to such amendment take effect.”
In this section, the text of 15:1397(a)(1)(B) (related to 15:1401(d), (D) (related to 15:1418(b)), and (E) (related to 15:1401(d)) is omitted as surplus.

In subsection (a), before clause (1), the words “such performance data and other”, “as may be”, “the purposes of”, “performance and technical”, and “to carry out the purposes of this chapter” the 2d time they appear are omitted as surplus. In clause (1), the words “such manufacturer’s” and “which may include, but is not limited to, printed matter (A) available for retention by such prospective purchaser and (B) sent by mail to such prospective purchaser upon his request” are omitted as surplus. The words “legal relationship” are substituted for “contractual, proprietary, or other legal relationship” to eliminate unnecessary words.

In subsection (b)(1), the word “cause to be maintained” is substituted for “cause the establishment and maintenance of” to eliminate unnecessary words. The words “prescribe by regulation” are substituted for “by regulation” to eliminate unnecessary words. The word “involved” is substituted for “cause the establishment and maintenance of” to eliminate unnecessary words.

In this section, the text of 15:1397(a)(1)(B) (related to 15:1401(d), (D) (related to 15:1418(b)), and (E) (related to 15:1401(d)) is omitted as surplus.

In subsection (a), before clause (1), the words “such performance data and other”, “as may be”, “the purposes of”, “performance and technical”, and “to carry out the purposes of this chapter” the 2d time they appear are omitted as surplus. In clause (1), the words “such manufacturer’s” and “which may include, but is not limited to, printed matter (A) available for retention by such prospective purchaser and (B) sent by mail to such prospective purchaser upon his request” are omitted as surplus. The words “legal relationship” are substituted for “contractual, proprietary, or other legal relationship” to eliminate unnecessary words.

In subsection (b)(1), the word “cause to be maintained” is substituted for “cause the establishment and maintenance of” to eliminate unnecessary words. The words “prescribe by regulation” are substituted for “by regulation” to eliminate unnecessary words. The word “involved” is substituted for “cause the establishment and maintenance of” to eliminate unnecessary words.

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c)(1), is the date of enactment of Pub. L. 106–414, which was approved Nov. 1, 2000.

AMENDMENTS


15-PASSENGER VAN SAFETY


“(1) IN GENERAL.—The Secretary of Transportation shall notify the manufacturer of a motor vehicle or replacement equipment immediately after making an initial decision (through testing, inspection, investigation, or research carried out under this chapter, examining communications under section 30166(f) of this title, or otherwise) that the vehicle or equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter. The notification shall include the information on which the decision is based. The Secretary shall publish a notice of each decision under this subsection in the Federal Register. Subject to section 30167(a) of this title, the notification and information are available to any interested person.

(b) DEFECT AND NONCOMPLIANCE PROCEEDINGS AND ORDERS.—(1) The Secretary may make a final decision that a motor vehicle or replacement equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter only after giving the manufacturer an opportunity to present information, views, and arguments showing that there is no defect or noncompliance or that the defect does not affect motor vehicle safety. Any interested person also shall be given an opportunity to present information, views, and arguments.

(2) If the Secretary decides under paragraph (1) of this subsection that the vehicle or equipment contains the defect or does not comply, the Secretary shall order the manufacturer to—

(A) give notification under section 30119 of this title to the owners, purchasers, and dealers of the vehicle or equipment of the defect or noncompliance; and

(B) remedy the defect or noncompliance under section 30120 of this title.

(c) NOTIFICATION BY MANUFACTURER.—A manufacturer of a motor vehicle or replacement equipment shall notify the Secretary by certified mail, and the owners, purchasers, and dealers of the vehicle or equipment as provided in section 30119(d) of this section, if the manufacturer—

(1) learns the vehicle or equipment contains a defect and decides in good faith that the defect is related to motor vehicle safety; or

(2) decides in good faith that the vehicle or equipment does not comply with an applicable motor vehicle safety standard prescribed under this chapter.

(d) EXEMPTIONS.—On application of a manufacturer, the Secretary shall exempt the manufacturer from this section if the Secretary decides a defect or noncompliance is inconsequential to motor vehicle safety. The Secretary may take action under this subsection only after notice in the Federal Register and an opportunity for any interested person to present information, views, and arguments.

(e) HEARINGS ABOUT MEETING NOTIFICATION REQUIREMENTS.—On the motion of the Secretary or on petition of any interested person, the Sec-
The Secretary may conduct a hearing to decide whether the manufacturer has reasonably met the notification requirements under this section. Any interested person may make written and oral presentations of information, views, and arguments on whether the manufacturer has reasonably met the notification requirements. If the Secretary decides that the manufacturer has not reasonably met the notification requirements, the Secretary shall order the manufacturer to take specified action to meet those requirements and may take any other action authorized under this chapter.


HISTORICAL AND REVISION NOTES

Revised Section Source (U.S. Code) Source (Statutes at Large)
30118(a) ...... 15:1411 for clarity. The words “shall notify” are substituted for “he shall furnish notification to” to eliminate unnecessary words. The words “to the Secretary, if section 1411 of this title applies” in 15:1413(c) (1st sentence cl. (b)) are omitted because of the restatement. The words “of the vehicle or equipment” are added for clarity. The words “and he shall remedy the defect or failure to comply in accordance with section 1414 of this title” in 15:1411 are omitted as unnecessary because of the source provisions restated in section 30120 of the revised title.

In subsection (d), the words “any requirement under”, “to give notice with respect to”, and “as it relates” are omitted as surplus. The words “The Secretary may take action under this subsection only” are added because of the restatement.

In subsection (e), the words “(including a manufacturer)” are omitted as surplus. The word “information” is substituted for “data” for consistency in the revised title.

AMENDMENTS

2000—Pub. L. 106-346, §101(a) [title III, §364], which directed amendment of this section in subs. (a), (b)(1), and (c), by inserting “original equipment,” before “or replacement equipment” wherever appearing, and in subsec. (c), by redesignating pars. (1) and (2) as subs. (A) and (B), respectively, and realigning margins, by substituting “(1) IN GENERAL.—A manufacturer” for “A manufacturer”, and by adding a new par (2) relating to duty of manufacturers, was repealed by Pub. L. 106-414, §2. See Construction of 2000 Amendment note below.

CONSTRUCTION OF 2000 AMENDMENT


§ 30119. Notification procedures

(a) CONTENTS OF NOTIFICATION.—Notification by a manufacturer required under section 30118 of this title of a defect or noncompliance shall contain—

(1) a clear description of the defect or noncompliance;
(2) an evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance;
(3) the measures to be taken to obtain a remedy of the defect or noncompliance;
(4) a statement that the manufacturer giving notice will remedy the defect or noncompliance without charge under section 30120 of this title;
(5) the earliest date on which the defect or noncompliance will be remedied without charge, and for tires, the period during which the defect or noncompliance will be remedied without charge under section 30120 of this title;
(6) the procedure the recipient of a notice is to follow to inform the Secretary of Transportation when a manufacturer, distributor, or dealer does not remedy the defect or noncompliance without charge under section 30120 of this title; and
(7) other information the Secretary prescribes by regulation.
(b) Earliest Remedy Date.—The date specified by a manufacturer in a notification under subsection (a)(5) of this section or section 30121(c)(2) of this title is the earliest date that parts and facilities reasonably can be expected to be available to remedy the defect or noncompliance. The Secretary may disapprove the date.

(c) Time for Notification.—Notification required under section 30118 of this title shall be given within a reasonable time—

(1) prescribed by the Secretary, after the manufacturer receives notice of a final decision under section 30118(b) of this title; or

(2) after the manufacturer first decides that a safety-related defect or noncompliance exists under section 30118(c) of this title.

(d) Means of Providing Notification.—(1) Notification required under section 30118 of this title about a motor vehicle shall be sent in the manner prescribed by the Secretary, by regulation—

(A) to each person registered under State law as the owner and whose name and address are reasonably ascertainable by the manufacturer through State records or other available sources; or

(B) if a registered owner is not notified under clause (A) of this paragraph, to the most recent purchaser known to the manufacturer.

(2) Notification required under section 30118 of this title about replacement equipment shall be sent in the manner prescribed by the Secretary, by regulation, to the most recent purchaser known to the manufacturer.

(3) In addition to the notification required under paragraphs (1) and (2), if the Secretary decides that public notice is required for motor vehicle safety, public notice shall be given by the manufacturer in the way required by the Secretary after consulting with the manufacturer. In deciding whether public notice is required, the Secretary shall consider—

(A) the magnitude of the risk to motor vehicle safety caused by the defect or noncompliance; and

(B) the cost of public notice compared to the additional number of owners the notice may reach.

(4) A dealer to whom a motor vehicle or replacement equipment was delivered shall be notified in the manner prescribed by the Secretary, by regulation.

(e) Additional Notification.—

(1) Second Notification.—If the Secretary decides that a notification sent by a manufacturer under this section has not resulted in an adequate number of motor vehicles or items of replacement equipment being returned for remedy, the Secretary may order the manufacturer to send a 2d notification in the way the Secretary prescribes by regulation.

(2) Additional Notifications.—If the Secretary determines, after taking into account the severity of the defect or noncompliance, that the second notification by a manufacturer does not result in an adequate number of motor vehicles or items of replacement equipment being returned for remedy, the Secretary may order the manufacturer—

(A)(i) to send additional notifications in the manner prescribed by the Secretary, by regulation; or

(ii) to take additional steps to locate and notify each person registered under State law as the owner or lessee or the most recent purchaser or lessee, as appropriate; and

(B) to emphasize the magnitude of the safety risk caused by the defect or noncompliance in such notification.

(f) Notification by Lessor to Lessee.—(1) In this subsection, “leased motor vehicle” means a motor vehicle that is leased to a person for at least 4 months by a lessor that has leased at least 5 motor vehicles in the 12 months before the date of the notification.

(2) A lessor that receives a notification required by section 30118 of this title about a leased motor vehicle shall provide a copy of the notification to the lessee in the way the Secretary prescribes by regulation.


### Historical and Revision Notes

<table>
<thead>
<tr>
<th>Revised Section</th>
<th>Source (U.S. Code)</th>
<th>Source (Statutes at Large)</th>
</tr>
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<tbody>
<tr>
<td>30119(f) ......</td>
<td>15:1413(e).</td>
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omitted as surplus. In clause (6), the words “a description of” are omitted as surplus. The words “under section 30120 of this title” are added for consistency with the source provisions restated in this subsection. In clause (7), the words “in addition to such . . . as” are omitted as surplus.

In subsection (b), the words “in a notification under subsection (a)(5) of this section or section 30121(c) of this title” are substituted for “In either case” because of 1:1. The words “may disapprove” are substituted for “shall be subject to disapproval by” to eliminate unnecessary words.

In subsection (c)(1), the words “Secretary’s” and “that there is a defect or failure to comply” are omitted as surplus. The word “final” is added for clarity.

In subsection (d)(3), the words “(or, if the manufacturer prefers, by certified mail)” are substituted for “first class mail (or, if the manufacturer prefers, by certified mail)” to the most recent purchaser known to the manufacturer. The words “in the manner prescribed by the Secretary, by regulation” for “by first class mail” in introductory provisions.

2012—Subsec. (d)(1). Pub. L. 112–141, § 31310(a)(1), substituted “in the manner prescribed by the Secretary, by regulation” for “by first class mail” in introductory provisions.

Subsec. (d)(2). Pub. L. 112–141, § 31310(a)(2), substituted “shall be sent in the manner prescribed by the Secretary, by regulation,” for “(except a tire) shall be sent by first class mail” and struck out second sentence which read as follows: “In addition, if the Secretary decides that public notice is required for motor vehicle safety, public notice shall be given in the way required by the Secretary after consulting with the manufacturer.”

Subsec. (d)(3). Pub. L. 112–141, § 31310(a)(3), struck out first sentence which read “Notification required under section 30118 of this title about a tire shall be sent by first class mail (or, if the manufacturer prefers, by certified mail) to the most recent purchaser known to the manufacturer,” and inserted “to the notification required under subsections (b) and (c) of this title if the manufacturer prefers, by certified mail)” to the most recent purchaser known to the manufacturer, and inserted “in the manner prescribed by the Secretary, by regulation,” for “by certified mail or quicker means if available.”

Subsec. (d)(4). Pub. L. 112–141, § 31310(a)(4), substituted “in the manner prescribed by the Secretary, by regulation,” for “in the manner prescribed by the Secretary, by regulation,” for “by certified mail or quicker means if available.”


Effective Date of 2012 Amendment

of this title is not a presentation under this subsection.

(3) 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) that there is a risk of serious injury or death if the remedy program is not accelerated; and

(B) 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.

The Secretary may prescribe regulations to carry out this paragraph.

(d) Filing Manufacturer's Remedy Program.—A manufacturer shall file with the Secretary a copy of the manufacturer's program under this section for remediying a defect or noncompliance. The Secretary shall make the program available to the public and publish a notice of availability in the Federal Register. A manufacturer's remedy program shall include a plan for reimbursing an owner or purchaser who incurred the cost of the remedy within a reasonable time in advance of the manufacturer's notification under subsection (b) or (c) of section 30118. The Secretary may prescribe regulations establishing what constitutes a reasonable time for purposes of the preceding sentence and other reasonable conditions for the reimbursement plan. In the case of a remedy program involving the replacement of tires, the manufacturer shall include a plan addressing how to prevent, to the extent reasonably within the control of the manufacturer, replaced tires from being resold for installation on a motor vehicle, and how to limit, to the extent reasonably within the control of the manufacturer, the disposal of replaced tires in landfills, particularly through shredding, crumbling, recycling, recovery, and other alternative beneficial non-vehicular uses. The manufacturer shall include information about the implementation of such plan with each quarterly report to the Secretary regarding the progress of any notification or remedy campaigns.

(e) Hearings About Meeting Remedy Requirements.—On the motion of the Secretary or on application by any interested person, the Secretary may conduct a hearing to decide whether the manufacturer has reasonably met the remedy requirements under this section. Any interested person may make written and oral presentations of information, views, and arguments on whether the manufacturer has reasonably met the remedy requirements. If the Secretary determines that the manufacturer has not reasonably met the remedy requirements, the Secretary shall order the manufacturer to take specified action to meet those requirements and may take any other action authorized under this chapter.

(f) Fair Reimbursement to Dealers.—A manufacturer shall pay fair reimbursement to a dealer providing a remedy without charge under this section.

(g) Nonapplication.—(1) The requirement that a remedy be provided without charge does not apply if the motor vehicle or replacement equipment was bought by the first purchaser more than 10 calendar years, or the tire, including an original equipment tire, was bought by the first purchaser more than 5 calendar years, before notice is given under section 30118(c) of this title or an order is issued under section 30118(b) of this title, whichever is earlier.

(2) This section does not apply during any period in which enforcement of an order under section 30118(b) of this title is restrained or the order is set aside in a civil action to which section 30121(d) of this title applies.

(h) Exemptions.—On application of a manufacturer, the Secretary shall exempt the manufacturer from this section if the Secretary decides a defect or noncompliance is inconsequential to motor vehicle safety. The Secretary may take action under this subsection only after notice in the Federal Register and an opportunity for any interested person to present information, views, and arguments.

(i) Limitation on Sale or Lease of New Vehicles or Equipment.—(1) If notification is required by an order under section 30118(b) of this title or is required under section 30118(c) of this title and the manufacturer has provided to the dealer (including retailers of motor vehicle equipment) notification about a new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification that contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter, the dealer may sell or lease the motor vehicle or item of replacement equipment only if—

(A) the defect or noncompliance is remedied as required by this section before delivery under the sale or lease; or

(B) when the notification is required by an order under section 30118(b) of this title, enforcement of the order is restrained or the order is set aside in a civil action to which section 30121(d) of this title applies.

(2) This subsection does not prohibit a dealer from offering for sale or lease the vehicle or equipment.

(j) Prohibition on Sales of Replacement Equipment.—No person may sell or lease any motor vehicle equipment (including a tire), for installation on a motor vehicle, that is the subject of a decision under section 30118(b) or a notice required under section 30118(c) in a condition that it may be reasonably used for its original purpose unless—

(1) the defect or noncompliance is remedied as required by this section before delivery under the sale or lease; or

(2) notification of the defect or noncompliance is required under section 30118(b) but enforcement of the order is set aside in a civil action to which section 30121(d) applies.

under subsection (a) of this section to cause the repair of a defect in a motor vehicle or item of replacement equipment or of a failure of such vehicle or item of replacement equipment to comply with a motor vehicle safety standard, and he has failed to cause such defect or failure to comply to be adequately repaired within a reasonable time, then (A) the manufacturer so eliminated unnecessary words. In clause (A), the word “replace” is substituted for “cause . . . to be replaced” for consistency. In clause (B), the word “refund” is substituted for “shall cause . . . to be refunded” for consistency. The words “in full” and “and if the manufacturer so elects” are omitted as surplus.

In subsection (c)(2), the word “presentation” is substituted for “tender” for clarity. The words “for repair” are omitted as surplus. The last sentence is substituted for 15:1414(b)(2) (1st sentence) because of the restatement.

In subsection (e), the words “(including a manufacturer)” are omitted as surplus. The word “information” is substituted for “data” for consistency in the revised title.

In subsection (f), the word “fair” is substituted for “fair and equitable” to eliminate unnecessary words. The words “for such remedy” are omitted as surplus. The words “providing a” are substituted for “who effects” for consistency.

In subsection (g)(2), the words “In the case of notification required by an order” are omitted as unnecessary. The word “civil” is added because of rule 2 of the Federal Rules of Civil Procedure (28 App. U.S.C.).

In subsection (h), the words “use requirement” are substituted for “ ‘to remedy’, ‘as it relates’” as surplus. The words “The Secretary may take action under this subsection only” are added because of the restatement.

AMENDMENTS


Subsec. (d). Pub. L. 106–414, § 7, inserted at end “In the case of a remedy program involving the replacement of tires, the manufacturer shall include a plan addressing how to prevent, to the extent reasonably within the control of the manufacturer, replaced tires from being resold for installation on a motor vehicle, and how to prevent, to the extent reasonably within the control of the manufacturer, the disposal of replaced tires in landfills, particularly through shredding, crumbling, recycling, recovery, and other alternative beneficial non-vehicular uses. The manufacturer shall include information about the implementation of such plan with each quarterly report to the Secretary regarding the progress of any notification or remedy campaign.”

Pub. L. 106–414, § 6(b), inserted at end “A manufacturer’s remedy program shall include a plan for reimbursing an owner or purchaser who incurred the cost of the remedy within a reasonable time in advance of the manufacturer’s notification under subsection (b) or (c) of section 30118. The Secretary may prescribe regulations establishing what constitutes a motor vehicle for purposes of the preceding sentence and other reasonable conditions for the reimbursement plan.”

Subsec. (g)(1). Pub. L. 106–414, § 4, substituted “10 calendar years” for “8 calendar years” and “5 calendar years” for “3 calendar years”.


§ 30120A. Recall obligations and bankruptcy of a manufacturer

A manufacturer's filing of a petition in bankruptcy under chapter 11 of title 11, does not negate the manufacturer's duty to comply with section 30112 or sections 30115 through 30120 of this title. In any bankruptcy proceeding, the manufacturer's obligations under such sections shall be treated as a claim of the United States Government against such manufacturer, subject to subchapter II of chapter 37 of title 31, United States Code, and given priority pursuant to section 3713(a)(1)(A) of such chapter, notwithstanding section 3713(a)(2), to ensure that consumers are adequately protected from any safety defect or noncompliance determined to exist in the manufacturer's products. This section shall apply equally to actions of a manufacturer taken before or after the filing of a petition in bankruptcy.


Effective Date
Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.
the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary of Transportation shall issue a final rule, in accordance with the procedures of section 553 of title 5, United States Code, which provides an interpretation of the penalty factors described in section 30165(c) of title 49, United States Code.”

§ 30166. Inspections, investigations, and records

(a) Definition.—In this section, “motor vehicle accident” means an occurrence associated with the maintenance or operation of a motor vehicle or motor vehicle equipment resulting in personal injury, death, or property damage.

(b) Authority to inspect and investigate.—
(1) The Secretary of Transportation may conduct an inspection or investigation—
(A) that may be necessary to enforce this chapter or a regulation prescribed or order issued under this chapter; or
(B) related to a motor vehicle accident and designed to carry out this chapter.

(2) The Secretary of Transportation shall cooperate with State and local officials to the greatest extent possible in an inspection or investigation under paragraph (1)(B) of this subsection.

(c) Matters that can be inspected and impoundment.—In carrying out this chapter, an officer or employee designated by the Secretary of Transportation—
(1) at reasonable times, may inspect and copy any record related to this chapter; or
(2) on request, may inspect records of a manufacturer, distributor, or dealer to decide whether the manufacturer, distributor, or dealer has complied or is complying with this chapter or a regulation prescribed or order issued under this chapter;
(3) at reasonable times, in a reasonable way, and on display of proper credentials and written notice to an owner, operator, or agent in charge, may—
(A) enter and inspect with reasonable promptness premises in which a motor vehicle or motor vehicle equipment is manufactured, held for introduction in interstate commerce (including at United States ports of entry), or held for sale after introduction in interstate commerce;
(B) enter and inspect with reasonable promptness premises at which a vehicle or equipment involved in a motor vehicle accident is located;
(C) inspect with reasonable promptness that vehicle or equipment; and
(D) impound for not more than 72 hours a vehicle or equipment involved in a motor vehicle accident;
(4) shall enter into a memorandum of understanding with the Secretary of Homeland Security for inspections and sampling of motor vehicle equipment being offered for import to determine compliance with this chapter or a regulation or order issued under this chapter.

(d) Reasonable Compensation.—When a motor vehicle (except a vehicle subject to subchapter I of chapter 135 of this title) or motor vehicle equipment is inspected or temporarily impounded under subsection (c)(3) of this section, the Secretary of Transportation shall pay reasonable compensation to the owner of the vehicle if the inspection or impoundment results in denial of use, or reduction in value, of the vehicle.

(e) Records and Making Reports.—The Secretary of Transportation reasonably may require a manufacturer of a motor vehicle or motor vehicle equipment to keep records, and a manufacturer, distributor, or dealer to make reports, to enable the Secretary to decide whether the manufacturer, distributor, or dealer has complied or is complying with this chapter or a regulation prescribed or order issued under this chapter. This subsection does not impose a recordkeeping requirement on a distributor or dealer in addition to those imposed under subsection (f) of this section and section 30117(b) of this title or a regulation prescribed or order issued under subsection (f) or section 30117(b).

(f) Providing Copies of Communications about Defects and Noncompliance.—
(1) In General.—A manufacturer shall give the Secretary of Transportation, and the Secretary shall make available on a publicly accessible Internet website, a true or representative copy of each communication to the manufacturer’s dealers or to owners or purchasers of a motor vehicle or replacement equipment produced by the manufacturer about a defect or noncompliance with a motor vehicle safety standard prescribed under this chapter in a vehicle or equipment that is sold or serviced.

(2) Index.—Communications required to be submitted to the Secretary under this subsection shall be accompanied by an index to each communication, that—
(A) identifies the make, model, and model year of the affected vehicles;
(B) includes a concise summary of the subject matter of the communication; and
(C) shall be made available by the Secretary to the public on the Internet in a searchable format.

(g) Administrative Authority on Reports, Answers, and Hearings.—(1) In carrying out this chapter, the Secretary of Transportation may—
(A) require, by general or special order, any person to file reports or answers to specific questions, including reports or answers under oath; and
(B) conduct hearings, administer oaths, take testimony, and require (by subpoena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(h) Civil Actions to Enforce and Venue.—A civil action to enforce a subpoena or order under subsection (g) of this section may be brought in the United States district court for any judicial district in which the proceeding is conducted. The court may punish a failure to obey an order of the court to comply with a subpoena or order as a contempt of court.
(i) GOVERNMENTAL COOPERATION.—The Secretary of Transportation may request a department, agency, or instrumentality of the United States Government to provide records the Secretary considers necessary to carry out this chapter. The head of the department, agency, or instrumentality shall provide the record on request, may detail personnel on a reimbursable basis, and otherwise shall cooperate with the Secretary. This subsection does not affect a law limiting the authority of a department, agency, or instrumentality to provide information to another department, agency, or instrumentality.

(j) COOPERATION OF SECRETARY.—The Secretary of Transportation may advise, assist, and cooperate with departments, agencies, and instrumentalities of the Government, States, and other public and private agencies in developing a method for inspecting and testing to determine compliance with a motor vehicle safety standard.

(k) PROVIDING INFORMATION.—The Secretary of Transportation shall provide the Attorney General and, when appropriate, the Secretary of the Treasury, information obtained that indicates a violation of this chapter or a regulation prescribed or order issued under this chapter.

(l) REPORTING OF DEFECTS IN MOTOR VEHICLES AND PRODUCTS IN FOREIGN COUNTRIES.

(1) REPORTING OF DEFECTS, MANUFACTURER DETERMINATION.—Not later than 5 working days after determining to conduct a safety recall or other safety campaign in a foreign country on a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States, the manufacturer shall report the determination to the Secretary.

(2) REPORTING OF DEFECTS, FOREIGN GOVERNMENT DETERMINATION.—Not later than 5 working days after determining that a safety recall or other safety campaign must be conducted in the foreign country on a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States, the manufacturer shall report the determination to the Secretary.

(3) REPORTING REQUIREMENTS.—The Secretary shall prescribe the contents of the notification required by this subsection.

(m) EARLY WARNING REPORTING REQUIREMENTS.—

(1) RULEMAKING REQUIRED.—Not later than 120 days after the date of the enactment of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, the Secretary shall initiate a rulemaking proceeding to establish early warning reporting requirements for manufacturers of motor vehicles and motor vehicle equipment to enhance the Secretary’s ability to carry out the provisions of this chapter.

(2) DEADLINE.—The Secretary shall issue a final rule under paragraph (1) not later than June 30, 2002.

(3) REPORTING ELEMENTS.—

(A) WARRANTY AND CLAIMS DATA.—As part of the final rule promulgated under paragraph (1), the Secretary shall require manufacturers of motor vehicles and motor vehicle equipment to report, periodically or upon request by the Secretary, information which is received by the manufacturer derived from foreign and domestic sources to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States and which concerns—

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

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

(B) OTHER DATA.—As part of the final rule promulgated under paragraph (1), the Secretary may, to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States, require manufacturers of motor vehicles or motor vehicle equipment to report, periodically or upon request of the Secretary, such information as the Secretary may request.

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

(4) HANDLING AND UTILIZATION OF REPORTING ELEMENTS.—

(A) SECRETARY’S SPECIFICATIONS.—In requiring the reporting of any information requested by the Secretary under this subsection, the Secretary shall specify in the final rule promulgated under paragraph (1)—

(i) how such information will be reviewed and utilized to assist in the identification of defects related to motor vehicle safety;

(ii) the systems and processes the Secretary will employ or establish to review and utilize such information; and

(iii) the manner and form of reporting such information, including in electronic form.

(B) INFORMATION IN POSSESSION OF MANUFACTURER.—The regulations promulgated by
the Secretary under paragraph (1) may not require a manufacturer of a motor vehicle or motor vehicle equipment to maintain or submit records respecting information not in the possession of the manufacturer.

(C) DISCLOSURE.—None of the information collected pursuant to the final rule promulgated under paragraph (1) shall be disclosed pursuant to section 30167(b) unless the Secretary determines the disclosure of such information will assist in carrying out sections 30117(b) and 30118 through 30121.

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

(5) PERIODIC REVIEW.—As part of the final rule promulgated pursuant to paragraph (1), the Secretary shall specify procedures for the periodic review and update of such rule.

(n) SALE OR LEASE OF DEFECTIVE OR NON-COMPLIANT TIRE.—

(1) IN GENERAL.—The Secretary shall, within 90 days of the date of the enactment of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, issue a final rule requiring any person who knowingly and willfully sells or leases for use on a motor vehicle a defective tire or a tire which is not compliant with an applicable tire safety standard with actual knowledge that the manufacturer of such tire has notified its dealers of such defect or noncompliance as required under section 30118(c) or as required by an order under section 30118(b) to report such sale or lease to the Secretary.

(2) DEFECT OR NONCOMPLIANCE REMEDIED OR ORDER NOT IN EFFECT.—Regulations under paragraph (1) shall not require the reporting described in paragraph (1) where before delivery under a sale or lease of a tire—

(A) the defect or noncompliance of the tire is remedied as required by section 30120; or

(B) notification of the defect or noncompliance is required under section 30118(b) but enforcement of the order is restrained or the order is set aside in a civil action to which section 30121(d) applies.

(o) CORPORATE RESPONSIBILITY FOR REPORTS.—

(1) IN GENERAL.—The Secretary may promulgate rules requiring a senior official responsible for safety in any company submitting information to the Secretary in response to a request for information in a safety defect or compliance investigation under this chapter to certify that—

(A) the signing official has reviewed the submission; and

(B) based on the official’s knowledge, the submission does not—

(i) contain any untrue statement of a material fact; or

(ii) omit to state a material fact necessary in order to make the statements made not misleading, in light of the circumstances under which such statements were made.

(2) NOTICE.—The certification requirements of this section shall be clearly stated on any request for information under paragraph (1).


HISTORICAL AND REVISION NOTES

PUB. L. 103–272

<table>
<thead>
<tr>
<th>Revised Section</th>
<th>Source (U.S. Code)</th>
<th>Source (Statutes at Large)</th>
</tr>
</thead>
<tbody>
<tr>
<td>30166(c) ......</td>
<td>15:1397(a)(1)(B), (E)</td>
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HISTORICAL AND REVISION NOTES
Appendix D

Relevant Regulations
RELEVANT REGULATIONS

CODE OF FEDERAL REGULATIONS

TITLE 49—TRANSPORTATION

Subtitle B—OTHER REGULATIONS RELATING TO TRANSPORTATION

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Part 573—Defect and Noncompliance Responsibility and Reports .................................................. D-2
Part 577—Defect and Noncompliance Notification ......................................................................... D-16
Part 579—Reporting of Information and Communications about Potential Defects .................... D-26
PART 573—DEFECT AND NON-COMPLIANCE RESPONSIBILITY AND REPORTS

§ 573.1 Scope.

This part:

(a) Sets forth the responsibilities under 49 U.S.C. 30116–30121 of manufacturers of motor vehicles and motor vehicle equipment with respect to safety-related defects and noncompliances with Federal motor vehicle safety standards in motor vehicles and items of motor vehicle equipment; and

(b) Specifies requirements for—

(1) Manufacturers to maintain lists of owners, purchasers, dealers, and distributors notified of defective and noncompliant motor vehicles and motor vehicle original and replacement equipment.

(2) Reporting to the National Highway Traffic Safety Administration (NHTSA) defects in motor vehicles and motor vehicle equipment and noncompliances with motor vehicle safety standards prescribed under part 571 of this chapter, and


SOURCE: 43 FR 60169, Dec. 26, 1978, unless otherwise noted.

§ 573.2
(3) Providing quarterly reports on defect and noncompliance notification campaigns.
[69 FR 34959, June 23, 2004]

§ 573.2 Purposes.
The purposes of this part are:
(a) To facilitate the notification of owners of defective and noncomplying motor vehicles and items of motor vehicle equipment, and the remedy of such defects and noncompliances, by equitably apportioning the responsibility for safety-related defects and noncompliances with Federal motor vehicle safety standards among manufacturers of motor vehicles and motor vehicle equipment; and
(b) To inform NHTSA of defective and noncomplying motor vehicles and items of motor vehicle equipment, and to obtain information for NHTSA on the adequacy of manufacturers’ defect and noncompliance notification campaigns, on corrective action, on owner response, and to compare the defect incidence rate among different groups of vehicles.
[67 FR 45872, July 10, 2002]

§ 573.3 Application.
(a) Except as provided in paragraphs (g), (h), and (i) of this section, this part applies to manufacturers of complete motor vehicles, incomplete motor vehicles, and motor vehicle original and replacement equipment, with respect to all vehicles and equipment that have been transported beyond the direct control of the manufacturer.
(b) In the case of a defect or noncompliance decided to exist in a motor vehicle or equipment item imported into the United States, compliance with §§ 573.6 and 573.7 by either the fabricating manufacturer or the importer of the vehicle or equipment item shall be considered compliance by both.
(c) In the case of a defect or noncompliance decided to exist in a motor vehicle or equipment item imported into the United States, compliance with §§ 573.6 and 573.7 by either the fabricating manufacturer or the importer of the vehicle or equipment item shall be considered compliance by both.
(d) In the case of a defect or noncompliance decided to exist in an item of replacement equipment (except tires) compliance with §§ 573.6 and 573.7 by the brand name or trademark owner shall be considered compliance by the manufacturer. Tire brand name owners are considered manufacturers (49 U.S.C. 10102(b)(1)(E)) and have the same reporting requirements as manufacturers.
(e) In the case of a defect or noncompliance decided to exist in an item of original equipment used in the vehicles of only one vehicle manufacturer, compliance with §§ 573.6 and 573.7 by either the vehicle or equipment manufacturer shall be considered compliance by both.
(f) In the case of a defect or noncompliance decided to exist in original equipment installed in the vehicles of more than one manufacturer, compliance with § 573.6 is required of the equipment manufacturer as to the equipment item, and of each vehicle manufacturer as to the vehicles in which the equipment has been installed. Compliance with § 573.7 is required of the manufacturer who is conducting the recall campaign.
(g) The provisions of § 573.10 apply to all persons.
(h) The provisions of § 573.11 apply to dealers, including retailers of motor vehicle equipment.
(i) The provisions of § 573.12 apply to all persons.

§ 573.4 Definitions.
For purposes of this part:
Administrator means the Administrator of the National Highway Traffic Safety Administration or his delegate.
First purchaser means first purchaser for purposes other than resale.
Leased motor vehicle means any motor vehicle that is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the twelve months preceding the date of notification by the vehicle manufacturer of the existence of a safety-related defect or noncompliance.
with a Federal motor vehicle safety standard in the motor vehicle.

Lessee means a person who is the lessee of a leased motor vehicle as defined in this section.

Lessor means a person or entity that is the owner, as reflected on the vehicle’s title, of any five or more leased vehicles (as defined in this section), as of the date of notification by the manufacturer of the existence of a safety-related defect or noncompliance with a Federal motor vehicle safety standard in one or more of the leased motor vehicles.

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

Readable form means a form readable by the unassisted eye or readable by machine. If readable by machine, the submitting party must obtain written confirmation from the Office of Defects Investigation immediately prior to submission that the machine is readily available to NHTSA. For all similar information responses, once a manufacturer has obtained approval for the original response in that form, it will not have to obtain approval for future submissions in the same form. In addition, all coded information must be accompanied by an explanation of the codes used.

Replacement equipment means motor vehicle equipment other than original equipment as defined in this section, and tires.

§ 573.5 Defect and noncompliance responsibility.

(a) Each manufacturer of a motor vehicle shall be responsible for any safety-related defect or any noncompliance determined to exist in the vehicle or in any item of original equipment.

(b) Each manufacturer of an item of replacement equipment shall be responsible for any safety-related defect or any noncompliance determined to exist in the equipment.

§ 573.6 Defect and noncompliance information report.

(a) Each manufacturer shall furnish a report to the NHTSA for each defect in his vehicles or in his items of original or replacement equipment that he or the Administrator determines to be related to motor vehicle safety, and for each noncompliance with a motor vehicle safety standard in such vehicles or items of equipment which either he or the Administrator determines to exist.

(b) Each report shall be submitted not more than 5 working days after a defect in a vehicle or item of equipment has been determined to be safety related, or a noncompliance with a motor vehicle safety standard has been determined to exist. At a minimum, information required by paragraphs (1), (2) and (5) of paragraph (c) of this section shall be submitted in the initial report. The remainder of the information required by paragraph (c) of this section that is not available within the five-day period shall be submitted as it becomes available. Each manufacturer submitting new information relative to a previously submitted report shall refer to the notification campaign number when a number has been assigned by the NHTSA.

(c) Each manufacturer shall include in each report the information specified below.

1. The manufacturer’s name: The full corporate or individual name of the fabricating manufacturer and any brand name or trademark owner of the vehicle or item of equipment shall be spelled out, except that such abbreviations as “Co.” or “Inc.”, and their foreign equivalents, and the first and middle initials of individuals, may be used. In the case of a defect or noncompliance decided to exist in an imported vehicle or item of equipment, the agency designated by the fabricating manufacturer pursuant to 49 U.S.C. section 30164(a) shall be also stated. If the fabricating manufacturer is a corporation
§ 573.6

that is controlled by another corporation that assumes responsibility for compliance with all requirements of this part the name of the controlling corporation may be used. 

(2) Identification of the vehicles or items of motor vehicle equipment potentially containing the defect or noncompliance, including a description of the manufacturer’s basis for its determination of the recall population and a description of how the vehicles or items of equipment to be recalled differ from similar vehicles or items of equipment that the manufacturer has not included in the recall.

(i) In the case of passenger cars, the identification shall be by the make, line, model year, the inclusive dates (month and year) of manufacture, and any other information necessary to describe the vehicles.

(ii) In the case of vehicles other than passenger cars, the identification shall be by body style or type, inclusive dates (month and year) of manufacture and any other information necessary to describe the vehicles, such as GVWR or class for trucks, displacement (cc) for motorcycles, and number of passengers for buses.

(iii) In the case of items of motor vehicle equipment, the identification shall be by the generic name of the component (tires, child seating systems, axles, etc.), part number (for tires, a range of tire identification numbers, as required by 49 CFR 574.5), size and function if applicable, the inclusive dates (month and year) of manufacture if available and any other information necessary to describe the items.

(iv) In the case of motor vehicles or items of motor vehicle equipment in which the component that contains the defect or noncompliance was manufactured by a different manufacturer from the reporting manufacturer, the reporting manufacturer shall identify the component and, if known, the component’s country of origin (i.e. final place of manufacture or assembly), the manufacturer and/or assembler of the component by name, business address, and business telephone number. If the reporting manufacturer does not know the identity of the manufacturer of the component, it shall identify the entity from which it was obtained. If at the time of submission of the initial report, the reporting manufacturer does not know the country of origin of the component, the manufacturer shall ascertain the country of origin and submit a supplemental report with that information once it becomes available.

(v) In the case of items of motor vehicle equipment, the manufacturer of the equipment shall identify by name, business address, and business telephone number every manufacturer that purchases the defective or noncomplying component for use or installation in new motor vehicles or new items of motor vehicle equipment.

(3) The total number of vehicles or items of equipment potentially containing the defect or noncompliance, and where available the number of vehicles or items of equipment in each group identified pursuant to paragraph (c)(2) of this section.

(4) The percentage of vehicles or items of equipment specified pursuant to paragraph (c)(2) of this section estimated to actually contain the defect or noncompliance.

(5) A description of the defect or noncompliance, including both a brief summary and a detailed description, with graphic aids as necessary, of the nature and physical location (if applicable) of the defect or noncompliance.

(6) In the case of a defect, a chronology of all principal events that were the basis for the determination that the defect related to motor vehicle safety, including a summary of all warranty claims, field or service reports, and other information, with their dates of receipt.

(7) In the case of a noncompliance, the test results and other information that the manufacturer considered in determining the existence of the noncompliance. The manufacturer shall identify the date of each test and observation that indicated that a noncompliance might or did exist.

(8)(i) A description of the manufacturer’s program for remedying the defect or noncompliance. This program shall include a plan for reimbursing an owner or purchaser who incurred costs
to obtain a remedy for the problem addressed by the recall within a reasonable time in advance of the manufacturer's notification of owners, purchasers and dealers, in accordance with §573.13 of this part. A manufacturer's plan may incorporate by reference a general reimbursement plan it previously submitted to NHTSA, together with information specific to the individual recall. Information required by §573.13 that is not in a general reimbursement plan shall be submitted in the manufacturer's report to NHTSA under this section. If a manufacturer submits one or more general reimbursement plans, the manufacturer shall update each plan every two years, in accordance with §573.13. The manufacturer's remedy program and reimbursement plans will be available for inspection by the public at NHTSA headquarters.

(ii) The estimated date(s) on which it will begin sending notifications to owners, and to dealers and distributors, that there is a safety-related defect or noncompliance and that a remedy without charge will be available to owners, and the estimated date(s) on which it will complete such notifications (if different from the beginning date). If a manufacturer subsequently becomes aware that either the beginning or the completion dates reported to the agency for any of the notifications will be delayed by more than two weeks, it shall promptly advise the agency of the delay and the reasons therefore, and furnish a revised estimate.

(iii) If a manufacturer intends to file a petition for an exemption from the recall requirements of the Act on the basis that a defect or noncompliance is inconsequential as it relates to motor vehicle safety, it shall notify NHTSA of that intention in its report to NHTSA of the defect or noncompliance under this section. If such a petition is filed and subsequently denied, the manufacturer shall provide the information required by paragraph (c)(8)(ii) of this section within five Federal government business days from the date the petition denial is published in the Federal Register.

(iv) If a manufacturer advises NHTSA that it intends to file such a petition for exemption from the notification and remedy requirements on the grounds that the defect or noncompliance is inconsequential as it relates to motor vehicle safety, and does not do so within the 30-day period established by 49 CFR 556.4(c), the manufacturer must submit the information required by paragraph (c)(8)(ii) of this section no later than the end of that 30-day period.

(9) In the case of a remedy program involving the replacement of tires, the manufacturer's program for remedying the defect or noncompliance shall:

(i) Address how the manufacturer will assure that the entities replacing the tires are aware of the legal requirements related to recalls of tires established by 49 U.S.C. Chapter 301 and regulations thereunder. At a minimum, the manufacturer shall notify its owned stores and/or distributors, as well as all independent outlets that are authorized to replace the tires that are the subject of the recall, annually or for each individual recall that the manufacturer conducts, about the ban on the sale of new defective or noncompliant tires (49 CFR 573.11); the prohibition on the sale of new and used defective and noncompliant tires (49 CFR 573.12); and the duty to notify NHTSA of any sale of a new or used recalled tire for use on a motor vehicle (49 CFR 573.10). For tire outlets that are manufacturer-owned or otherwise subject to the control of the manufacturer, the manufacturer shall also provide directions to comply with these statutory provisions and the regulations thereunder.

(ii) Address how the manufacturer will prevent, to the extent reasonably within its control, the recalled tires from being resold for installation on a motor vehicle. At a minimum, the manufacturer shall include the following information, to be furnished to each tire outlet that it owns, or that is authorized to replace tires that are recalled, either annually or for each individual recall the manufacturer conducts:

(A) Written directions to manufacturer-owned and other manufacturer-controlled outlets to alter the recalled tires permanently so that they cannot be used on vehicles. These shall include
instructions on the means to render recalled tires unsuitable for resale for installation on motor vehicles and instructions to perform the incapacitation of each recalled tire, with the exception of any tires that are returned to the manufacturer pursuant to a testing program, within 24 hours of receipt of the recalled tire at the outlet. If the manufacturer has a testing program for recalled tires, these directions shall also include criteria for selecting recalled tires for testing and instructions for labeling those tires and returning them promptly to the manufacturer for testing.

(B) Written guidance to all other outlets which are authorized to replace the recalled tires on how to alter the recalled tires promptly and permanently so that they cannot be used on vehicles.

(C) A requirement that manufacturer-owned and other manufacturer-controlled outlets report to the manufacturer, either on a monthly basis or within 30 days of the deviation, the number of recalled tires removed from vehicles by the outlet that have not been rendered unsuitable for resale for installation on a motor vehicle within the specified time frame (other than those returned for testing) and describe any such failure to act in accordance with the manufacturer’s plan;

(iii) Address how the manufacturer will limit, to the extent reasonably within its control, the disposal of the recalled tires in landfills and, instead, channel them into a category of positive reuse (shredding, crumbling, recycling, and recovery) or another alternative beneficial non-vehicular use. At a minimum, the manufacturer shall include the following information, to be furnished to each tire outlet that it owns or that is authorized to replace tires that are recalled, either annually or for each individual recall that the manufacturer conducts:

(A)(1) Written directions that require manufacturer-owned and other manufacturer-controlled outlets either:

(i) To ship recalled tires to one or more locations designated by the manufacturer as part of the program or allow the manufacturer to collect and dispose of the recalled tires; or

(ii) To ship recalled tires to a location of their own choosing, provided that they comply with applicable state and local laws and regulations regarding disposal of tires.

(2) Under option (c)(9)(iii)(A)(1)(ii) of this section, the directions must also include further direction and guidance on how to limit the disposal of recalled tires in landfills and, instead, channel them into a category of positive reuse (shredding, crumbling, recycling, and recovery) or another alternative beneficial non-vehicular use.

(B)(1) Written guidance that authorizes all other outlets that are authorized to replace the recalled tires either:

(i) To ship recalled tires to one or more locations designated by the manufacturer or allow the manufacturer to collect and dispose of the recalled tires; or

(ii) To ship recalled tires to a location of their own choosing, provided that they comply with applicable state and local laws and regulations regarding disposal of tires.

(2) Under option (c)(9)(iii)(B)(1)(ii) of this section, the manufacturer must also include further guidance on how to limit the disposal of recalled tires in landfills and, instead, channel them into a category of positive reuse (shredding, crumbling, recycling, and recovery) or another alternative beneficial non-vehicular use.

(C) A requirement that manufacturer-owned and other manufacturer-controlled outlets report to the manufacturer, on a monthly basis or within 30 days of the deviation, the number of recalled tires disposed of in violation of applicable state and local laws and regulations, and describe any such failure to act in accordance with the manufacturer’s plan; and

(D) A description of the manufacturer’s program for disposing of the recalled tires that are returned to the manufacturer or collected by the manufacturer from the retail outlets, including, at a minimum, statements that the returned tires will be disposed of in compliance with applicable state and local laws and regulations regarding disposal of tires, and will be channeled, insofar as possible, into a category of positive reuse (shredding, crumbling, recycling and recovery) or
§ 573.7 Quarterly reports.

(a) Each manufacturer who is conducting a defect or noncompliance notification campaign to manufacturers, distributors, dealers, or owners shall submit to NHTSA a report in accordance with paragraphs (b), (c), and (d) of this section. Unless otherwise directed by the NHTSA, the information specified in paragraphs (b)(1) through (5) of this section shall be included in the quarterly report, with respect to each notification campaign, for each of six consecutive quarters beginning with the quarter in which the campaign was initiated (i.e., the date of initial mailing of the defect or noncompliance notification to owners) or corrective action has been completed on all defective or noncomplying vehicles or items of replacement equipment involved in the campaign, whichever occurs first.

(b) Each report shall include the following information identified by and in the order of the subparagraph headings of this paragraph.

(1) The notification campaign number assigned by NHTSA.

(2) The date notification began and the date completed.

(3) The number of vehicles or items of equipment involved in the notification campaign.

(4) The number of vehicles and equipment items which have been inspected and repaired and the number of vehicles and equipment items inspected and determined not to need repair.

(5) The number of vehicles or items of equipment determined to be unreachable for inspection due to export, theft, scrapping, failure to receive notification, or other reasons (specify). The number of vehicles or items of equipment in each category shall be specified.

(6) In reports by equipment manufacturers, the number of items of equipment repaired and/or returned by dealers, other retailers, and distributors to the manufacturer prior to their first sale to the public.

(7) For all recalls that involve the replacement of tires, the manufacturer shall provide:

(1) The aggregate number of recalled tires that the manufacturer becomes aware have not been rendered unsuitable for resale for installation on a
motor vehicle in accordance with the manufacturer’s plan provided to NHTSA pursuant to §573.6(c)(9); 

(ii) The aggregate number of recalled tires that the manufacturer becomes aware have been disposed of in violation of applicable state and local laws and regulations; and 

(iii) A description of any failure of a tire outlet to act in accordance with the directions in the manufacturer’s plan, including an identification of the outlet(s) in question. 

(c) Information supplied in response to the paragraphs (b)(4) and (5) of this section shall be cumulative totals. 

(d) The reports required by this section shall be submitted in accordance with the following schedule, except that if the due date specified below falls on a Saturday, Sunday or Federal holiday, the report shall be submitted on the next day that is a business day for the Federal government: 

(1) For the first calendar quarter (January 1 through March 31), on or before April 30; 

(2) For the second calendar quarter (April 1 through June 30), on or before July 30; 

(3) For the third calendar quarter (July 1 through September 30), on or before October 30; and 

(4) For the fourth calendar quarter (October 1 through December 31), on or before January 30. 

§573.8 Lists of purchasers, owners, dealers, distributors, lessors, and lessees. 

(a) Each manufacturer of motor vehicles shall maintain, in a form suitable for inspection such as computer information storage devices or card files, a list of the names and addresses of registered owners, as determined through State motor vehicle registration records or other sources or the most recent purchasers where the registered owners are unknown, for all vehicles involved in a defect or noncompliance notification campaign initiated after the effective date of this part. The list shall include the vehicle identification number for each vehicle and the status of remedy with respect to each vehicle, updated as of the end of each quarterly reporting period specified in §573.7. Each vehicle manufacturer shall also maintain such a list of the names and addresses of all dealers and distributors to which a defect or noncompliance notification was sent. Each list shall be retained for 5 years, beginning with the date on which the defect or noncompliance information report required by §573.6 is initially submitted to NHTSA. 

(b) Each manufacturer (including brand name owners) of tires shall maintain, in a form suitable for inspection such as computer information storage devices or card files, a list of the names and addresses of the first purchasers of his tires for all tires involved in a defect or noncompliance notification campaign initiated after the effective date of this part. The list shall include the tire identification number of all tires and shall show the status of remedy with respect to each owner involved in each notification campaign, updated as of the end of each quarterly reporting period specified in §573.6. Each list shall be retained, beginning with the date on which the defect information report is initially submitted to the NHTSA, for 3 years. 

(c) For each item of equipment involved in a defect or noncompliance notification campaign initiated after the effective date of this part, each manufacturer of motor vehicle equipment other than tires shall maintain, in a form suitable for inspection, such as computer information storage devices or card files, a list of the names and addresses of each distributor and dealer of such manufacturer, each motor vehicle or motor vehicle equipment manufacturer and most recent purchaser known to the manufacturer to whom a potentially defective or noncomplying item of equipment has been sold and to whom notification is sent, the number of such items sold to each, and the date of shipment. The list shall show as far as is practicable the number of items remedied or returned to the manufacturer and the dates of such remedy or return. Each list shall be retained, beginning with the date on which the defect report required by
§ 573.5 is initially submitted to the NHTSA, for 5 years.

(d) Each lessor of leased motor vehicles that receives a notification from the manufacturer of such vehicles that the vehicle contains a safety-related defect or fails to comply with a Federal motor vehicle safety standard shall maintain, in a form suitable for inspection, such as computer information storage devices or card files, a list of the names and addresses of all lessees to which the lessor has provided notification of a defect or noncompliance pursuant to 49 CFR 577.5(h). The list shall also include the make, model, model year, and vehicle identification number of each such leased vehicle, and the date on which the lessor mailed notification of the defect or noncompliance to the lessee. The information required by this paragraph must be retained by the lessor for one calendar year from the date the vehicle lease expires.


§ 573.9 Address for submitting required reports and other information.

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

[72 FR 32016, June 11, 2007]

§ 573.10 Reporting the sale or lease of defective or noncompliant tires.

(a) Reporting requirement. Subject to paragraph (b) of this section, any person who knowingly and willfully sells or leases for use on a motor vehicle a defective tire or a tire that is not compliant with an applicable tire safety standard with actual knowledge that the manufacturer of such tire has notified its dealers of such defect or noncompliance as required under 49 U.S.C. 30118(c) or as required by an order under 49 U.S.C. 30118(b) must report that sale or lease to the Associate Administrator for Enforcement, NHTSA, 1200 New Jersey Ave., SE., Washington, DC 20590.

(b) Exclusions from reporting requirement. Paragraph (a) of this section is not applicable where, before delivery under a sale or lease of a tire:

(1) The defect or noncompliance of the tire is remedied as required under 49 U.S.C. 30120; or

(2) Notification of the defect or noncompliance is required by an order under 49 U.S.C. 30118(b), but enforcement of the order is restrained or the order is set aside in a civil action to which 49 U.S.C. 30121(d) applies.

(c) Contents of report; requirement of signature. (1) A report submitted pursuant to paragraph (a) of this section must contain the following information, where that information is available to the person selling or leasing the defective or noncompliant tire:

(i) A statement that the report is being submitted pursuant to 49 CFR 573.10(a) (sale or lease of defective or noncompliant tires);

(ii) The name, address and phone number of the person who purchased or leased the tire;

(iii) The name and address or the manufacturer of the tire;

(iv) The tire’s brand name, model name, and size;

(v) The tire’s DOT identification number;

(vi) The date of the sale or lease; and

(vii) The name, address, and telephone number of the seller or lessor.

(2) Each report must be dated and signed, with the name of the person signing the report legibly printed or typed below the signature.

(d) Reports required to be submitted pursuant to this section must be submitted no more than that five working days after a person to whom a tire covered by this section has been sold or leased has taken possession of that tire. Submissions must be made by any
§ 573.11 Prohibition on sale or lease of new defective and noncompliant motor vehicles and items of replacement equipment.

(a) If notification is required by an order under 49 U.S.C. 30118(b) or is required under 49 U.S.C. 30118(c) and the manufacturer has provided to a dealer (including retailers of motor vehicle equipment) notification about a new motor vehicle or new item of replacement equipment in the dealer’s possession, including actual and constructive possession, at the time of notification that contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard issued under 49 CFR part 571, the dealer may sell or lease the motor vehicle or item of replacement equipment only if:

(1) The defect or noncompliance is remedied as required by 49 U.S.C. 30120 before delivery under the sale or lease; or

(2) When the notification is required by an order under 49 U.S.C. 30118(b), enforcement of the order is restrained or the order is set aside in a civil action to which 49 U.S.C. 30121(d) applies.

(b) Paragraph (a) of this section does not prohibit a dealer from offering the vehicle or equipment for sale or lease, provided that the dealer does not sell or lease it.

[67 FR 19697, Apr. 23, 2002]

§ 573.12 Prohibition on sale or lease of new and used defective and noncompliant motor vehicle equipment.

(a) Subject to §573.12(b), no person may sell or lease any new or used item of motor vehicle equipment (including a tire) as defined by 49 U.S.C. 30102(a)(7), for installation on a motor vehicle, that is the subject of a decision under 49 U.S.C. 30118(b) or a notice required under 49 U.S.C. 30118(c), in a condition that it may be reasonably used for its original purpose.

(b) Paragraph (a) of this section is not applicable where:

(1) The defect or noncompliance is remedied as required under 49 U.S.C. 30120 before delivery under the sale or lease;

(2) Notification of the defect or noncompliance is required by an order under 49 U.S.C. 30118(b), but enforcement of the order is restrained or the order is set aside in a civil action to which 49 U.S.C. 30121(d) applies.

(b) Definitions. The following definitions apply to this section:

(1) Booster seat means either a backless child restraint system or a belt-positioning seat.

(2) Claimant means a person who seeks reimbursement for the costs of a pre-notification remedy for which he or she paid.

(3) Pre-notification remedy means a remedy that is performed on a motor vehicle or item of replacement equipment for a problem subsequently addressed by a notification under subsection (b) or (c) of 49 U.S.C. 30118 and that is obtained during the period for reimbursement specified in paragraph (c) of this section.

(4) Other child restraint system means all child restraint systems as defined in 49 CFR 571.213 84 not included within the categories of rear-facing infant seat or booster seat.

(5) Rear-facing infant seat means a child restraint system that is designed to position a child to face only in the direction opposite to the normal direction of travel of the motor vehicle.

(6) Warranty means a warranty as defined in §579.4(c) of this chapter.

(c) The manufacturer’s plan shall specify a period for reimbursement, as follows:

§573.13

(1) The beginning date shall be no later than a date based on the underlying basis for the recall determined as follows:

(i) For a noncompliance with a Federal motor vehicle safety standard, the date shall be the date of the first test or observation by either NHTSA or the manufacturer indicating that a noncompliance may exist.

(ii) For a safety-related defect that is determined to exist following the opening of an Engineering Analysis (EA) by NHTSA’s Office of Defects Investigation (ODI), the date shall be the date the EA was opened, or one year before the date of the manufacturer’s notification to NHTSA pursuant to §573.6 of this part, whichever is earlier.

(iii) For a safety-related defect that is determined to exist in the absence of the opening of an EA, the date shall be one year before the date of the manufacturer’s notification to NHTSA pursuant to §573.6 of this part.

(2) The ending date shall be no earlier than:

(i) For motor vehicles, 10 calendar days after the date on which the manufacturer mailed the last of its notifications to owners pursuant to part 577 of this chapter.

(ii) For replacement equipment, 10 calendar days after the date on which the manufacturer mailed the last of its notifications to owners pursuant to part 577 of this chapter (where applicable) or 30 days after the conclusion of the manufacturer’s initial efforts to provide public notice of the existence of the defect or noncompliance pursuant to §577.7, whichever is later.

(d) The manufacturer’s plan shall provide for reimbursement of costs for pre-notification remedies subject to the conditions established in the plan. The following conditions and no others may be established in the plan.

(1) The plan may exclude reimbursement for costs incurred within the period during which the manufacturer’s original or extended warranty would have provided for a free repair of the problem addressed by the recall, without any payment by the consumer unless a franchised dealer or authorized representative of the manufacturer denied warranty coverage or the repair made under warranty did not remedy the problem addressed by the recall. The exclusion based on an extended warranty may be applied only when the manufacturer provided written notice of the terms of the extended warranty to owners.

(2)(i) For a motor vehicle, the plan may exclude reimbursement:

(A) If the pre-notification remedy was not of the same type (repair, replacement, or refund of purchase price) as the recall remedy;

(B) If the pre-notification remedy did not address the defect or noncompliance that led to the recall or a manifestation of the defect or noncompliance; or

(C) If the pre-notification remedy was not reasonably necessary to correct the defect or noncompliance that led to the recall or a manifestation of the defect or noncompliance.

(ii) However, the plan may not require that the pre-notification remedy be identical to the remedy elected by the manufacturer pursuant to 49 U.S.C. 30120(a)(1)(A).

(3)(i) For replacement equipment, the plan may exclude reimbursement:

(A) If the pre-notification remedy did not address the defect or noncompliance that led to the recall or a manifestation of the defect or noncompliance;

(B) If the pre-notification remedy was not reasonably necessary to correct the defect or noncompliance that led to the recall or a manifestation of the defect and noncompliance; or

(C) In the case of a child restraint system that was replaced, if the replacement child restraint is not the same type (i.e., rear-facing infant seat, booster seat, or other child restraint system) as the restraint that was the subject of the recall.

(ii) However, the plan may not require that the pre-notification remedy be identical to the remedy elected by the manufacturer pursuant to 49 U.S.C. 30120(a)(1)(B).

(4) The plan may exclude reimbursement if the claimant did not submit adequate documentation to the manufacturer at an address or location designated pursuant to §573.13(k). The plan may require, at most, that the following documentation be submitted:
§573.13

(i) Name and mailing address of the claimant;
(ii) Identification of the product that was recalled:
   (A) For motor vehicles, the vehicle make, model, model year, and vehicle identification number of the vehicle;
   (B) For replacement equipment other than child restraint systems and tires, a description of the equipment, including model and size as appropriate;
   (C) For child restraint systems, a description of the restraint, including the type (rear-facing infant seat, booster seat, or other child restraint system) and the model; or
   (D) For tires, the model and size;
(iii) Identification of the recall (either the NHTSA recall number or the manufacturer’s recall number);
(iv) Identification of the owner or purchaser of the recalled motor vehicle or replacement equipment at the time that the pre-notification remedy was obtained;
(v) A receipt for the pre-notification remedy, which may be an original or copy:
   (A) If the reimbursement sought is for a repair, the manufacturer may require that the receipt indicate that the repair addressed the defect or noncompliance that led to the recall or a manifestation of the defect or noncompliance, and state the total amount paid for the repair of that problem. Itemization of the receipt of the amount for parts, labor, other costs and taxes, may not be required unless it is unclear on the face of the receipt that the repair for which reimbursement is sought addressed only the pre-notification remedy relating to the pertinent defect or noncompliance or manifestation thereof.
   (B) If the reimbursement sought is for the replacement of a vehicle part or an item of replacement equipment, the manufacturer may require that the receipt identify the item and state the total amount paid for the item that replaced the defective or noncompliant item;
(vi) In the case of items of replacement equipment that were replaced, documentation that the claimant or a relative thereof (with relationship stated) owned the recalled item. Such documentation could consist of:
   (A) An invoice or receipt showing purchase of the recalled item of replacement equipment;
   (B) If the claimant sent a registration card for a recalled child restraint system or tire to the manufacturer, a statement to that effect;
   (C) A copy of the registration card for the recalled child restraint system or tire; or
   (D) Documentation demonstrating that the claimant had replaced a recalled tire that was on a vehicle that he, she, or a relative owned; and
(vii) If the pre-notification remedy was obtained at a time when the vehicle or equipment could have been repaired or replaced at no charge under a manufacturer’s original or extended warranty program, documentation indicating that the manufacturer’s dealer or authorized facility either refused to remedy the problem addressed by the recall under the warranty or that the warranty repair did not correct the problem addressed by the recall.
(e) The manufacturer’s plan shall specify the amount of costs to be reimbursed for a pre-notification remedy.
(1) For motor vehicles:
   (i) The amount of reimbursement shall not be less than the lesser of:
      (A) The amount paid by the owner for the remedy, or
      (B) The cost of parts for the remedy, plus associated labor at local labor rates, miscellaneous fees such as disposal of waste, and taxes. Costs for parts may be limited to the manufacturer’s list retail price for authorized parts.
   (ii) Any associated costs, including, but not limited to, taxes or disposal of wastes, may not be limited.
(2) For replacement equipment:
   (i) The amount of reimbursement ordinarily would be the amount paid by the owner for the replacement item.
   (ii) In cases in which the owner purchased a brand or model different from the item of motor vehicle equipment that was the subject of the recall, the manufacturer may limit the amount of reimbursement to the retail list price of the defective or noncompliant item that was replaced, plus taxes.
   (iii) If the item of motor vehicle equipment was repaired, the provisions
of paragraph (e)(1) of this section apply.

(f) The manufacturer’s plan shall identify an address to which claimants may mail reimbursement claims and may identify franchised dealer(s) and authorized facilities to which claims for reimbursement may be submitted directly.

(g) The manufacturer (either directly or through its designated dealer or facility) shall act upon requests for reimbursement as follows:

(1) The manufacturer shall act upon a claim for reimbursement within 60 days of its receipt. If the manufacturer denies the claim, the manufacturer must send a notice to the claimant within 60 days of receipt of the claim that includes a clear, concise statement of the reasons for the denial.

(2) If a claim for reimbursement is incomplete when originally submitted, the manufacturer shall advise the claimant within 60 days of receipt of the claim of the documentation that is needed and offer an opportunity to resubmit the claim with complete documentation.

(h) Reimbursement shall be in the form of a check or cash from the manufacturer or a designated dealer or facility.

(i) The manufacturer shall make its reimbursement plan available to the public upon request.

(j) Any disputes over the denial in whole or in part of a claim for reimbursement shall be resolved between the claimant and the manufacturer. NHTSA will not mediate or resolve any disputes regarding eligibility for, or the amount of, reimbursement.

(k) Each manufacturer shall implement each plan for reimbursement in accordance with this section and the terms of the plan.

(l) Nothing in this section requires that a manufacturer provide reimbursement in connection with a fraudulent claim for reimbursement.

(m) A manufacturer’s plan may provide that it will not apply to recalls based solely on noncompliant or defective labels.

(n) The requirement that reimbursement for a pre-notification remedy be provided to an owner does not apply if, in the case of a motor vehicle or replacement equipment other than a tire, it was bought by the first purchaser more than 10 calendar years before notice is given under 49 U.S.C. 30118(c) or an order is issued under section 49 U.S.C. 30118(b). In the case of a tire, this period shall be 5 calendar years.

[67 FR 60063, Oct. 17, 2002]

§ 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.

[67 FR 72392, Dec. 5, 2002]

PART 574—TIRE IDENTIFICATION AND RECORDKEEPING

Sec.
574.1 Scope.
574.2 Purpose.
574.3 Definitions.
574.4 Applicability.
574.5 Tire identification requirements.
574.6 Identification mark.
and when so reproduced or transferred the original form may be treated as a duplicate.

§ 576.8 Malfunctions covered.
For purposes of this part, “malfunctions that may be related to motor vehicle safety” shall include, with respect to a motor vehicle or item of motor vehicle equipment, any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications, that could in any reasonably foreseeable manner be a causative factor in, or aggravate, an accident or an injury to a person.

PART 577—DEFECT AND NONCOMPLIANCE NOTIFICATION

Sec.
577.1 Scope.
577.2 Purpose.
577.3 Application.
577.4 Definitions.
577.5 Notification pursuant to a manufacturer’s decision.
577.6 Notification pursuant to Administrator’s decision.
577.7 Time and manner of notification.
577.8 Disclaimers.
577.9 Conformity to statutory requirements.
577.10 Follow-up notification.
577.11 Reimbursement notification.
577.12 Notification pursuant to an accelerated remedy program.
577.13 Notification to dealers and distributors.


SOURCE: 41 FR 56816, Dec. 30, 1976, unless otherwise noted.

§ 577.1 Scope.
This part sets forth requirements for manufacturer notification to owners, dealers, and distributors of motor vehicles and items of replacement equipment about a defect that relates to motor vehicle safety or a noncompliance with a Federal motor vehicle safety standard.

(69 FR 34959, June 23, 2004)

§ 577.2 Purpose.
The purpose of this part is to ensure that notifications of defects or non-compliances adequately inform and effectively motivate owners of potentially defective or noncomplying motor vehicles or items of replacement equipment to have such vehicles or equipment inspected and, where necessary, remedied as quickly as possible. It is also to ensure that dealers and distributors of motor vehicles and items of replacement equipment are made aware of the existence of defects and noncompliances and of their rights and responsibilities with regard thereto.


§ 577.3 Application.
This part applies to manufacturers of complete motor vehicles, incomplete motor vehicles, and replacement equipment. In the case of vehicles manufactured in two or more stages, compliance by either the manufacturer of the incomplete vehicle, any subsequent manufacturer, or the manufacturer of affected replacement equipment, shall be considered compliance by each of those manufacturers.

§ 577.4 Definitions.
For the purposes of this part:
Administrator means the Administrator of the National Highway Traffic Safety Administration or his delegate.
First purchaser means the first purchaser in good faith for a purpose other than resale.
Leased motor vehicle means any motor vehicle that is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the twelve months preceding the date of notification by the vehicle manufacturer of the existence of a safety-related defect or noncompliance with a Federal motor vehicle safety standard in the motor vehicle.
Lessee means a person who is the lessee of a leased motor vehicle as defined in this section.
Lessor means a person or entity that is the owner, as reflected on the vehicle’s title, of any five or more leased vehicles (as defined in this section), as of the date of notification by the manufacturer of the existence of a safety-related defect or noncompliance with a...
§ 577.5 Notification pursuant to a manufacturer's decision.

(a) When a manufacturer of motor vehicles or replacement equipment determines that any motor vehicle or item of replacement equipment produced by the manufacturer contains a defect that relates to motor vehicle safety, or fails to conform to an applicable Federal motor vehicle safety standard, the manufacturer shall provide notification in accordance with paragraph (a) of §577.7, unless the manufacturer is exempted by the Administrator (pursuant to 49 U.S.C. 30118(d) or 30120(h)) from giving such notification. The notification shall contain the information specified in this section. The information required by paragraphs (b) and (c) of this section shall be presented in the form and order specified. The information required by paragraphs (d) through (h) of this section may be presented in any order. Except as authorized by the Administrator, the manufacturer shall submit a copy of its proposed owner notification letter, including any provisions or attachments related to reimbursement, to NHTSA’s Recall Management Division (NV-S-215) no fewer than five Federal Government business days before it intends to begin mailing it to owners. The manufacturer shall mark the outside of each envelope in which it sends an owner notification letter with a notation that includes the words “SAFETY,” “RECALL,” and “NOTICE,” all in capital letters and in type that is larger than that used in the address section, and is also distinguishable from the other type in a manner other than size. Except where the format of the envelope has been previously approved by NHTSA’s Recall Management Division (NV-S-215), each manufacturer must submit the envelope format it intends to use to that division at least five Federal Government business days before mailing the notification to owners. Submission of envelopes and proposed owner notification letters shall be made by any means, including those means identified in 49 CFR 573.9, that permits the manufacturer to verify receipt promptly by the Recall Management Division and the date it was received by that division. Notification sent to an owner whose address is in either the Commonwealth of Puerto Rico or the Canal Zone shall be written in both English and Spanish.

(b) An opening statement: “This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act.’’

(c) Whichever of the following statements is appropriate:

1. “(Manufacturer’s name or division) has decided that a defect which relates to motor vehicle safety exists in (identified motor vehicles, in the case of notification sent by a motor vehicle manufacturer; identified replacement equipment, in the case of notification sent by a replacement equipment manufacturer);’’ or

2. “(Manufacturer’s name or division) has decided that (identified motor vehicles, in the case of notification sent by a motor vehicle manufacturer; identified replacement equipment, in the case of notification sent by a replacement equipment manufacturer) fail to conform to Federal Motor Vehicle Safety Standard No. (number and title of standard).’’

(d) When the manufacturer determines that the defect or noncompliance may not exist in each such vehicle or item of replacement equipment, he may include an additional statement to that effect.

(e) A clear description of the defect or noncompliance, which shall include—

1. An identification of the vehicle system or particular item(s) of motor vehicle equipment affected.

2. A description of the malfunction that may occur as a result of the defect or noncompliance. The description of a noncompliance with an applicable standard shall include, in general terms, the difference between the performance of the noncomplying vehicle or item of replacement equipment and the performance specified by the standard;
§ 577.5

(3) A statement of any operating or other conditions that may cause the malfunction to occur; and

(4) A statement of the precautions, if any, that the owners should take to reduce the chance that the malfunction will occur before the defect or noncompliance is remedied.

(f) An evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance.

(1) When vehicle crash is a potential occurrence, the evaluation shall include whichever of the following is appropriate:

(i) A statement that the defect or noncompliance can cause vehicle crash without prior warning; or

(ii) A description of whatever prior warning may occur, and a statement that if this warning is not heeded, vehicle crash can occur.

(2) When vehicle crash is not the potential occurrence, the evaluation must include a statement indicating the general type of injury to occupants of the vehicle, or to persons outside the vehicle, that can result from the defect or noncompliance, and a description of whatever prior warning may occur.

(g) A statement of measures to be taken to remedy the defect or noncompliance, in accordance with paragraph (g)(1) or (g)(2) of this section, whichever is appropriate.

(1) When the manufacturer is required by the Act to remedy the defect or noncompliance without charge, or when he will voluntarily so remedy in full conformity with the Act, he shall include—

(i) A statement that he will cause such defect or noncompliance to be remedied without charge, and whether such remedy will be by repair, replacement, or (except in the case of replacement equipment) refund, less depreciation, of the purchase price.

(ii) The earliest date on which the defect or noncompliance will be remedied without charge. In the case of remedy by repair, this date shall be the earliest date on which the manufacturer reasonably expects that dealers or other service facilities will receive necessary parts and instructions. The manufacturer shall specify the last date, if any, on which he will remedy tires without charge.

(iii) In the case of remedy by repair through the manufacturer’s dealers or other service facilities:

(A) A general description of the work involved in repairing the defect or noncompliance; and

(B) The manufacturer’s estimate of the time reasonably necessary to perform the labor required to correct the defect or noncompliance.

(iv) In the case of remedy by repair through service facilities other than those of the manufacturer or its dealers:

(A) The name and part number of each part must be added, replaced, or modified;

(B) A description of any modifications that must be made to existing parts, which shall also be identified by name and part number;

(C) Information as to where needed parts will be available;

(D) A detailed description (including appropriate illustrations) of each step required to correct the defect or noncompliance;

(E) The manufacturer’s estimate of the time reasonably necessary to perform the labor required to correct the defect or noncompliance; and

(F) The manufacturer’s recommendations of service facilities where the owner should have the repairs performed.

(v) In the case of remedy by replacement, a description of the motor vehicle or item of replacement equipment that the manufacturer will provide as a replacement for the defective or noncomplying vehicle or equipment.

(vi) In the case of remedy by refund of purchase price, the method or basis for the manufacturer’s assessment of depreciation.

(vii) A statement informing the owner that he or she may submit a complaint to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590; or call the toll-free Vehicle Safety Hotline at 1-888-327-4236 (TTY: 1-800-424-9153); or go to http://www.safercar.gov, if the owner believes that:

(A) The manufacturer, distributor, or dealer has failed or is unable to remedy the defect or noncompliance without charge.
§ 577.6 Notification pursuant to Administrator's decision.

(A) Agency-ordered notification. When a manufacturer is ordered pursuant to 49 U.S.C. 30118(b) to provide notification of a defect or noncompliance, he shall provide such notification in accordance with §§577.5 and 577.7, except that the statement required by paragraph (c) of §577.5 shall indicate that the decision has been made by the Administrator of the National Highway Traffic Safety Administration.

(b) Provisional notification. When a manufacturer does not provide notification as required by paragraph (a) of this section, and an action concerning the Administrator's order to provide such notification has been filed in a United States District Court, the manufacturer shall, upon the Administrator's further order, provide in accordance with paragraph (b) of §577.7 a provisional notification containing the information specified in this paragraph, in the order and, where specified, the form of paragraphs (b)(1) through (b)(12) of this section.

(1) An opening statement: "This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act."

(2) Whichever of the following statements is appropriate:

(i) "The Administrator of the National Highway Traffic Safety Administration has decided that a defect which relates to motor vehicle safety exists in (identified motor vehicles, in the case of notification sent by a manufacturer of motor vehicles; identified replacement equipment, in the case of notification sent by a manufacturer of replacement equipment);" or
(i) “The Administrator of the National Highway Traffic Safety Administration has decided that (identified motor vehicles in the case of notification sent by a motor vehicle manufacturer; identified replacement equipment, in the case of notification sent by a manufacturer of replacement equipment) fail to conform to federal Motor Vehicle Safety Standard No. (number and title of standard).”

(3) When the Administrator decides that the defect or noncompliance may not exist in each such vehicle or item of replacement equipment, the manufacturer may include an additional statement to that effect.

(4) The statement: “(Manufacturer’s name or division) is contesting this determination in a proceeding in the Federal courts and has been required to issue this notice pending the outcome of the court proceeding.”

(5) A clear description of the Administrator’s stated basis for his decision, as provided in his order, including a brief summary of the evidence and reasoning that the Administrator relied upon in making his decision.

(6) A clear description of the Administrator’s stated evaluation as provided in his order of the risk to motor vehicle safety reasonably related to the defect or noncompliance.

(7) Any measures that the Administrator has stated in his order should be taken by the owner to avoid an unreasonable hazard resulting from the defect or noncompliance.

(8) A brief summary of the evidence and reasoning upon which the manufacturer relies in contesting the Administrator’s determination.

(9) A statement regarding the availability of remedy and reimbursement in accordance with paragraph (b)(9)(i) or (9)(ii) of this section, whichever is appropriate.

(i) When the purchase date of the vehicle or item of equipment is such that the manufacturer is required by the Act to remedy without charge or to reimburse the owner for reasonable and necessary repair expenses, he shall include—

(A) A statement that the remedy will be provided without charge to the owner if the Court upholds the Administrator’s decision;

(B) A statement of the method of remedy. If the manufacturer has not yet determined the method of remedy, he shall indicate that he will select either repair, replacement with an equivalent vehicle or item of replacement equipment, or (except in the case of replacement equipment) refund, less depreciation, of the purchase price; and

(C) A statement that, if the Court upholds the Administrator’s decision, he will reimburse the owner for any reasonable and necessary expenses that the owner incurs (not in excess of any amount specified by the Administrator) in repairing the defect or noncompliance following a date, specified by the manufacturer, which shall not be later than the date of the Administrator’s order to issue this notification.

(ii) When the manufacturer is not required either to remedy without charge or to reimburse, he shall include—

(A) A statement that he is not required to remedy or reimburse, or

(B) A statement of the extent to which he will voluntarily remedy or reimburse, including the method of remedy, if then known, and any limitations and conditions on such remedy or reimbursement.

(10) A statement indicating whether, in the manufacturer’s opinion, the defect or noncompliance can be remedied by repair. When the manufacturer believes that such remedy is feasible, the statement shall include:

(i) A general description of the work and the manufacturer’s estimate of the costs involved in repairing the defect or noncompliance;

(ii) Information on where needed parts and instructions for repairing the defect or noncompliance will be available, including the manufacturer’s estimate of the day on which they will be generally available;

(iii) The manufacturer’s estimate of the time reasonably necessary to perform the labor required to correct the defect or noncompliance; and

(iv) The manufacturer’s recommendations of service facilities where the owner could have the repairs performed, including (in the case of a manufacturer required to reimburse if the Administrator’s decision is upheld in the court proceeding) at least one service facility for whose charges the
§ 577.7

owner will be fully reimbursed if the Administrator’s decision is upheld.

(11) A statement that further notice will be mailed by the manufacturer to the owner if the Administrator’s decision is upheld in the court proceeding.

(12) An address of the manufacturer where the owner may write to obtain additional information regarding the notification and remedy.

(c) Post-litigation notification. When a manufacturer does not provide notification as required in paragraph (a) of this section and the Administrator prevails in an action commenced with respect to such notification, the manufacturer shall, upon the Administrator’s further order, provide notification in accordance with paragraph (b) of § 577.7 containing the information specified in paragraph (a) of this section, except that—

(1) The statement required by paragraph (c) of § 577.5 shall indicate that the decision has been made by the Administrator and that his decision has been upheld in a proceeding in the Federal courts; and

(2) When a provisional notification was issued regarding the defect or noncompliance and the manufacturer is required under the Act to reimburse—

(i) The manufacturer shall state that he will reimburse the owner for any reasonable and necessary expenses that the owner incurred (not in excess of any amount specified by the Administrator) for repair of the defect or noncompliance of the vehicle or item of equipment on or after the date on which provisional notification was ordered to be issued and on or before a date not sooner than the date on which this notification is received by the owner. The manufacturer shall determine and specify both dates.

(ii) The statement required by paragraph (g)(1)(vii) of § 577.5 shall also inform the owner that he may submit a complaint to the Administrator if the owner believes that the manufacturer has failed to reimburse adequately.

(3) If the manufacturer is not required under the Act to reimburse, he shall include—

(i) A statement that he is not required to reimburse, or

(ii) When he will voluntarily reimburse, a statement of the extent to which he will do so, including any limitations and conditions on such reimbursement.

[41 FR 56816, Dec. 30, 1976, as amended at 60 FR 17271, Apr. 5, 1995]

§ 577.7 Time and manner of notification.

(a) The notification required by § 577.5 shall—

(1) Be furnished within a reasonable time after the manufacturer first decides that either a defect that relates to motor vehicle safety or a noncompliance exists. The Administrator may order a manufacturer to send the notification to owners on a specific date where the Administrator finds, after consideration of available information and the views of the manufacturer, that such notification is in the public interest. The factors that the Administrator may consider include, but are not limited to, the severity of the safety risk; the likelihood of occurrence of the defect or noncompliance; whether there is something that an owner can do to reduce either the likelihood of occurrence of the defect or noncompliance or the severity of the consequences; whether there will be a delay in the availability of the remedy from the manufacturer; and the anticipated length of any such delay.

(2) Be accomplished—

(i) In the case of a notification required to be sent by a motor vehicle manufacturer, by first class mail to each person who is registered under State law as the owner of the vehicle and whose name and address are reasonably ascertainable by the manufacturer through State records or other sources available to him. If the owner cannot be reasonably ascertained, the manufacturer shall notify the most recent purchaser known to the manufacturer. The manufacturer shall also provide notification to each lessee of a leased motor vehicle that is covered by an agreement between the manufacturer and a lessor under which the manufacturer is to notify lessees directly of safety-related defects and noncompliances.

(ii) In the case of a notification required to be sent by a replacement equipment manufacturer—

248

D-21
§ 577.7

(A) By first class mail to the most recent purchaser known to the manufacturer, and

(B) (Except in the case of a tire) if decided by the Administrator to be required for motor vehicle safety, by public notice in such manner as the Administrator may require after consultation with the manufacturer.

(iii) In the case of a manufacturer required to provide notification concerning any defective or noncomplying tire, by first class or certified mail.

(iv) In the case of a notification to be sent by a lessor to a lessee of a leased motor vehicle, by first-class mail to the most recent lessee known to the lessor. Such notification shall be mailed within ten days of the lessor’s receipt of the notification from the vehicle manufacturer.

(b) The notification required by any paragraph of §577.6 shall be provided:

(1) Within 60 days after the manufacturer’s receipt of the Administrator’s order to provide the notification, except that the notification shall be furnished within a shorter or longer period if the Administrator incorporates in his order a finding that such period is in the public interest; and

(2) In the manner and to the recipient specified in paragraph (a) of this section.

(c) The notification required by §577.13 shall—

(1) Be furnished within a reasonable time after the manufacturer decides that a defect that relates to motor vehicle safety or a noncompliance exists. In the case of defects or noncompliances that present an immediate and substantial threat to motor vehicle safety, the manufacturer shall transmit this notice to dealers and distributors within three business days of its transmittal of the Defect and Noncompliance Information Report under 49 CFR 573.6 to NHTSA, except that when the manufacturer transmits the notice by other than electronic means, the manufacturer shall transmit this notice to dealers and distributors within five business days of its transmittal of the Defect and Noncompliance Information Report to NHTSA. In all other cases, the notification shall be provided in accordance with the schedule submitted to the agency pursuant to §573.6(c)(8)(ii), unless that schedule is modified by the Administrator. The Administrator may direct a manufacturer to send the notification to dealers on a specific date if the Administrator finds, after consideration of available information and the views of the manufacturer, that such notification is in the public interest. The factors that the Administrator may consider include, but are not limited to, the severity of the safety risk; the likelihood of occurrence of the defect or noncompliance; the time frame in which the defect or noncompliance may manifest itself; availability of an interim remedial action by the owner; whether a dealer inspection would identify vehicles or items of equipment that contain the defect or noncompliance; and the timeline in which the manufacturer plans to provide the notification and the remedy to its dealers.

(2) Be accomplished—

(i) In the case of a notification required to be sent by a motor vehicle manufacturer, by certified mail, verifiable electronic means such as receipts or logs from electronic mail or satellite distribution system, or other more expeditious and verifiable means to all dealers and distributors of the vehicles that contain the defect or noncompliance.

(ii) In the case of a notification required to be sent by a manufacturer of replacement equipment or tires, by certified mail, verifiable electronic means such as receipts or logs from electronic mail or satellite distribution system, or other more expeditious and verifiable means to all dealers and distributors of the product that are known to the manufacturer.

(iii) In those cases where a manufacturer of motor vehicles or items of motor vehicle equipment provided the recalled product(s) to a group of dealers or distributors through a central office, notification to that central office will be deemed to be notice to all dealers and distributors within that group.

(iv) In those cases in which a manufacturer of motor vehicles or items of motor vehicle equipment has provided the recalled product to independent
§ 577.8 Disclaimers.

(a) A notification sent pursuant to §§ 577.5, 577.6, 577.9 or 577.10 regarding a defect which relates to motor vehicle safety shall not, except as specifically provided in this part, contain any statement or implication that there is no defect, that the defect does not relate to motor vehicle safety, or that the defect is not present in the owner’s or lessee’s vehicle or item of replacement equipment. This section also applies to any notification sent to a lessor or directly to a lessee by a manufacturer.

(b) A notification sent pursuant to §§ 577.5, 577.6, 577.9 or 577.10 regarding a noncompliance with an applicable motor vehicle safety standard shall not, except as specifically provided in this part, contain any statement or implication that there is not a noncompliance, or that the noncompliance is not present in the owner’s or lessee’s vehicle or item of replacement equipment. This section also applies to any notification sent to a lessor or directly to a lessee by a manufacturer.

§ 577.9 Conformity to statutory requirements.

A notification that does not conform to the requirements of this part is a violation of the Act.

§ 577.10 Follow-up notification.

(a) If, based on quarterly reports submitted pursuant to §573.7 of this part or other available information, the Administrator decides that a notification of a safety-related defect of a noncompliance with a Federal motor vehicle safety standard sent by a manufacturer has not resulted in an adequate number of vehicles or items of equipment being returned for remedy, the Administrator may direct the manufacturer to send a follow-up notification in accordance with this section.

The scope, timing, form, and content of such follow-up notification will be established by the Administrator, in consultation with the manufacturer, to maximize the number of owners, purchasers, and lessees who will present their vehicles or items of equipment for remedy.

(b) The Administrator may consider the following factors in deciding whether or not to require a manufacturer to undertake a follow-up notification campaign:

(1) The percentage of covered vehicles or items of equipment that have been presented for the remedy;

(2) The amount of time that has elapsed since the prior notification(s);

(3) The likelihood that a follow-up notification will increase the number of vehicles or items of equipment receiving the remedy;

(4) The seriousness of the safety risk from the defect or noncompliance;

(5) Whether the prior notification(s) undertaken by the manufacturer complied with the requirements of the statute and regulations; and

(6) Such other factors as are consistent with the purpose of the statute.

(c) A manufacturer shall be required to provide a follow-up notification under this section only with respect to vehicles or items of equipment that have not been returned for remedy pursuant to the prior notification(s).

(d) Except where the Administrator determines otherwise, the follow-up notification shall be sent to the same categories of recipients that received the prior notification(s).

(e) A follow-up notification must include:

(1) A statement that identifies it as a follow-up to an earlier communication;
(2) A statement urging the recipient to present the vehicle or item of equipment for remedy; and

(3) Except as determined by the Administrator, the information required to be included in the initial notification.

(f) The manufacturer shall mark the outside of each envelope in which it sends a follow-up notification in a manner which meets the requirements of §577.5(a) of this part.

(g) Notwithstanding any other provision of this part, the Administrator may authorize the use of other media besides first-class mail for a follow-up notification.

[60 FR 17272, Apr. 5, 1995, as amended at 68 FR 18142, Apr. 15, 2003]

§ 577.11 Reimbursement notification.

(a) Except as otherwise provided in paragraph (e) of this section, when a manufacturer of motor vehicles or replacement equipment is required to provide notice in accordance with §§577.5 or 577.6, in addition to complying with other sections of this part, the manufacturer shall notify owners that they may be eligible to receive reimbursement for the cost of obtaining a pre-notification remedy of a problem associated with a defect or noncompliance consistent with the manufacturer's reimbursement plan submitted to NHTSA pursuant to §§573.6(c)(8)(i) and 573.13 of this chapter.

(b) The manufacturer's notification shall include a statement, following the items required by §577.5 or §577.6, that:

(1) Refers to the possible eligibility for reimbursement for the cost of repair or replacement; and

(2) Describes how a consumer may obtain information about reimbursement from the manufacturer;

(c) The information referred to in §577.11(b)(2) of this part shall be provided in one of the following ways:

(1) In an enclosure to the notification under §577.5 or §577.6 that provides the information described in §577.11(d), consistent with the manufacturer's reimbursement plan; or

(2) Through a toll-free telephone number (with TTY capability) identified in the notification that provides the information described in §577.11(d), consistent with the manufacturer's reimbursement plan.

(3) For notifications of defects or noncompliances in item of motor vehicle equipment that are in a form other than a letter to a specific owner or purchaser, if the manufacturer does not otherwise maintain a toll-free telephone number for the use of consumers, the manufacturer may refer claimants to a non-toll-free telephone number (with TTY capability) if it also specifies a mailing address at which owners can obtain the relevant information regarding the manufacturer's reimbursement plan.

(d) The information to be provided under paragraph (c) of this section must:

(1) Identify the vehicle and/or equipment that is the subject of the recall and the underlying problem;

(2) State that the manufacturer has a program for reimbursing pre-notification remedies and identify the type of remedy eligible for reimbursement;

(3) Identify any limits on the time period in which the repair or replacement of the recalled vehicle or equipment must have occurred;

(4) Identify any restrictions on eligibility for reimbursement that the manufacturer is imposing (as limited by §573.13 (d) of this chapter);

(5) Specify all necessary documentation that must be submitted to obtain reimbursement;

(6) Explain how to submit a claim for reimbursement of a pre-notification remedy; and

(7) Identify the office and address of the manufacturer where a claim can be submitted by mail and any authorized dealers or facilities where a claimant may submit a claim for reimbursement.

(e) The manufacturer is not required to provide notification regarding reimbursement under this section if NHTSA finds, based upon a written request by a manufacturer accompanied by supporting information, views, and arguments, that all covered vehicles are under warranty or that no person would be eligible for reimbursement under §573.13 of this chapter.

[67 FR 60665, Oct. 17, 2002]
§ 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).

[67 FR 72393, Dec. 5, 2002]

§ 577.13 Notification to dealers and distributors.

(a) The notification to dealers and distributors of a safety-related defect or a noncompliance with a Federal motor vehicle safety standard shall contain a clear statement that identifies the notification as being a safety recall notice, an identification of the motor vehicles or items of motor vehicle equipment covered by the recall, a description of the defect or noncompliance, and a brief evaluation of the risk to motor vehicle safety related to the defect or noncompliance. The notification shall also include a complete description of the recall remedy, and the estimated date on which the remedy will be available. Information required by this paragraph that is not available at the time of the original notification shall be provided as it becomes available.

(b) The notification shall also include an advisory stating that it is a violation of Federal law for a dealer to deliver a new motor vehicle or any new or used item of motor vehicle equipment (including a tire) covered by the notification under a sale or lease until the defect or noncompliance is remedied.

(c) The manufacturer shall, upon request of the Administrator, demonstrate that it sent the required notification to each of its known dealers and distributors and the date of such notification.

[69 FR 34960, June 23, 2004, as amended at 70 FR 38815, July 6, 2005]
Pt. 579

(1) At the time of the violation, such person does not know that the violation would result in an accidental causing death or serious bodily injury; and

(2) The person corrects any improper reports or failure to report, with respect to reporting requirements of 49 U.S.C. 30166, within a reasonable time.

(b) Reasonable time. A correction is considered to have been performed within a reasonable time if the person seeking protection from criminal liability makes the correction to any improper (i.e., incorrect, incomplete, or misleading) report not more than thirty (30) calendar days after the date of the report to the agency and corrects any failure to report not more than thirty (30) calendar days after the report was due to be sent to or received by the agency, as the case may be, pursuant to 49 U.S.C. 30166, including a regulation, requirement, request or order issued thereunder. In order to meet these reasonable time requirements, all submissions required by this section must be received by NHTSA within the time period specified in this paragraph, and not merely mailed or otherwise sent within that time period.

(c) Sufficient manner of correction. Each person seeking safe harbor protection from criminal penalties under 49 U.S.C. 30170(a)(2) must comply with the following with respect to each improper report and failure to report for which safe harbor protection is sought:

(1) Sign and submit to NHTSA a dated document identifying:
   (i) Each previous improper report (e.g., informational statement and document submission), and each failure to report as required under 49 U.S.C. 30166, including a regulation, requirement, request or order issued thereunder, for which protection is sought, and
   (ii) The specific predicate under which the improper or omitted report should have been provided (e.g., the report was required by a specified regulation, NHTSA Information Request, or NHTSA Special Order).

(2) Submit the complete and correct information that was required to be submitted but was improperly submitted or was not previously submitted, or, if the person cannot do so, provide a detailed description of that information and/or the content of those documents and the reason why the individual cannot provide them to NHTSA (e.g., the information or documents are not in the individual’s possession or control).

(3) For a corporation, the submission must be signed by an authorized person (ordinarily, the individual officer or employee who submitted the improper report or who should have provided the report that the corporation failed to submit on behalf of the company, or someone in the company with authority to make such a submission).

(4) Submissions must be made by a means which permits the sender to verify promptly that the report was in fact received by NHTSA and the day it was received by NHTSA.

(5) Submit the report to Chief Counsel (NCC–10), National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, SW., Washington, DC 20590.


PART 579—REPORTING OF INFORMATION AND COMMUNICATIONS ABOUT POTENTIAL DEFECTS

Subpart A—General

Sec. 579.1 Scope.
579.2 Purpose.
579.3 Application.
579.4 Terminology.
579.5 Notices, bulletins, consumer satisfaction campaigns, consumer advisories, and other communications.
579.6 Address for submitting reports and other information.
579.7–579.10 [Reserved]

Subpart B—Reporting of Safety Recalls and Other Safety Campaigns in Foreign Countries

579.11 Reporting responsibilities.
579.12 Contents of reports.
579.13–579.20 [Reserved]

Subpart C—Reporting of Early Warning Information

579.21 Reporting requirements for manufacturers of 5,000 or more light vehicles annually.
§ 579.22 Reporting requirements for manufacturers of 100 or more buses, manufacturers of 500 or more emergency vehicles and manufacturers of 5,000 or more medium-heavy vehicles (other than buses and emergency vehicles) annually.

§ 579.23 Reporting requirements for manufacturers of 5,000 or more motorcycles annually.

§ 579.24 Reporting requirements for manufacturers of 5,000 or more trailers annually.

§ 579.25 Reporting requirements for manufacturers of child restraint systems.

§ 579.26 Reporting requirements for manufacturers of tires.

§ 579.27 Reporting requirements for manufacturers of fewer than 100 buses annually, for manufacturers of fewer than 500 emergency vehicles annually, for manufacturers of fewer than 5,000 light vehicles, medium-heavy vehicles (other than buses and emergency vehicles), motorcycles or trailers annually, for manufacturers of original equipment, and for manufacturers of replacement equipment other than child restraint systems and tires.

§ 579.28 Due date of reports and other miscellaneous provisions.

§ 579.29 Manner of reporting.


SOURCE: 67 FR 45873, July 10, 2002, unless otherwise noted.

Subpart A—General

§ 579.1 Scope.

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

§ 579.2 Purpose.

The purpose of this part is to enhance motor vehicle safety by specifying information and documents that manufacturers of motor vehicles and motor vehicle equipment must provide to NHTSA with respect to possible safety-related defects and noncompliances in their products, including the reporting of safety recalls and other safety campaigns that the manufacturer conducts outside the United States.

[67 FR 63310, Oct. 11, 2002]

§ 579.3 Application.

(a) This part applies to all manufacturers of motor vehicles and motor vehicle equipment with respect to all motor vehicles and motor vehicle equipment that have been offered for sale, sold, or leased in the United States by the manufacturer, including any parent corporation, any subsidiary or affiliate of the manufacturer, or any subsidiary or affiliate of any parent corporation, and with respect to all motor vehicles and motor vehicle equipment that have been offered for sale, sold, or leased in a foreign country by the manufacturer, including any parent corporation, any subsidiary or affiliate of the manufacturer, or any subsidiary or affiliate of any parent corporation, and are identical or substantially similar to any motor vehicles or motor vehicle equipment that have been offered for sale, sold, or leased in the United States.

(b) In the case of any report required under subpart B of this part, compliance by the fabricating manufacturer, the importer, the brand name owner, or a parent or subsidiary of such fabricator, importer, or brand name owner of the motor vehicle or motor vehicle equipment that is identical or substantially similar to that covered by the foreign recall or other safety campaign, shall be considered compliance by all persons.

(c) In the case of any report required under subpart C of this part, compliance by the fabricating manufacturer, the importer, the brand name owner, or a parent or United States subsidiary of such fabricator, importer, or brand name owner of the motor vehicle or motor vehicle equipment, shall be considered compliance by all persons.

(d) With regard to any information required to be reported under subpart C of this part, an entity covered under paragraph (a) of this section need only review information and systems where information responsive to subpart C of
§ 579.4 Terminology.

(a) Statutory terms. The terms dealer, defect, distributor, motor vehicle, motor vehicle equipment, and State are used as defined in 49 U.S.C. 30102.

(b) Regulatory terms. The term Vehicle Identification Number (VIN) is used as defined in §565.3(o) of this chapter. The terms bus, Gross Vehicle Weight Rating (GVWR), motorcycle, multipurpose passenger vehicle, passenger car, trailer, and truck are used as defined in §571.3(b) of this chapter. The term Booster seat is used as defined in §4 of §571.213 of this chapter. The term Tire Identification Number (TIN) is the “tire identification number” described in §574.5 of this chapter. The term Limited production tire is used as defined in §575.104(c)(2) of this chapter.

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

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

Affiliate means, in the context of an affiliate of or person affiliated with a specified person, a person that directly, or indirectly through one or more intermediates, controls or is controlled by, or is under common control with, the person specified. The term person usually is a corporation.

Air bag means an air bag or other automatic occupant restraint device (other than a “seat belt” as defined in this subpart) installed in a motor vehicle that restrains an occupant in the event of a vehicle crash without requiring any action on the part of the occupant to obtain the benefit of the restraint. This term includes inflatable restraints (front and side air bags), knee bolsters, and any other automatic restraining device that may be developed that does not include a restraining belt or harness. This term also includes all air bag-related components, such as the inflator assembly, air bag module, control module, crash sensors and all hardware and software associated with the air bag. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

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

Bead means all the materials in a tire below the sidewalls in the rim contact area, including bead rubber components, the bead bundle and rubber coating if present, the body ply and its turn-up including the rubber coating, rubber, fabric, or metallic reinforcing materials, and the inner-liner rubber under the bead area.

Brand name owner means a person that markets a motor vehicle or motor vehicle equipment under its own trade name whether or not it is the fabricator or importer of the vehicle or equipment.

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

Child restraint system means any system that meets, or is offered for sale in the United States as meeting, any definition in §4 of §571.213 of this chapter, or that is offered for sale as a child restraint system in a foreign country.

Claim means a written request or written demand for relief, including money or other compensation, assumption of expenditures, or equitable relief, related to a motor vehicle crash, accident, the failure of a component or system of a vehicle or an item of motor vehicle equipment, or a fire originating in or from a motor vehicle or a substance that leaked from a motor vehicle. Claim includes, but is not limited to, a demand in the absence of a lawsuit, a complaint initiating a lawsuit, an assertion or notice of litigation, a settlement, covenant not to sue or release of liability in the absence of a written demand, and a subrogation request. A claim exists regardless of any denial or refusal to pay it, and regardless of whether it has been settled or resolved in the manufacturer’s favor. The existence of a claim may not be
conditioned on the receipt of anything beyond the document(s) stating a claim. Claim does not include demands related to asbestos exposure, to emissions of volatile organic compounds from vehicle interiors, or to end-of-life disposal of vehicles, parts or components of vehicles, equipment, or parts or components of equipment.

Common green tires means tires that are produced to the same internal specifications but that have, or may have, different external characteristics and may be sold under different tire line names.

Consumer complaint means a communication of any kind made by a consumer (or other person) to or with a manufacturer addressed to the company, an officer thereof or an entity thereof that handles consumer matters, a manufacturer website that receives consumer complaints, a manufacturer electronic mail system that receives such information at the corporate level, or that are otherwise received by a unit within the manufacturer that receives consumer inquiries or complaints, including telephonic complaints, expressing dissatisfaction with a product, or relating the unsatisfactory performance of a product, or any actual or potential defect in a product, or any event that allegedly was caused by any actual or potential defect in a product, but not including a claim of any kind or a notice involving a fatality or injury.

Control (including the terms controlling, controlled by, and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Customer satisfaction campaign, consumer advisory, recall, or other activity involving the repair or replacement of motor vehicles or motor vehicle equipment means any communication by a manufacturer to, or made available to, more than one dealer, distributor, lessor, lessee, other manufacturer, or owner, whether in writing or by electronic means, relating to repair, replacement, or modification of a vehicle, component of a vehicle, item of equipment, or a component thereof, the manner in which a vehicle or child restraint system is to be maintained or operated (excluding promotional and marketing materials, customer satisfaction surveys, and operating instructions or owner's manuals that accompany the vehicle or child restraint system at the time of first sale); or advice or direction to a dealer or distributor to cease the delivery or sale of specified models of vehicles or equipment.

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

Electrical system means any electrical or electronic component of a motor vehicle that is not included in one of the other reporting categories enumerated in subpart C of this part, and specifically includes the battery, battery cables, alternator, fuses, and main body wiring harnesses of the motor vehicle and the ignition system, including the ignition switch and starter motor. The term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Engine and engine cooling means the component (e.g., motor) of a motor vehicle providing motive power to the vehicle, and includes the exhaust system (including the exhaust emission system), the engine control unit, engine lubrication system, and the underhood cooling system for that engine. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Equipment comprises original and replacement equipment: (1) Original equipment means an item of motor vehicle equipment (other than a tire) that was installed in or on a motor vehicle at the time of its delivery to the first purchaser if the item of equipment was installed on or in the motor vehicle at the time of its delivery to a dealer or distributor for distribution; or the item of equipment was installed by the dealer or distributor with the express authorization of the motor vehicle manufacturer.
§ 579.4 49 CFR Ch. V (10–1–10 Edition)

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

Exterior lighting means all the exterior lamps (including any interior-mounted center highmounted stop lamp if mounted in the interior of a vehicle), lenses, reflectors, and associated equipment of a motor vehicle, including all associated switches, control units, connective elements (such as wiring harnesses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Field report means a communication in writing, including communications in electronic form, from an employee or representative of a manufacturer of motor vehicles or motor vehicle equipment, a dealer or authorized service facility of such manufacturer, or an entity known to the manufacturer as owning or operating a fleet, to the manufacturer regarding the failure, malfunction, lack of durability, or other performance problem of a motor vehicle or motor vehicle equipment, or any part thereof, produced for sale by that manufacturer and transported beyond the direct control of the manufacturer, regardless of whether verified or assessed to be lacking in merit, but does not include any document covered by the attorney-client privilege or the work product exclusion.

Fire means combustion or burning of material in or from a vehicle as evidenced by flame. The term also includes, but is not limited to, thermal events and fire-related phenomena such as smoke and melt, but does not include events and phenomena associated with a normally functioning vehicle such as combustion of fuel within an engine or exhaust from an engine.

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

Foreign country means a country other than the United States.

Foreign government means the central government of a foreign country as well as any political subdivision of that country.

Fuel system means all components of a motor vehicle used to receive and store fuel, and to transfer fuel between the vehicle’s fuel storage, engine, or fuel emission systems. This term includes, but is not limited to, the fuel tank and filler cap, neck, and pipe, along with associated piping, hoses, and clamps, the fuel pump, fuel lines, connectors from the fuel tank to the engine, the fuel injection/carburetion system (including fuel injector rails and injectors), and the fuel vapor recovery system(s), canister(s), and vent lines. The term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Good will means the repair or replacement of a motor vehicle or item of motor vehicle equipment, including labor, paid for by the manufacturer, at least in part, when the repair or replacement is not covered under warranty, or under a safety recall reported to NHTSA under part 573 of this chapter.

Handle means any element of a child restraint system that is designed to facilitate carrying the restraint outside a motor vehicle, other than an element of the seat shell.

Incomplete light vehicle means an incomplete vehicle as defined in §568.3 of this chapter which, when completed, will be a light vehicle.

Integrated child restraint system means a factory-installed built-in child restraint system as defined in §4 of §571.213 of this chapter and includes any factory-authorized built-in child restraint system.

Latch means a latching, locking, or linking system of a motor vehicle and all its components fitted to a vehicle’s exterior doors, rear hatch, liftgate, tailgate, trunk, or hood. This term also includes, but is not limited to, devices for the remote operation of a latching device such as remote release cables (and associated components), electric release devices, or wireless control release devices, and includes all components covered in FMVSS No. 206. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Light vehicle means any motor vehicle, except a bus, motorcycle, or trailer, with a GVWR of 10,000 lbs or less.
§ 579.4

Make means a name that a manufacturer applies to a group of vehicles. Manufacturer means a person manufacturing or assembling motor vehicles or motor vehicle equipment, or importing motor vehicles or motor vehicle equipment for resale. This term includes any parent corporation, any subsidiary or affiliate, and any subsidiary or affiliate of a parent corporation of such a person.

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

Minimal specificity means:
(1) For a vehicle, the make, model, and model year,
(2) For a child restraint system, the manufacturer and the model (either the model name or model number),
(3) For a tire, the manufacturer, tire line, and tire size, and
(4) For other motor vehicle equipment, the manufacturer and, if there is a model or family of models identified on the item of equipment, the model name or model number.

Model means a name that a manufacturer of motor vehicles applies to a family of vehicles within a make which have a degree of commonality in construction, such as body, chassis or cab type. For equipment other than child restraint systems, it means the name that the manufacturer uses to designate it. For child restraint systems, it means the name that the manufacturer uses to identify child restraint systems with the same seat shell, buckle, base (if so equipped) and restraint system.

Model year means the year that a manufacturer uses to designate a discrete model of vehicle, irrespective of the calendar year in which the vehicle was manufactured. If the manufacturer has not assigned a model year, it means the calendar year in which the vehicle was manufactured.

Notice means a document, other than a media article, that does not include a demand for relief, and that a manufacturer receives from a person other than NHTSA.

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

Parking brake means a mechanism installed in a motor vehicle which is designed to prevent the movement of a stationary motor vehicle, including all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Platform means the basic structure of a vehicle including, but not limited to, the majority of the floorpan or undercarriage, and elements of the engine compartment. The term includes a structure that a manufacturer designates as a platform. A group of vehicles sharing a common structure or chassis shall be considered to have a common platform regardless of whether such vehicles are of the same type, are of the same make, or are sold by the same manufacturer.

Power train means the components or systems of a motor vehicle which transfer motive power from the engine to the wheels, including the transmission (manural and automatic), gear selection devices and associated linkages, clutch, constant velocity joints, transfer case, driveline, differential(s), and all driven axle assemblies. This term includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Product evaluation report means a field report prepared by, and containing the observations or comments of, a manufacturer’s employee who submitted the report concerning the operation or performance of a vehicle or child restraint system as part of the employee’s personal use of the vehicle or child restraint system under a manufacturer’s program authorizing such use, but does not include a report by an
employee who has been granted personal use of a vehicle or child restraint system for the specific purpose of facilitating the employee’s technical or engineering evaluation of a known or suspected problem with that vehicle or child restraint system.

Production year means, for equipment and tires, the calendar year in which the item was produced.

Property damage means physical injury to tangible property.

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

Rear-facing infant seat means a child restraint system that is designed to position a child to face only in the direction opposite to the normal direction of travel of the motor vehicle.

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

Rollover means a single-vehicle crash in which a motor vehicle rotates on its longitudinal axis to at least 90 degrees, regardless of whether it comes to rest on its wheels.

Safety recall means an offer by a manufacturer to owners of motor vehicles or equipment in a foreign country to provide remedial action to address a defect that relates to motor vehicle safety or a failure to comply with an applicable safety standard or guideline, whether or not the manufacturer agrees to pay the full cost of the remedial action.

Seats means all components of a motor vehicle that are subject to FMVSS Nos. 202, 207, and 209, including all electrical and electronic components within the seat that are related to seat positioning, heating, and cooling. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Seat belts means any belt system, other than an air bag, that may or may not require the occupant to latch, fasten, or secure the components of the seat belt/webbing based restraint system to ready its use for protection of the occupant in the event of a vehicle crash. This term includes the webbing, buckle, anchorage, retractor, belt pretensioner devices, load limiters, and all components, hardware and software associated with an automatic or manual seat belt system addressed by FMVSS No. 209 or 210. This term also includes integrated child restraint systems in vehicles, and includes any device (and all components of that device), installed in a motor vehicle in accordance with FMVSS No. 213, which is designed for use as a safety restraint device for a child too small to use a vehicle’s seat belts. This term includes all vehicle components installed in accordance with FMVSS No. 225. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Seat shell means the portion of a child restraint system that provides the structural shape, form and support for the system, and for other components of the system such as belt attachment points, and anchorage points to allow the system to be secured to a passenger seat in a motor vehicle, but not including a shield.

Service brake system means all components of the service braking system of a motor vehicle intended for the transfer of braking application force from the operator to the wheel of a vehicle, including the foundation braking system, such as the brake pedal, master cylinder, fluid lines and hoses, braking assist components, brake calipers, wheel cylinders, brake discs, brake drums, brake pads, brake shoes, and other related equipment installed in a motor vehicle in order to comply with FMVSS Nos. 105, 121, 122, or 135 (except equipment relating specifically to a parking brake). This term also includes systems and devices for automatic control of the brake system such as antilock braking, traction control, stability control, and enhanced braking. The term includes all associated switches, control units, connective elements (such as wiring harnesses, hoses,
piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

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

SKU (Stock Keeping Unit) means the alpha-numeric designation assigned by a manufacturer to uniquely identify a tire product. This term is sometimes referred to as a product code, a product ID, or a part number.

Steering system means all steering control system components, including the steering system mechanism and its associated hardware, the steering wheel, steering column, steering shaft, linkages, joints (including tie-rod ends), steering dampeners, and power steering assist systems. This term includes a steering control system as defined by FMVSS No. 203 and any sub-system or component of a steering control system, including those components defined in FMVSS No. 204. This term also includes all associated switches, control units, connective elements (such as brackets, fasteners, etc.), and mounting elements (such as brackets, fasteners, etc.).

Structure means any part of a motor vehicle that serves to maintain the shape and size of the vehicle, including the frame, the floorpan, the body, bumpers, doors, tailgate, hatchback, trunk lid, hood, and roof. The term also includes all associated mounting elements (such as brackets, fasteners, etc.).

Suspension system means all components and hardware associated with a motor vehicle suspension system, including the associated control arms, steering knuckles, spindles, joints, bushings, ball joints, springs, shock absorbers, stabilizer (anti sway) bars, and bearings that are designed to minimize the impact on the vehicle chassis of shocks from road surface irregularities that may be transmitted through the wheels, and to provide stability when the vehicle is being operated through a range of speed, load, and dynamic conditions. The term also includes all electronic control systems and mechanisms for active suspension control, as well as all associated components such as switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Tire means an item of motor vehicle equipment intended to interface between the road and a motor vehicle. The term includes all the tires of a vehicle, including the spare tire. For purposes of §§579.21 through 579.24 and §579.27 of this part, this term also includes the tire inflation valves, tubes, and tire pressure monitoring and regulating systems, as well as all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Tire line means the entire name used by a tire manufacturer to designate a tire product including all prefixes and suffixes as they appear on the sidewall of a tire.

Trailer hitch means all coupling systems, devices, and components thereof, designed to join or connect any two motor vehicles. This term also includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

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

Type means, in the context of a light vehicle, a vehicle certified by its manufacturer pursuant to §567.4(g)(7) of this chapter as a passenger car, multipurpose passenger vehicle, or truck, or a vehicle identified by its manufacturer as an incomplete vehicle pursuant to §568.4 of this chapter. In the context of a medium heavy vehicle and bus, it means one of the following categories: Truck, tractor, transit bus, school bus, coach, recreational vehicle, emergency.
vehicle, or other. In the context of a trailer, it means one of the following categories: Recreational trailers, van trailers, flatbed trailer, trailer converter dolly, low bed trailer, dump trailer, tank trailer, dry bulk trailer, livestock trailer, boat trailer, auto transporter, or other. In the context of a child restraint system, it means the category of child restraint system selected from one of the following: rear-facing infant seat, booster seat, or other.

Vehicle speed control means the systems and components of a motor vehicle that control vehicle speed either by command of the operator or by automatic control, including, but not limited to, the accelerator pedal, linkages, cables, springs, speed control devices (such as cruise control) and speed limiting devices. This term includes, but is not limited to the items addressed by FMVSS No. 124 and all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Visibility means the systems and components of a motor vehicle through which a driver views the surroundings of the vehicle including windshield, side windows, back window, and rear view mirrors, and systems and components used to wash and wipe windshields and back windows. This term includes those vehicular systems and components that can affect the ability of the driver to clearly see the roadway and surrounding area, such as the systems and components identified in FMVSS Nos. 103, 104, and 111. This term also includes the defogger/defroster system, the heater core, blower fan, windshield wiper systems, mirrors, windows and glazing material, heads-up display (HUD) systems, and exterior view-based television systems, but does not include exterior lighting systems which are defined under “Lighting.” This term includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

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

Warranty adjustment means any payment or other restitution, such as, but not limited to, replacement, repair, credit, or cash refund, made by a tire manufacturer to a consumer or to a dealer, in reimbursement for payment or other restitution to a consumer, pursuant to a warranty program offered by the manufacturer or goodwill.

Warranty claim means any claim paid by a manufacturer, including provision of a credit, pursuant to a warranty program, an extended warranty program, or good will. It does not include claims for reimbursement for costs or related expenses for work performed to remedy a safety-related defect or noncompliance reported to NHTSA under part 573 of this chapter, or in connection with a motor vehicle emissions-related recall under the Clean Air Act or in accordance with State law as authorized under 42 U.S.C. 7543(b) or 7507.

Wheel means the assembly or component of a motor vehicle to which a tire is mounted. The term includes any item of motor vehicle equipment used to attach the wheel to the vehicle, including inner cap nuts and the wheel studs, bolts, and nuts.

Work product means a document in the broad sense of the word, prepared in anticipation of litigation where there is a reasonable prospect of litigation and not for some other purpose such as a business practice, and prepared or requested by an attorney or an agent for an attorney.

(d) Identical or substantially similar motor vehicle, item of motor vehicle equipment, or tire. (1) A motor vehicle sold or in use outside the United States is
identical or substantially similar to a motor vehicle sold or offered for sale in the United States if—

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

(ii) Such a vehicle is listed in the VSP or VSA columns of appendix A to part 509 of this chapter;

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

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

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

(3) A tire sold or in use outside the United States is substantially similar to a tire sold or offered for sale in the United States if it has the same size, speed rating, load index, load range, number of plies and belts, and similar ply and belt construction and materials, placement of components, and component materials, irrespective of plant of manufacture or tire line.


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

(a) Each manufacturer shall furnish to NHTSA’s Early Warning Division (NVS–217) a copy of all notices, bulletins, and other communications (including those transmitted by computer, telefax, or other electronic means and including warranty and policy extensions and product improvement bulletins) other than those required to be submitted pursuant to §573.6(c)(10) of this chapter, sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser, in the United States, regarding any defect in its vehicles or items of equipment (including any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications), whether or not such defect is safety-related.

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

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

(d) Each copy shall be in readable form and shall be submitted not later than five working days after the end of the month in which it is issued. However, a document described in paragraph (b) of this section and issued before July 1, 2003, need not be submitted.


§ 579.6 Address for submitting reports and other information.

(a) Except as provided by paragraph (b) of this section, information, reports, and documents required to be submitted to NHTSA pursuant to this part may be submitted by mail, by facsimile, or by e-mail. If submitted by mail, they must be addressed to the Associate Administrator for Enforcement, National Highway Traffic Safety Administration, Attention: Early Warning Division (NVS–217), 1200 New Jersey Avenue, S.E., Washington, DC 20590. If submitted by facsimile, they must be addressed to the Associate Administrator for Enforcement and transmitted to (202) 366–7882. If submitted by
e-mail, submissions under subpart B of this part must be submitted to frezcals@dot.gov and submissions under §579.5 must be submitted to tsb@dot.gov.

(b) Information, documents and reports that are submitted to NHTSA’s early warning data repository must be submitted in accordance with §579.29 of this part. Submissions must be made by a means that permits the sender to verify that the report was in fact received by NHTSA and the day it was received by NHTSA.


§§ 579.7–579.10 [Reserved]

Subpart B—Reporting of Safety Recalls and Other Safety Campaigns in Foreign Countries

SOURCE: 67 FR 63310, Oct. 11, 2002, unless otherwise noted.

§ 579.11 Reporting responsibilities.

(a) Determination by a manufacturer. Not later than 5 working days after a manufacturer determines to conduct a safety recall or other safety campaign in a foreign country covering a motor vehicle, item of motor vehicle equipment, or tire that is identical or substantially similar to a vehicle, item of equipment, or tire sold or offered for sale in the United States, the manufacturer shall report the determination to NHTSA. For purposes of this paragraph, this period is determined by reference to the general business practices of the office where the manufacturer receives such notification, the manufacturer’s international headquarters office (if involved), and the office reporting to NHTSA.

(b) Determination by a foreign government. Not later than 5 working days after a manufacturer receives written notification that a foreign government has determined that a safety recall or other safety campaign must be conducted in its country in the period between November 1, 2000 and November 12, 2002, and that has not reported such determination or notification of determination to NHTSA in a report that identified the model(s) and model year(s) of the vehicles, equipment, or tires that were the subject of the foreign recall or other safety campaign, the model(s) and model year(s) of the vehicles, equipment, or tires that were identical or substantially similar to the subject of the recall or campaign, as of November 12, 2002, shall report such determination or notification of determination to NHTSA

(c) One-time historical reporting. Not later than 30 calendar days after November 12, 2002, a manufacturer that has made a determination to conduct a recall or other safety campaign in a foreign country, or that has received written notification that a foreign government has determined that a safety recall or other safety campaign must be conducted in its country in the period between November 1, 2000 and November 12, 2002, and that has not reported such determination or notification of determination to NHTSA in a report that identified the model(s) and model year(s) of the vehicles, equipment, or tires that were identical or substantially similar to the subject of the recall or campaign, and the defect or other condition that led to the foreign recall or campaign, as of November 12, 2002, shall report such determination or notification of determination to NHTSA if the safety recall or other safety campaign covers a motor vehicle, item of motor vehicle equipment, or tire that is identical or substantially similar to a vehicle, item of equipment, or tire sold or offered for sale in the United States. However, a report need not be resubmitted under this paragraph if the original report identified the model(s) and model year(s) of the vehicles, equipment, or tires that were the subject of the foreign recall or other safety campaign, identified the model(s) and model year(s) of the identical or substantially similar products in the United States, and identified the defect or other condition that led to the foreign recall or other safety campaign.

(d) Exemptions from reporting. Notwithstanding paragraphs (a), (b), and (c) of this section a manufacturer need not report a foreign safety recall or other safety campaign to NHTSA if:
§ 579.21 Reporting requirements for manufacturers of 5,000 or more light vehicles annually.

For each reporting period, a manufacturer whose aggregate number of light vehicles manufactured for sale, sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported into the United States, during the calendar year of the reporting period or during each of the prior two calendar years is 5,000 or more shall submit the information described in this section. For paragraphs (a) and (c) of this section, the manufacturer shall submit information separately with respect to each make, model, and type of motor vehicle manufactured.
model, and model year of light vehicle manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) Production information. Information that states the manufacturer’s name, the quarterly reporting period, the make, the model, the model year, the type, the platform, and the production. The production shall be stated as either the cumulative production of the current model year to the end of the reporting period, or the total model year production for each model year for which production has ceased.

(b) Information on incidents involving death or injury. For all light vehicles manufactured during a model year covered by the reporting period and the nine model years prior to the earliest model year in the reporting period:

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

(2) For each incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model, model year, and VIN of the vehicle, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the vehicle that allegedly contributed to the incident, and whether the incident involved a fire or rollover, coded as follows: 01 steering system, 02 suspension system, 03 service brake system, 05 parking brake, 06 engine and engine cooling system, 07 power train, 11 electrical system, 12 exterior lighting, 13 visibility, 14 air bags, 15 seat belts, 16 structure, 17 latch, 18 vehicle speed control, 19 tires, 20 wheels, 22 seats, 23 fire, 24 rollover, 98 where a system or component not covered by categories 01 through 22 is specified in the claim or notice, and 99 where no system or component of the vehicle is specified in the claim or notice. If an incident involves more than one such code, each shall be reported separately in the report with a limit of five codes to be included.

(c) Numbers of property damage claims, consumer complaints, warranty claims, and field reports. Separate reports on the numbers of those property damage claims, consumer complaints, warranty claims, and field reports which involve the systems and components that are specified in codes 01 through 22 in paragraph (b)(2) of this section, or a fire (code 23), or rollover (code 24). Each such report shall state, separately by each such code, the number of such property damage claims, consumer complaints, warranty claims, field reports, respectively, that involves the systems or components or fire or rollover indicated by the code. If an underlying property damage claim, consumer complaint, warranty claim, or field report involves more than one such code, each shall be reported separately in the report with no limit on the number of codes to be included. No reporting is necessary if the system or component involved is not specified in such codes, and the incident did not involve a fire or rollover.

(d) Copies of field reports. For all light vehicles manufactured during a model year covered by the reporting period and the nine model years prior to the earliest model year in the reporting period, a copy of each field report (other than a dealer report or a product evaluation report) involving one or more of the systems or components identified in paragraph (b)(2) of this section, or...
§ 579.22 Reporting requirements for manufacturers of 100 or more buses, manufacturers of 500 or more emergency vehicles and manufacturers of 5,000 or more medium-heavy vehicles (other than buses and emergency vehicles) annually.

For each reporting period, a manufacturer whose aggregate number of buses manufactured for sale, sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported into the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 100 or more shall submit the information described in this section. For each reporting period, a manufacturer whose aggregate number of medium-heavy vehicles (a sum that does not include buses or emergency vehicles) manufactured for sale, sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported into the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 5,000 or more shall submit the information described in this section. For paragraphs (a) and (c) of this section, the manufacturer shall submit information separately with respect to each make, model, and model year of bus, emergency vehicle and/or medium-heavy vehicle manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) Production information. Information that states the manufacturer’s name, the quarterly reporting period, the make, the model, the model year, the type, and the production. The production shall be stated as either the cumulative production of the current model year to the end of the reporting period, or the total model year production for each model year for which production has ceased. For each model that is manufactured and available with more than one type of fuel system (i.e., gasoline, diesel, or other—including vehicles that can be operated using more than one type of fuel, such as gasoline and compressed natural gas), the information required by this subsection shall be reported by each of the three fuel system types. For each model that is manufactured and available with more than one type of service brake system (i.e., hydraulic or air), the information required by this subsection shall be reported by each of the two brake types. If the service brake system in a vehicle is not readily characterized as either hydraulic or air, the vehicle shall be considered to have hydraulic service brakes.
§579.22 Information on incidents involving death or injury. For all buses, emergency vehicles and medium heavy vehicles manufactured during a model year covered by the reporting period and the nine model years prior to the earliest model year in the reporting period:

1. A report on each incident involving one or more deaths or injuries occurring in the United States that is identified in a claim against and received by the manufacturer or in a notice received by the manufacturer which notice alleges or proves that the death or injury was caused by a possible defect in the manufacturer’s vehicle, together with each incident involving one or more deaths occurring in a foreign country that is identified in a claim against and received by the manufacturer involving the manufacturer’s vehicle, if that vehicle is identical or substantially similar to a vehicle that the manufacturer has offered for sale in the United States. The report shall be submitted as a report on medium-heavy vehicles and buses and organized such that incidents are reported alphabetically by make, within each make alphabetically by model, and within each model chronologically by model year;

2. For each incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model, model year, and VIN of the medium-heavy vehicle or bus, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the vehicle that allegedly contributed to the incident, and whether the incident involved a fire or rollover, coded as follows: 01 steering system, 02 suspension system, 03 service brake system, hydraulic, 04 service brake system, air, 05 parking brake, 06 engine and engine cooling system, 07 fuel system, gasoline, 08 fuel system, diesel, 09 fuel system, other, 10 power train, 11 electrical, 12 exterior lighting, 13 visibility, 14 air bags, 15 seat belts, 16 structure, 17 latch, 18 vehicle speed control, 19 tires, 20 wheels, 21 trailer hitch, 22 seats, 23 fire, 24 rollover, 98 where a system or component not covered by categories 01 through 22 is specified in the claim or notice, and 99 where no system or component of the vehicle is specified in the claim or notice. If an incident involves more than one such code, each shall be reported separately in the report with a limit of five codes to be included.

(c) Numbers of property damage claims, consumer complaints, warranty claims, and field reports. Separate reports on the numbers of those property damage claims, consumer complaints, warranty claims, and field reports which involve the systems and components that are specified in codes 01 through 22 in paragraph (b)(2) of this section, or a fire (code 23), or rollover (code 24). Each such report shall state, separately by each such code, the number of such property damage claims, consumer complaints, warranty claims, or field reports, respectively, that involves the systems or components or fire or rollover indicated by the code. If an underlying property damage claim, consumer complaint, warranty claim, or field report involves more than one such code, each shall be reported separately in the report with no limit on the number of codes to be included. No reporting is necessary if the system or component involved is not specified in such codes, and the incident did not involve a fire or rollover.

(d) Copies of field reports. For all medium heavy vehicles and buses manufactured during a model year covered by the reporting period and the nine model years prior to the earliest model year in the reporting period, a copy of each field report (other than a dealer report or a product evaluation report) involving one or more of the systems or components identified in paragraph (b)(2) of this section, or fire, or rollover, containing any assessment of an alleged failure, malfunction, lack of durability, or other performance problem of a motor vehicle or item of motor vehicle equipment (including any part thereof) that is originated by an employee or representative of the manufacturer and that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by make, within each make alphabetically by model, and within each model chronologically by model year. For purposes of this
paragraph, if a field report refers to more than one make or model of vehicle produced by a manufacturer on a particular platform, the manufacturer shall submit the report alphabetically by platform rather than by make or model. If such a field report refers to more than one platform, separate copies shall be submitted for each such platform. If a field report refers to more than one model year of a specified make/model or platform, the manufacturer shall submit it by the earliest model year to which it refers.


§ 579.23 Reporting requirements for manufacturers of 5,000 or more motorcycles annually.

For each reporting period, a manufacturer whose aggregate number of motorcycles manufactured for sale, sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported into the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 5,000 or more shall submit the information described in this section. For paragraphs (a) and (c) of this section, the manufacturer shall submit information separately with respect to each make, model, and model year of motorcycle manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) Production information. Information that states the manufacturer’s name, the quarterly reporting period, the make, the model, the model year, and the production. The production shall be stated as either the cumulative production of the current model year to the end of the reporting period, or the total model year production for each model year for which production has ceased.

(b) Information on incidents involving death or injury. For all motorcycles manufactured during a model year covered by the reporting period and the nine model years prior to the earliest model year in the reporting period:

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

(2) For each incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model, model year, and VIN of the motorcycle, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the motorcycle that allegedly contributed to the incident, and whether the incident involved a fire, coded as follows: 01 steering, 02 suspension, 03 service brake system, 06 engine and engine cooling, 07 fuel system, 10 power train, 11 electrical, 12 exterior lighting, 16 structure, 18 vehicle speed control, 19 tires, 20 wheels, 23 fire, 98 where a system or component not covered by categories 01 through 20 is specified in the claim or notice, and 99 where no system or component of the vehicle is specified in the claim or notice. If an incident involves more than one such code, each shall be reported separately in the report with a limit of five codes to be included.

(c) Numbers of property damage claims, consumer complaints, warranty claims, and field reports. Separate reports on the numbers of those property damage claims, consumer complaints, warranty claims, and field reports which involve
§ 579.24 Reporting requirements for manufacturers of 5,000 or more trailers annually.

For each reporting period, a manufacturer whose aggregate number of trailers manufactured for sale, sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported into the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 5,000 or more shall submit the information described in this section. For paragraphs (a) and (c) of this section, the manufacturer shall submit information with respect to each make, model and model year of trailer manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) Production information. Information that states the manufacturer’s name, the quarterly reporting period, the make, the model, the model year, the type, and the production. The production shall be stated as either the cumulative production of the current model year to the end of the reporting period, or the total model year production for each model year for which production has ceased. For each model that is manufactured and available with more than one type of service brake system (i.e., hydraulic and air), the information required by this subsection shall be reported by each of the two brake types (i.e., “H” for hydraulic, “A” for air). If the service brake system in a trailer is not readily characterized as either hydraulic or air, the trailer shall be considered to have hydraulic service brakes. If a model has no brake system, it shall be reported as “N” for none.

(b) Information on incidents involving death or injury. For all trailers manufactured during a model year covered by the reporting period and the nine model years prior to the earliest model year in the reporting period:

submit it by the earliest model year to which it refers.
(1) A report on each incident involving one or more deaths or injuries occurring in the United States that is identified in a claim against and received by the manufacturer or in a notice received by the manufacturer which notice alleges or proves that the death or injury was caused by a possible defect in the manufacturer’s trailer, together with each incident involving one or more deaths occurring in a foreign country that is identified in a claim against and received by the manufacturer involving the manufacturer’s trailer, if that trailer is identical or substantially similar to a trailer that the manufacturer has offered for sale in the United States. The report shall be submitted as a report on trailers and organized such that incidents are reported alphabetically by make, with each make alphabetically by model, and within each model chronologically by model year.

(2) For each incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model, model year, and VIN of the trailer, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the trailer that allegedly contributed to the incident, and whether the incident involved a fire, coded as follows: 02 suspension, 03 service brake system, hydraulic, 04 service brake system, air, 05 parking brake, 11 electrical, 12 exterior lighting, 16 structure, 17 latch, 19 tires, 20 wheels, 21 trailer hitch, 23 fire, 98 where a system or component not covered by categories 02 through 21 is specified in the claim or notice, and 99 where no system or component of the trailer is specified in the claim or notice. If an incident involves more than one such code, each shall be reported separately in the report with a limit of five codes to be included.

(c) Numbers of property damage claims, consumer complaints, warranty claims, and field reports. Separate reports on the numbers of those property damage claims, consumer complaints, warranty claims, and field reports which involve the systems and components that are specified in codes 02 through 21 in paragraph (b)(2) of this section, or a fire (code 23). Each such report shall state, separately by each such code, the number of such property damage claims, consumer complaints, warranty claims, or field reports, respectively, that involves the systems or components or fire indicated by the code. If an underlying property damage claim, consumer complaint, warranty claim, or field report involves more than one such code, each shall be reported separately in the report with no limit on the number of codes to be included. No reporting is necessary if the system or component involved is not specified in such codes, and the incident did not involve a fire.

(d) Copies of field reports. For all trailers manufactured during a model year covered by the reporting period and the nine model years prior to the earliest model year in the reporting period, a copy of each field report (other than a dealer report or a product evaluation report) involving one or more of the systems or components identified in paragraph (b)(2) of this section or fire, containing any assessment of an alleged failure, malfunction, lack of durability, or other performance problem of a trailer or item of motor vehicle equipment (including any part thereof) that is originated by an employee or representative of the manufacturer and that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by make, within each make alphabetically by model, and within each model chronologically by model year. For purposes of this paragraph, if a field report refers to more than one make or model of trailer produced by a manufacturer on a particular platform, the manufacturer shall submit the report alphabetically by platform rather than by make or model. If such a field report refers to more than one platform, separate copies shall be submitted for each such platform. If a field report refers to more than one model year of a specified make/model or platform, the manufacturer shall submit it by the earliest model year to which it refers.

§ 579.25 Reporting requirements for manufacturers of child restraint systems.

For each reporting period, a manufacturer who has manufactured for sale, sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported child restraint systems into the United States, shall submit the information described in this section. For paragraphs (a) and (c) of this section, if any consumer complaints or warranty claims regarding a model of child restraint system do not specify the production year of the system, the manufacturer shall submit information for “unknown” production year in addition to the up-to-five production years for which the manufacturer must otherwise report the number of such consumer complaints/warranty claims.

(a) Production information. Information that states the manufacturer’s name, the quarterly reporting period, the make, the model, the production year, the type, and the production. The production shall be stated as either the cumulative production of the current model year to the end of the reporting period, or the total calendar year production for each calendar year for which production has ceased.

(b) Information on incidents involving death or injury. For all child restraint systems manufactured during a production year covered by the reporting period and the four production years prior to the earliest production year in the reporting period:

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

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model, and production year of the child restraint system, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, and each system or component of the child restraint system that allegedly contributed to the incident, coded as follows: 51 buckle and restraint harness, 52 seat shell, 53 handle, 54 base, 98 where a system or component not covered by categories 51 through 54 is specified in the claim or notice, and 99 where no system or component of the child restraint system is specified in the claim or notice. If an incident involves more than one such code, each shall be reported separately in the report. If the production year of the child restraint system is unknown, the manufacturer shall specify the number “9999” in the field for production year.

(c) Numbers of consumer complaints and warranty claims, and field reports. Separate reports on the numbers of those consumer complaints and warranty claims, and field reports, which involve the systems and components that are specified in codes 51 through 54 in paragraph (b)(2) of this section. Each such report shall state, separately by each such code, the number of such consumer complaints and warranty claims, or field reports, respectively, that involves the systems or components indicated by the code. If an underlying consumer complaint and
warranty claim, or field report, involves more than one such code, each shall be counted separately in the report with no limit on the number of codes to be included. No reporting is necessary if the system or component involved is not specified in such codes.

(d) Copies of field reports. For all child restraint systems manufactured during a production year covered by the reporting period and the four production years prior to the earliest production year in the reporting period, a copy of each field report (other than a dealer report or a product evaluation report) involving one or more of the systems or components identified in paragraph (b)(2) of this section, containing any assessment of an alleged failure, malfunction, lack of durability, or other performance problem of a child restraint system (including any part thereof) that is originated by an employee or representative of the manufacturer and that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by make, within each make alphabetically by model, and within each model chronologically by production year. For purposes of this paragraph, if a field report refers to more than one make or model of child restraint system produced by a manufacturer, the manufacturer shall submit the report under the first such model in alphabetical order. If a field report refers to more than one production year of a specified make/model, the manufacturer shall submit it by the earliest production year to which it refers.


§ 579.26 Reporting requirements for manufacturers of tires.

For each reporting period, a manufacturer (including a brand name owner) who has manufactured for sale, sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported tires in the United States shall submit the information described in this section. For purposes of this section, an importer of motor vehicles for resale is deemed to be the manufacturer of the tires on and in the vehicle at the time of its importation if the manufacturer of the tires is not required to report under this section. For paragraphs (a) and (c) of this section, the manufacturer shall submit information separately with respect to each tire line, size, SKU, plant where manufactured, and model year of tire manufactured during the reporting period and the four calendar years prior to the reporting period, including tire lines no longer in production. For each group of tires with the same SKU, plant where manufactured, and year for which the volume produced or imported is less than 15,000, or are deep tread, winter-type snow tires, space-saver or temporary use spare tires, tires with nominal rim diameters of 12 inches or less, or are not passenger car tires, light truck tires, or motorcycle tires, the manufacturer need only report information on incidents involving a death or injury, as specified in paragraph (b) of this section. For purposes of this section, the two-character DOT alphanumeric code for production plants located in the United States assigned by NHTSA in accordance with §§574.5(a) and 574.6(b) of this chapter may be used to identify “plant where manufactured.” If the production plant is located outside the United States, the full plant name must be provided.

(a) Production information. Information that states the manufacturer’s name, the quarterly reporting period, the tire line, the tire size, the tire type code, the SKU, the plant where manufactured, whether the tire is approved for use as original equipment on a motor vehicle, if so, the make, model, and model year of each vehicle for which it is approved, the production year, the cumulative warranty production, and the cumulative total production through the end of the reporting period. If the manufacturer knows that a particular group of tires is not used as original equipment on a motor vehicle, it shall state “N” in the appropriate field, and if the manufacturer is not certain, it shall state “U” in that field.

(b) Information on incidents involving death or injury. For all tires manufactured during a production year covered by the reporting period and the four production years prior to the earliest
§ 579.27 Reporting requirements for manufacturers of fewer than 100 buses annually, for manufacturers of fewer than 500 emergency vehicles annually, for manufacturers of fewer than 5,000 light vehicles, medium-heavy vehicles (other than buses and emergency vehicles), motorcycles or trailers annually, for manufacturers of original equipment, and for manufacturers of replacement equipment other than child restraint systems and tires.

(a) Applicability. This section applies to all manufacturers of vehicles with respect to vehicles that are not covered by reports on light vehicles, medium-heavy vehicles and buses, motorcycles, or trailers submitted pursuant to §§579.21 through 579.24 of this part, to all manufacturers of original equipment, to all manufacturers of replacement equipment other than manufacturers of tires and child restraint systems, and to registered importers registered under 49 U.S.C. 30141(c).

(b) Information on incidents involving deaths. For each reporting period, a manufacturer to which this section applies shall submit a report, pertaining to vehicles and/or equipment manufactured or sold during the calendar year of the reporting period and the nine calendar years prior to the reporting period (four calendar years for equipment), including models no longer in production year in the reporting period:

(1) A report on each incident involving one or more deaths or injuries occurring in the United States that is identified in a claim against and received by the manufacturer or in a notice received by the manufacturer which notice alleges or proves that the death or injury was caused by a possible defect in the manufacturer’s tire, together with each incident involving one or more deaths occurring in a foreign country that is identified in a claim against and received by the manufacturer involving the manufacturer’s tire, if that tire is identical or substantially similar to a tire that the manufacturer has offered for sale in the United States. The report shall be submitted as a report on tires and organized such that incidents are reported alphabetically by tire line, within each tire line by tire size, and within each tire size chronologically by production year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the tire line, size, and production year of the tire, the TIN, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, the make, model, and model year of the vehicle on which the tire was installed, and each component of the tire that allegedly contributed to the incident, coded as follows: 71 tread, 72 sidewall, 73 bead, 98 where a component not covered by categories 71 through 73 is specified in the claim or notice, and 99 where no component of the tire is specified in the claim or notice. If an incident involves more than one such code, each shall be reported separately in the report.

(c) Numbers of property damage claims and warranty adjustments. Separate reports on the numbers of those property damage claims and warranty adjustments which involve the components that are specified in codes 71 through 73, and 98, in paragraph (b)(2) of this section. Each such report shall state, separately by each such code, the numbers of such property damage claims and warranty adjustments, respectively, that involve the components indicated by the code. If an underlying property damage claim or warranty adjustment involves more than one such code, each shall be reported separately in the report with no limit on the number of codes to be included. No reporting is necessary if the system or component involved is not specified in such codes, or if the TIN is not specified in any property damage claim.

(d) Common green tire reporting. With each quarterly report, each manufacturer of tires shall provide NHTSA with a list of common green tires. For each specific common green tire grouping, the list shall provide all relevant tire lines, tire type codes, SKU numbers, brand names, and brand name owners.

production, on each incident involving one or more deaths occurring in the
United States that is identified in a
claim against and received by the man-
ufacturer or in a notice received by the
manufacturer which notice alleges or
proves that the death was caused by a
possible defect in the manufacturer’s
vehicle or equipment, together with
each incident involving one or more
deaths occurring in a foreign coun-
ty that is identified in a claim against
and received by the manufacturer in-
volving the manufacturer’s vehicle or
equipment, if it is identical or substan-
tially similar to a vehicle or item of
equipment that the manufacturer has
offered for sale in the United States.
The report shall be organized such that
incidents are reported alphabetically
by make, within each make alphabetically
by model, and within each model
chronologically by model year. If a
manufacturer has not received such a
claim or notice during a reporting pe-
riod, the manufacturer need not submit
a report to NHTSA for that reporting
period.

(c) For each incident described in
paragraph (b) of this section, the man-
ufacturer shall separately report the
make, model, and model year of the ve-
hicle or equipment, the VIN (for vehi-
cles only), the incident date, the num-
ber of deaths, the number of injuries
for incidents occurring in the United
States, the State or foreign country
where the incident occurred, each sys-
tem or component of the vehicle or
equipment that allegedly contributed
to the incident, and whether the inci-
dent involved a fire or rollover, as fol-
loows:

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

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

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

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

(5) For original and replacement
equipment, a written identification of
each component of the equipment that
was allegedly involved, and whether
there was a fire, in the manufacturer’s
own words.

(6) For original and replacement
equipment, if the production year of
the equipment is unknown, the man-
ufacturer shall specify the number
“9999” in the field for model or produc-
tion year.

[67 FR 45873, July 10, 2002, as amended at 68
FR 18143, Apr. 15, 2003; 68 FR 35144, June 11,
2003; 74 FR 47758, Sept. 17, 2009)

§579.28 Due date of reports and other
miscellaneous provisions.

(a) Initial submission of reports. Except
as provided in paragraph (n) of this sec-
tion, 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 pro-
vided in subsection (n) of this section,
each manufacturer of motor vehicles
and motor vehicle equipment shall sub-
mit each report that is required by this
subpart not later than 60 days after the
last day of the reporting period. Except
as provided in §579.27(b), if a manufac-
turer has not received any of the cat-
gories of information or documents
during a quarter for which it is re-
quired to report pursuant to §§579.21
through 579.26, the manufacturer’s re-
port must indicate that no relevant in-
formation 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.

(c) One-time reporting of historical
information. (1) No later than January
15, 2004:

(1) Each manufacturer of vehicles
covered by §§579.21 through 579.24 of
this part shall file separate reports pro-
viding information on the numbers of
warranty claims recorded in the manu-
facturer’s warranty system, and field
reports, that it received in each cal-
endar quarter from July 1, 2000, to June
30, 2003, for vehicles manufactured in

255
§ 579.28

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.

(2) Each report filed under paragraph (c)(1) of this section shall include production data, as specified in paragraph (a) of §579.21 through §579.26 of this part and shall identify the alleged system or component covered by warranty claim, warranty adjustment, or field report as specified in paragraph (c) of §579.21 through §579.26 of this part.

(d) Minimal specificity. A claim or notice involving death, a claim or notice involving injury, a claim involving property damage, a consumer complaint, a warranty claim or warranty adjustment, or a field report need not be reported if it does not identify the vehicle or equipment with minimal specificity. If a manufacturer initially receives a claim, notice, complaint, warranty claim, warranty adjustment, or field report in which the vehicle or equipment is not identified with minimal specificity and subsequently obtains information that provides the requisite information needed to identify the product with minimal specificity, the claim, etc. shall be deemed to have been received when the additional information is received. If a manufacturer receives a claim or notice involving death or injury in which the vehicle or equipment is not identified with minimal specificity and the matter is being handled by legal counsel retained by the manufacturer, the manufacturer shall attempt to obtain the missing minimal specificity information from such counsel.

(e) Claims received by registered agents. A claim received by any registered agent of a manufacturer under the laws of any State, or the agent that any manufacturer offering motor vehicles or motor vehicle equipment for import has designated pursuant to 49 U.S.C. 30164(a), shall be deemed received by the manufacturer.

(f) Updating of information required in reports. (1) Except as specified in this subsection, a manufacturer need not update its reports under this subpart.

(2) With respect to each report of an incident submitted under paragraph (b) of §§579.21 through §579.26 of this part:

(i) If a vehicle manufacturer is not aware of the VIN, or a tire manufacturer is not aware of the TIN, at the time the incident is initially reported, the manufacturer shall submit an updated report of such incident in its report covering the reporting period in which the VIN or TIN is identified. A manufacturer need not submit an updated report if the VIN or TIN is identified by the manufacturer in a reporting period that is more than one year later than the initial report to NHTSA.

(ii) If a manufacturer indicated code 99 in its report because a system or component had not been identified in the claim or notice that led to the report, and the manufacturer becomes aware during a subsequent calendar quarter that one or more of the specified systems or components allegedly contributed to the incident, the manufacturer shall submit an updated report of such incident in its report covering the reporting period in which the involved specified system(s) or component(s) is(are) identified. A manufacturer need not submit an updated report if the system(s) or component(s) is(are) identified by the manufacturer in a reporting period that is more than one year later than the initial report to NHTSA.

(iii) If one or more systems or components is identified in a manufacturer’s report of an incident, the manufacturer need not submit an updated report to

D-48
§ 579.29 Manner of reporting.

(a) Submission of reports. (1) Except as provided in this paragraph, each report required under paragraphs (a) through (c) of §§579.21 through 579.26 of this part must be submitted to NHTSA’s early warning data repository identified on NHTSA’s Internet homepage (www.nhtsa.dot.gov). A manufacturer must use templates provided at the early warning website, also identified on NHTSA’s homepage, for submitting reports. For data files smaller than the size limit of the Internet e-mail server of the Department of Transportation, a manufacturer may submit a report as an attachment to an e-mail message toodi.evr@nhtsa.dot.gov, using the same templates.

(2) Each report required under §579.27 of this part may be submitted to NHTSA’s early warning data repository as specified in paragraph (a)(1) of

reflect additional systems or components allegedly involved in the incident that it becomes aware of in a subsequent reporting period.

(iv) If the report is of an incident involving an injury and an injured person dies after a manufacturer has reported the injury to NHTSA, the manufacturer need not submit an updated report to NHTSA reflecting that death.

(g) When a report involving a death is not required. A report on incident(s) involving one or more deaths occurring in a foreign country that is identified in claim(s) against a manufacturer of motor vehicles or motor vehicle equipment involving a vehicle or equipment that is identical or substantially similar to equipment that the manufacturer has offered for sale in the United States need not be furnished if the claim specifically alleges that the death was caused by a possible defect in a component other than one that is common to the vehicle or equipment that the manufacturer has offered for sale in the United States.

(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.

(i) Reporting on behalf of other manufacturers. Whenever a fabricating manufacturer or importer submits a report on behalf of one or more other manufacturers (including a brand name owner), as authorized under §579.3(b) of this part, the submitting manufacturer must identify each such other manufacturer. Whenever a brand name owner submits a report on its own behalf, it must identify the fabricating manufacturer of each separate product on which it is reporting.

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

(k) Claims of confidentiality. If a manufacturer claims that any of the information, data, or documents that it submits is entitled to confidential treatment, it must make such claim in accordance with part 512 of this chapter.

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

(m) Use of the plural. As used in this part, the plural includes the singular and the singular includes the plural to bring within the scope of reporting that which might otherwise be construed to be without the scope.

§ 579.29 Manner of reporting.

(a) Submission of reports. (1) Except as provided in this paragraph, each report required under paragraphs (a) through (c) of §§579.21 through 579.26 of this part must be submitted to NHTSA's early warning data repository identified on NHTSA's Internet homepage (www.nhtsa.dot.gov). A manufacturer must use templates provided at the early warning website, also identified on NHTSA's homepage, for submitting reports. For data files smaller than the size limit of the Internet e-mail server of the Department of Transportation, a manufacturer may submit a report as an attachment to an e-mail message toodi.evr@nhtsa.dot.gov, using the same templates.

(2) Each report required under §579.27 of this part may be submitted to NHTSA's early warning data repository as specified in paragraph (a)(1) of

this section or by manually filling out an interactive form on NHTSA’s early warning website.

(3) For each report required under paragraphs (a) through (c) of §§579.21 through 579.26 of this part and submitted in the manner provided in paragraph (a)(1) of this section, a manufacturer must state the make, model and model year of each motor vehicle or item of motor vehicle equipment in terms that are identical to the statement of the make, model, model year of each motor vehicle or item of motor vehicle equipment provided in the manufacturer’s previous report.

(b) Submission of documents. A copy of each document required under paragraph (d) of §§579.21 through 579.26 of this part may be submitted in digital form using a graphic compression protocol, approved by NHTSA, to the NHTSA data repository, or as an attachment to an e-mail message, as specified in paragraph (a)(1) of this section. Any digital image provided by a manufacturer shall be not less than 200 or more than 300 dpi (dots per inch) resolution. Such documents may also be submitted in paper form. 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.

(c) Designation of manufacturer contacts. Not later than 30 days prior to the date of its first quarterly submission, each manufacturer must provide the names, office telephone numbers, postal and street mailing addresses, and electronic mail addresses of two employees (one primary and one backup) whom NHTSA may contact for resolving issues that may arise concerning the submission of information and documents required by this part.

(d) Manufacturer reporting identification and password. Not later than 30 days prior to the date of its first quarterly submission, each manufacturer must request a manufacturer identification number and a password.

(e) Graphic compression protocol. Not later than 30 days prior to the date of its first quarterly submission, each manufacturer which wishes to submit a copy of a document in digital form, as provided in paragraph (b) of this section, must obtain approval from NHTSA for the use of such protocol.

(f) Information and requests submitted under paragraphs (c), (d), and (e) of this section shall be provided in writing to the Director, Office of Defects Investigation, NHTSA, Attention: Early Warning Division (NVS–217), 1200 New Jersey Avenue, SE., Washington, DC 20590.


PART 580—ODOMETER DISCLOSURE REQUIREMENTS

Sec.
580.1 Scope.
580.2 Purpose.
580.3 Definitions.
580.4 Security of title documents and power of attorney forms.
580.5 Disclosure of odometer information.
580.6 [Reserved]
580.7 Disclosure of odometer information for leased motor vehicles.
580.8 Odometer disclosure statement retention.
580.9 Odometer record retention for auction companies.
580.10 Application for assistance.
580.11 Petition for approval of alternate disclosure requirements.
580.12 Petition for extension of time.
580.13 Disclosure of odometer information by power of attorney.
580.14 Power of attorney to review title documents and acknowledge disclosure.
580.15 Certification by person exercising powers of attorney.
580.16 Access of transferee to prior title and power of attorney documents.
580.17 Exemptions.

APPENDIX A TO PART 580—SECURE PRINTING PROCESSES AND OTHER SECURE PROCESSES

APPENDIX B TO PART 580—DISCLOSURE FORM FOR TITLE

APPENDIX C TO PART 580—SEPARATE DISCLOSURE FORM

APPENDIX D TO PART 580—DISCLOSURE FORM FOR LEASED VEHICLES

APPENDIX E TO PART 580—POWER OF ATTORNEY DISCLOSURE FORM

AUTHORITY: 49 U.S.C. 32705; delegation of authority at 49 CFR 1.50(f) and 501.8(e)(1).

SOURCE: 53 FR 28476, Aug. 5, 1988, unless otherwise noted.
Appendix E

Acronyms
ACRONYMS

C.F.R. – Code of Federal Regulations
DOJ – U.S. Department of Justice
EWR – Early Warning Reporting
FMVSS – Federal Motor Vehicle Safety Standards
NATM – National Association of Trailer Manufacturers
NHTSA – National Highway Traffic Safety Administration
Pub. L. No. – Public Law Number
Stat. – Statute
TREAD Act – Transportation Recall Enhancement, Accountability, and Documentation Act
TSBs – Technical Service Bulletins
National Association of Trailer Manufacturers
2420 SW 17th Street, Topeka, KS 66604
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