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# Regulations Amending Certain Regulations Made Under the Motor Vehicle Safety Act (Notice of Defect and Notice of Non-compliance): SOR/2019-253

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MOTOR VEHICLE SAFETY ACT

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Her Excellency the Governor General in Council, on the recommendation of the Minister of Transport, pursuant to subsection 11(1) <sup>a</sup> of the *Motor Vehicle Safety Act* <sup>b</sup>, makes the annexed *Regulations Amending Certain Regulations Made Under the Motor Vehicle Safety Act (Notice of Defect and Notice of Non-compliance)*.

## Regulations Amending Certain Regulations Made Under the Motor Vehicle Safety Act (Notice of Defect and Notice of Non-compliance)

### Amendments

#### Motor Vehicle Safety Regulations

**1 Subsection 10(1) of the *Motor Vehicle Safety Regulations* <sup>1</sup> is replaced by the following:**

**10 (1)** A company shall maintain — for each vehicle to which it applies the national safety mark or that it imports into Canada — the records referred to in paragraph 5(1)(g) of the Act and retain those records, in paper form or in readily readable electronic form, for a period of at least five years after the day on which the vehicle is manufactured or imported.

**2 Section 15 of the Regulations and the heading before it are replaced by the following:**

#### Notice of Defect

**15 (1)** For the purposes of subsection 10(1) of the Act, a person, other than the first retail purchaser, who obtained a vehicle from a company is a prescribed person.

**(2)** A notice of defect that is required to be given under subsection 10(1) of the Act shall be in writing, in either paper or electronic form, and

(a) in the case of a notice given to the Minister, be in either official language; and

(b) in the case of a notice given to the vehicle's current owner or a prescribed person

(i) be in the person's official language of choice, if it is known, or

(ii) be in both official languages.

**(3)** A company shall give the notice of defect to the vehicle's current owner and to the prescribed person as soon as feasible, but not later than 60 days after the day on which the company gives the notice of defect to the Minister.

- (4)** The notice of defect that is given to the Minister shall contain the following information:
- (a)** the company's name and its contact information for the purpose of correspondence;
  - (b)** the number, title or other identification that is assigned by the company to the notice;
  - (c)** for each vehicle that may contain the defect, its prescribed class, make, model and model year and any other information that is necessary to permit its identification;
  - (d)** the period during which the vehicles were manufactured;
  - (e)** the estimated number of vehicles that could potentially contain the defect;
  - (f)** the estimated percentage of the vehicles referred to in paragraph (e) that contain the defect;
  - (g)** a description of the nature of the defect, including the causes and contributing factors, if known, and a description of the location of the defect;
  - (h)** the vehicle systems or components that may be affected by the defect;
  - (i)** a chronology of the principal events that led to the determination of the existence of the defect;
  - (j)** all relevant information, including a summary of warranty claims, field reports and service reports, with their dates of receipt, that the company used to determine the existence of the defect;
  - (k)** a description of the safety risk to persons arising from the defect;
  - (l)** a description of the corrective measures to be taken in respect of the defect and how they are to be implemented;
  - (m)** any precautions that may be taken to minimize the safety risk until the corrective measures are implemented; and
  - (n)** the estimated date on which the notice of defect will be sent to the vehicle's current owner and the estimated date on which the notice of defect will be sent to a prescribed person.
- (5)** The company is not required to provide the Minister with the information referred to in paragraphs (4)(i), (j), (l) and (m) if it is not available on the day on which the notice is given but shall provide that information as soon as it is available.
- (6)** A notice of defect that is given to the vehicle's current owner shall contain the following information:
- (a)** the company's name;
  - (b)** the make, model, model year and the vehicle identification number;
  - (c)** the following statements:
    - (i)** "This notice is sent to you in accordance with the requirements of the *Motor Vehicle Safety Act*," and
    - (ii)** "This is to inform you that your vehicle may contain a defect that could affect the safety of a person.";
  - (d)** the number, title or other identification that is assigned by the company to the notice;
  - (e)** the motor vehicle safety recall number that is issued by the Department of Transport;
  - (f)** a description of the nature of the defect, including the causes, and a description of the location of the defect;
  - (g)** the vehicle systems or components that may be affected by the defect;
  - (h)** operating conditions or other factors that may cause a malfunction of the vehicle system or component;
  - (i)** the warning signs, if any, of any malfunction that could arise as a result of the defect;
  - (j)** a description of the safety risk to persons arising from the defect;
  - (k)** a statement that the defect could cause a crash, if applicable;
  - (l)** if the defect is not likely to cause a crash, the type of injury that may result from the defect;
  - (m)** a description of the corrective measures to be taken in respect of the defect and how they are to be implemented, including
    - (i)** a general description of the work involved,
    - (ii)** the estimated time required in order to take the corrective measures,

- (iii) a statement that the company will cover the costs of the corrective measures or an estimate of the cost of the corrective measures to the vehicle's current owner, and
  - (iv) information identifying the persons who can implement the corrective measures;
  - (n) any precautions that may be taken to minimize the safety risk until the corrective measures are implemented; and
  - (o) a statement indicating that if the vehicle's current owner has leased the vehicle, the owner shall send to the lessee a copy of the notice and any subsequent notice within 10 working days after the day on which the notice is received.
- (7) The company is not required to provide to the current owner the information referred to in paragraph (6)(m) if it is not available on the day on which the notice is given but shall provide that information
  - (a) as soon as it is available; or
  - (b) at the same time as the company provides the information required under subsection 10.4(1) of the Act.
- (8) The words "SAFETY", "RECALL", "RAPPEL" and "SÉCURITÉ" are required to be clearly visible
  - (a) on the envelope, or through a window of the envelope, in upper case and in a font size that is larger than the one used for the recipient's address, if the notice of defect is given to the current owner in paper form; or
  - (b) in the subject line of the communication, in upper case, if the notice of defect is given to the current owner in electronic form.
- (9) A notice of defect that is given to a prescribed person shall contain the following information:
  - (a) the company's name;
  - (b) for each vehicle that may contain the defect, its make, model, model year and vehicle identification number and any other information that is necessary to permit its identification;
  - (c) the number, title or other identification that is assigned by the company to the notice;
  - (d) a description of the nature of the defect, including the causes, and a description of the location of the defect;
  - (e) operating conditions or other factors that may cause a malfunction of the vehicle system or component;
  - (f) a description of the safety risk to persons arising from the defect;
  - (g) a description of the corrective measures to be taken in respect of the defect and how they are to be implemented; and
  - (h) any precautions that may be taken to minimize the safety risk until the corrective measures are implemented.
- (10) The company is not required to provide to the prescribed person the vehicle identification number required under paragraph 9(b) if that vehicle identification number is published on the company's website with the number, title or other identification that is assigned by the company to the associated notice of defect.
- (11) The company is not required to provide to the prescribed person the information referred to in paragraph (9)(g) if it is not available on the day on which the notice is given but shall provide that information as soon as it is available.

## Notice of Non-compliance

- 15.01 (1)** For the purposes of subsection 10.1(1) of the Act, a person, other than the first retail purchaser, who obtained a vehicle from a company is a prescribed person.
- (2) A notice of non-compliance that is required to be given under subsection 10.1(1) of the Act shall be in writing, in either paper or electronic form, and
- (a) in the case of a notice given to the Minister, be in either official language; and
  - (b) in the case of a notice given to the vehicle's current owner or a prescribed person,
    - (i) be in the person's official language of choice, if it is known, or
    - (ii) be in both official languages.

**(3)** Unless the notice of non-compliance contains a statement under subparagraph (4)(j)(i), a company shall give the notice of non-compliance to the vehicle's current owner and to the prescribed person as soon as feasible, but not later than 60 days after the day on which the company gives the notice of non-compliance to the Minister.

**(3.1)** If the notice of non-compliance contains a statement under subparagraph (4)(j)(i) and the Minister advises the company that the Minister has determined that the non-compliance is not inconsequential to safety, the company shall give the notice of non-compliance to the vehicle's current owner and to the prescribed person as soon as feasible after the day on which the company receives the Minister's determination, but not later than 60 days after that day.

**(4)** A notice of non-compliance that is given to the Minister shall contain the following information:

- (a)** the company's name and its contact information for the purpose of correspondence;
- (b)** the number, title or other identification that is assigned by the company to the notice;
- (c)** for each vehicle that may be non-compliant, its prescribed class, make, model and model year and any other information that is necessary to permit its identification;
- (d)** the period during which the vehicles were manufactured;
- (e)** the estimated number of vehicles that could potentially be non-compliant;
- (f)** the estimated percentage of the vehicles referred to in paragraph (e) that are non-compliant;
- (g)** a description of the non-compliance, including the applicable regulatory requirement, and the causes and contributing factors, if known;
- (h)** the vehicle systems or components that may be affected by the non-compliance;
- (i)** a chronology of the principal events that led to the determination of the non-compliance, including the test results, observations, inspections and any other relevant information;
- (j)** as the case may be,
  - (i)** a statement that the non-compliance is inconsequential to safety, including detailed information in support of the statement, or
  - (ii)** a description of the safety risk to persons arising from the non-compliance;
- (k)** a description of the corrective measures to be taken in respect of the non-compliance and how they are to be implemented;
- (l)** any precautions that may be taken to minimize the safety risk until the corrective measures are implemented; and
- (m)** the estimated date on which the notice of non-compliance will be sent to the vehicle's current owner and the estimated date on which the notice of non-compliance will be sent to a prescribed person.

**(5)** The company is not required to provide the Minister with the information referred to in paragraphs (4)(i), (k) and (l) if it is not available on the day on which the notice is given but shall provide that information as soon as it is available.

**(5.1)** The company is not required to provide the Minister with the information referred to in paragraph (4)(m) if the notice of non-compliance contains a statement under subparagraph (4)(j)(i), but if the Minister advises the company that the Minister has determined that the non-compliance is not inconsequential to safety, the company shall provide that information within five working days after the day on which the company receives the Minister's determination.

**(6)** A notice of non-compliance that is given to the vehicle's current owner shall contain the following information:

- (a)** the company's name;
- (b)** the make, model, model year and the vehicle identification number;
- (c)** the following statements:
  - (i)** "This notice is sent to you in accordance with the requirements of the *Motor Vehicle Safety Act*," and
  - (ii)** "This is to inform you that your vehicle may be non-compliant with the requirements of the *Motor Vehicle Safety Regulations* and that the non-compliance could affect the safety of a person.";

- (d) the number, title or other identification that is assigned by the company to the notice;
  - (e) the motor vehicle safety recall number that is issued by the Department of Transport;
  - (f) a description of the non-compliance, including the causes;
  - (g) the vehicle systems or components that may be affected by the non-compliance;
  - (h) operating conditions or other factors that may cause a malfunction of the vehicle system or component;
  - (i) the warning signs, if any, of the malfunction that could arise as a result of the non-compliance;
  - (j) a description of the safety risk to persons arising from the non-compliance, if any;
  - (k) a statement that the non-compliance could cause a crash, if applicable;
  - (l) if the non-compliance is not likely to cause a crash, the type of injury that may result from the non-compliance;
  - (m) a description of the corrective measures to be taken in respect of the non-compliance and how they are to be implemented, including,
    - (i) a general description of the work involved,
    - (ii) the estimated time required in order to take the corrective measures,
    - (iii) a statement that the company will cover the costs of the corrective measures or an estimate of the cost of the corrective measures to the vehicle's current owner, and
    - (iv) information identifying the persons who can implement the corrective measures;
  - (n) any precautions that may be taken to minimize the safety risk until the corrective measures are implemented; and
  - (o) a statement indicating that if the vehicle's current owner has leased the vehicle, the owner shall send to the lessee a copy of the notice and any subsequent notice within 10 working days after the day on which the notice is received.
- (7) The company is not required to provide to the current owner the information referred to in paragraph (6)(m) if it is not available on the day on which the notice is given but shall provide that information
- (a) as soon as it is available; or
  - (b) at the same time as the company provides the information required under subsection 10.4(1) of the Act.
- (8) The words "SAFETY", "RECALL", "RAPPEL" and "SÉCURITÉ" are required to be clearly visible
- (a) on the envelope, or through a window of the envelope, in upper case and in a font size that is larger than the one used for the recipient's address, if the notice of non-compliance is given to the current owner in paper form; or
  - (b) in the subject line of the communication, in upper case, if the notice of non-compliance is given to the current owner in electronic form.
- (9) A notice of non-compliance that is given to a prescribed person shall contain the following information:
- (a) the company's name;
  - (b) for each vehicle that may be non-compliant, its make, model, model year and vehicle identification number and any other information that is necessary to permit its identification;
  - (c) the number, title or other identification that is assigned by the company to the notice;
  - (d) a description of the non-compliance, including the causes;
  - (e) operating conditions or other factors that may cause a malfunction of the vehicle system or component;
  - (f) a description of the safety risk to persons arising from the non-compliance, if any;
  - (g) a description of the corrective measures to be taken in respect of the non-compliance and how they are to be implemented; and
  - (h) any precautions that may be taken to minimize the safety risk until the corrective measures are implemented.

**(10)** The company is not required to provide to the prescribed person the vehicle identification number required under paragraph 9(b) if that vehicle identification number is published on the company's website with the number, title or other identification that is assigned by the company to the associated notice of non-compliance.

**(11)** The company is not required to provide to the prescribed person the information referred to in paragraph (9)(g) if it is not available on the day on which the notice is given but shall provide that information as soon as it is available.

## Reports

**15.02 (1)** Within five working days after the day on which a company begins sending a notice of defect or non-compliance to current owners, the company shall provide to the Minister a report containing

- (a)** a copy of the notice;
- (b)** a sample of the envelope used to mail the notice;
- (c)** the date on which the company began sending notices;
- (d)** the day on which the company finished, or expects to finish, sending the notices;
- (e)** the number of vehicles that are subject to the notice; and
- (f)** the vehicle identification number for each vehicle that may contain the defect or may be non-compliant, unless that information is provided to the Minister under paragraph (3)(a) or is published in accordance with subsection 15(10) or 15.01(10).

**(2)** Despite paragraph (1)(b), a company is not required to provide a sample of the envelope if it uses an envelope that has previously been provided as a sample to the Minister and the report includes the date on which the sample was provided.

**(3)** Within five working days after the day on which a company begins sending a notice of defect or non-compliance to prescribed persons, the company shall provide to the Minister a report containing

- (a)** a copy of the notice; and
- (b)** if no notices are sent to current owners, the number of vehicles that are subject to the notice.

**(4)** For a period of five years beginning on the 60th day after the day on which a company gives a notice to the Minister under subsection 10(1) or 10.1(1) of the Act, the company shall provide the Minister, within five working days after the day on which they are sent to their recipients, a copy of any of the following communications, with the date on which they were sent to their recipients:

- (a)** communications sent to more than one current owner relating to the defect or non-compliance; and
- (b)** communications sent to more than one prescribed person relating to
  - (i)** the information set out in subsection 15(9) or 15.01(9), and
  - (ii)** the defect or non-compliance.

**15.03 (1)** For the purposes of section 10.2 of the Act, a company that gives a notice of defect or non-compliance to a current owner or a prescribed person shall provide the Minister with quarterly reports that contain the following information:

- (a)** the motor vehicle safety recall number issued by the Department of Transport;
- (b)** the number, title or other identification that is assigned by the company to the notice;
- (c)** the number of vehicles that are subject to the notice, including the day on which the number was updated by the company; and
- (d)** the number of vehicles for which corrective measures have been taken, including vehicles that required only an inspection, and the day on which that number was determined by the company.

**(2)** The company shall provide the Minister with quarterly reports, in accordance with the following schedule, for a period of two years beginning on the 60th day after the day on which the company gives a notice to the Minister under subsection 10(1) or 10.1(1) of the Act:

- (a)** for the first calendar quarter, from January 1 through March 31, on or before April 30;
- (b)** for the second calendar quarter, from April 1 through June 30, on or before July 30;

(c) for the third calendar quarter, from July 1 through September 30, on or before October 30;  
and

(d) for the fourth calendar quarter, from October 1 through December 31, on or before January 30  
of the following year.

**3 Section 18 of the Regulations is amended by adding the following after subsection (3):**

(4) As of September 1, 2020, the owner's manual shall contain instructions on how the owner can contact the Department of Transport in order to report a safety concern relating to a vehicle.

**Motor Vehicle Restraint Systems and Booster Seats Safety Regulations**

**4 (1) Subsection 106(1) of the *Motor Vehicle Restraint Systems and Booster Seats Safety Regulations* <sup>2</sup> is replaced by the following:**

**Records**

**106 (1)** A company must maintain — for each restraint system or booster seat to which it applies the national safety mark or that it imports into Canada — the records referred to in paragraph 5(1)(g) of the Act and retain those records, in paper form or in readily readable electronic form, for a period of at least five years after the day on which the restraint system or booster seat is manufactured or imported.

**(2) Subsection 106(3) of the Regulations is replaced by the following:**

**Request from inspector**

(3) On request in writing from an inspector, a company must send to that inspector a copy, in either official language, of the records referred to in subsection (1) within

(a) 30 working days after day on which the request is mailed; or

(b) if the records must be translated, 45 working days after the day on which the request is mailed.

**5 Section 110 of the Regulations and the heading before it are replaced by the following:**

**Notice of Defect**

**Prescribed person**

**110 (1)** For the purposes of subsection 10(1) of the Act, a person, other than the first retail purchaser, who obtained a restraint system or booster seat from a company is a prescribed person.

**Form and language**

(2) A notice of defect that is required to be given under subsection 10(1) of the Act must be in writing, in either paper or electronic form, and

(a) in the case of a notice given to the Minister, be in either official language; and

(b) in the case of a notice given to the current owner of the restraint system or booster seat or a prescribed person,

(i) be in the person's official language of choice, if it is known, or

(ii) be in both official languages.

**Period**

(3) A company must give the notice of defect to the current owner of the restraint system or booster seat and to the prescribed person as soon as feasible, but not later than 60 days after the day on which the company gives the notice of defect to the Minister.

**Notice to Minister — content**

(4) The notice of defect that is given to the Minister must contain the following information:

(a) the company's name and its contact information for the purpose of correspondence;

(b) the name of the manufacturer of the restraint system or booster seat;

(c) the number, title or other identification that is assigned by the company to the notice;

(d) for each restraint system or booster seat that may contain the defect, its model name and number, the prescribed class of equipment and any other information that is necessary to permit its identification;

- (e) the period during which the restraint systems or booster seats were manufactured;
- (f) the estimated number of restraint systems or booster seats that could potentially contain the defect;
- (g) the estimated percentage of the restraint systems or booster seats referred to in paragraph (f) that contain the defect;
- (h) a description of the nature of the defect, including the causes and contributing factors, if known, and a description of the location of the defect;
- (i) the systems or components of the restraint system or booster seat that may be affected by the defect;
- (j) a chronology of the principal events that led to the determination of the existence of the defect;
- (k) all relevant information, including a summary of warranty claims, field reports and service reports, with their dates of receipt, that the company used to determine the existence of the defect;
- (l) a description of the safety risk to persons arising from the defect;
- (m) a description of the corrective measures to be taken in respect of the defect and how they are to be implemented;
- (n) any precautions that may be taken to minimize the safety risk until the corrective measures are implemented; and
- (o) the estimated date on which the notice of defect will be sent to the current owner of the restraint system or booster seat and the estimated date on which the notice of defect will be sent to a prescribed person.

#### **Unavailable information**

(5) The company is not required to provide the Minister with the information referred to in paragraphs (4)(j), (k), (m) and (n) if it is not available on the day on which the notice is given but must provide that information as soon as it is available.

#### **Notice to owner — content**

- (6) A notice of defect that is given to the current owner of the restraint system or booster seat must contain the following information:
- (a) the company's name;
  - (b) the model name and number of the restraint system or booster seat;
  - (c) the following statements:
    - (i) "This notice is sent to you in accordance with the requirements of the *Motor Vehicle Safety Act*," and
    - (ii) "This is to inform you that your restraint system or booster seat may contain a defect that could affect the safety of a person.";
  - (d) the number, title or other identification that is assigned by the company to the notice;
  - (e) the motor vehicle safety recall number that is issued by the Department of Transport;
  - (f) a description of the nature of the defect, including the causes, and a description of the location of the defect;
  - (g) the systems or components of the restraint system or booster seat that may be affected by the defect;
  - (h) operating conditions or other factors that may cause a malfunction of the system or component of the restraint system or booster seat;
  - (i) the warning signs, if any, of any malfunction that could arise as a result of the defect;
  - (j) a description of the safety risk to persons arising from the defect;
  - (k) the type of injury that may result from the defect;
  - (l) a description of the corrective measures to be taken in respect of the defect and how they are to be implemented, including
    - (i) a general description of the work involved,
    - (ii) the estimated time required in order to take the corrective measures,



(iii) a statement that the company will cover the costs of the corrective measures or an estimate of the cost of the corrective measures to the current owner of the restraint system or booster seat, and

(iv) information identifying the persons who can implement the corrective measures; and

(m) any precautions that may be taken to minimize the safety risk until the corrective measures are implemented.

#### **Unavailable information**

(7) The company is not required to provide the current owner with the information referred to in paragraph (6)(l) if it is not available on the day on which the notice is given but must provide that information

(a) as soon as it is available; or

(b) at the same time as the company provides the information required under subsection 10.4(1) of the Act.

#### **Required wording**

(8) The words “SAFETY”, “RECALL”, “RAPPEL” and “SÉCURITÉ” are required to be clearly visible

(a) on the envelope, or through a window of the envelope, in upper case and in a font size that is larger than the one used for the recipient’s address, if the notice of defect is given to the current owner in paper form; or

(b) in the subject line of the communication, in upper case, if the notice of defect is given to the current owner in electronic form.

#### **Notice to prescribed person — content**

(9) A notice of defect that is given to a prescribed person must contain the following information:

(a) the company’s name;

(b) for each restraint system or booster seat that may contain the defect, its model name and number and any other information that is necessary to permit its identification;

(c) the number, title or other identification that is assigned by the company to the notice;

(d) the motor vehicle safety recall number issued by the Department of Transport;

(e) a description of the nature of the defect, including the causes, and a description of the location of the defect;

(f) operating conditions or other factors that may cause a malfunction of the system or component of the restraint system or booster seat;

(g) a description of the safety risk to persons arising from the defect;

(h) a description of the corrective measures to be taken in respect of the defect and how they are to be implemented; and

(i) any precautions that may be taken to minimize the safety risk until the corrective measures are implemented.

#### **Unavailable information**

(10) The company is not required to provide the prescribed person with the information referred to in paragraph (9)(h) if it is not available on the day on which the notice is given but must provide that information as soon as it is available.

#### **Notice of Non-compliance**

##### **Prescribed person**

**110.01 (1)** For the purposes of subsection 10.1(1) of the Act, a person, other than the first retail purchaser, who obtained a restraint system or booster seat from a company is a prescribed person.

##### **Form and Language**

(2) A notice of non-compliance that is required to be given under subsection 10.1(1) of the Act must be in writing, in either paper or electronic form, and

(a) in the case of a notice given to the Minister, be in either official language; and

(b) in the case of a notice given to the current owner of the restraint system or booster seat or a

prescribed person,

- (i) be in the person's official language of choice, if it is known, or
- (ii) be in both official languages.

#### **Period**

(3) Unless the notice of non-compliance contains a statement under subparagraph (4)(k)(i), a company must give the notice of non-compliance to the current owner of the restraint system or booster seat and to the prescribed person as soon as feasible, but not later than 60 days after the day on which the company gives the notice of non-compliance to the Minister.

#### **Period — statement denied**

(3.1) If the notice of non-compliance contains a statement under subparagraph (4)(k)(i) and the Minister advises the company that the Minister has determined that the non-compliance is not inconsequential to safety, the company must give the notice of non-compliance to the current owner of the restraint system or booster seat and to the prescribed person as soon as feasible after the day on which the company receives the Minister's determination, but not later than 60 days after that day.

#### **Notice to Minister — content**

(4) A notice of non-compliance that is given to the Minister must contain the following information:

- (a) the company's name and its contact information for the purpose of correspondence;
- (b) the name of the manufacturer of the restraint system or booster seat;
- (c) the number, title or other identification that is assigned by the company to the notice;
- (d) for each restraint system or booster seat that may be non-compliant, the model name and number, the prescribed class of equipment and any other information that is necessary to permit its identification;
- (e) the period during which the restraint systems or booster seats were manufactured;
- (f) the estimated number of restraint systems or booster seats that could potentially be non-compliant;
- (g) the estimated percentage of the restraint systems or booster seats referred to in paragraph (f) that are non-compliant;
- (h) a description of the non-compliance, including the applicable regulatory requirement, the causes and contributing factors, if known;
- (i) the systems or components of the restraint system or booster seat that may be affected by the non-compliance;
- (j) a chronology of the principal events that led to the determination of the non-compliance, including the test results, observations, inspections and any other relevant information;
- (k) as the case may be,
  - (i) a statement that the non-compliance is inconsequential to safety, including detailed information to support the statement, or
  - (ii) a description of the safety risk to persons arising from the non-compliance;
- (l) a description of the corrective measures to be taken in respect of the non-compliance and how they are to be implemented;
- (m) any precautions that may be taken to minimize the safety risk until the corrective measures are implemented; and
- (n) the estimated date on which the notice of non-compliance will be sent to the current owner of the restraint system or booster seat and the estimated date on which the notice of non-compliance will be sent to a prescribed person.

#### **Unavailable information**

(5) The company is not required to provide the Minister with the information referred to in paragraphs (4)(j), (l) and (m) if it is not available on the day on which the notice is given but must provide that information as soon as it is available.

#### **Information referred to in paragraph (4)(n)**

(5.1) The company is not required to provide the Minister with the information referred to in paragraph

(4)(n) if the notice of non-compliance contains a statement under subparagraph (4)(k)(i), but if the Minister advises the company that the Minister has determined that the non-compliance is not inconsequential to safety, the company must provide that information within five working days after the day on which the company receives the Minister's determination.

#### **Notice to owner — content**

(6) A notice of non-compliance that is given to the current owner of the restraint system or booster seat must contain the following information:

- (a) the company's name;
- (b) the model name and number of the restraint system or booster seat;
- (c) the following statements:
  - (i) "This notice is sent to you in accordance with the requirements of the *Motor Vehicle Safety Act*," and
  - (ii) "This is to inform you that your restraint system or booster seat may be non-compliant with the requirements of the *Motor Vehicle Restraint Systems and Booster Seats Safety Regulations* and that the non-compliance could affect the safety of a person.";
- (d) the number, title or other identification that is assigned by the company to the notice;
- (e) the motor vehicle safety recall number that is issued by the Department of Transport;
- (f) a description of the non-compliance, including the causes;
- (g) the systems or components of the restraint system or booster seat that may be affected by the non-compliance;
- (h) operating conditions or other factors that may cause a malfunction of the system or component of the restraint system or booster seat;
- (i) the warning signs, if any, of any malfunction that could arise as a result of the non-compliance;
- (j) a description of the safety risk to persons arising from the non-compliance, if any;
- (k) the type of injury that may result from the non-compliance;
- (l) a description of the corrective measures to be taken in respect of the non-compliance and how they are to be implemented, including
  - (i) a general description of the work involved,
  - (ii) the estimated time required in order to take the corrective measures,
  - (iii) a statement that the company will cover the costs of the corrective measures or an estimate of the cost of the corrective measures to the current owner of the restraint system or booster seat, and
  - (iv) information identifying the persons who can implement the corrective measures; and
- (m) any precautions that may be taken to minimize the safety risk until the corrective measures are implemented.

#### **Unavailable information**

(7) The company is not required to provide to the current owner the information referred to in paragraph (6)(l) if it is not available on the day on which the notice is given but must provide that information

- (a) as soon as it is available; or
- (b) at the same time as the company provides the information required under subsection 10.4(1) of the Act.

#### **Required wording**

- (8) The words "SAFETY", "RECALL", "RAPPEL" and "SÉCURITÉ" are required to be clearly visible
- (a) on the envelope, or through a window of the envelope, in upper case and in a font size that is larger than the one used for the recipient's address, if the notice of non-compliance is given to the current owner in paper form; or
  - (b) in the subject line of the communication, in upper case, if the notice of non-compliance is given to the current owner in electronic form.

### **Notice to prescribed person — content**

**(9)** A notice of non-compliance that is given to a prescribed person must contain the following information:

- (a)** the company's name;
- (b)** for each restraint system or booster seat that may be non-compliant, the model name and number and any other information that is necessary to permit its identification;
- (c)** the number, title or other identification that is assigned by the company to the notice;
- (d)** the motor vehicle safety recall number that is issued by the Department of Transport;
- (e)** a description of the non-compliance, including the causes;
- (f)** operating conditions or other factors that may cause a malfunction of the system or component of the restraint system or booster seat;
- (g)** a description of the safety risk to persons arising from the non-compliance, if any;
- (h)** a description of the corrective measures to be taken in respect of the non-compliance and how they are to be implemented; and
- (i)** any precautions that may be taken to minimize the safety risk until the corrective measures are implemented.

### **Unavailable information**

**(10)** The company is not required to provide to the prescribed person the information referred to in paragraph (9)(h) if it is not available on the day on which the notice is given but must provide that information as soon as it is available.

## **Reports**

### **Initial report — notice to current owners**

**110.02 (1)** Within five working days after the day on which a company begins sending a notice of defect or non-compliance to current owners, the company must provide the Minister with a report containing

- (a)** a copy of the notice;
- (b)** a sample of the envelope used to mail the notice;
- (c)** the date on which the company began sending notices;
- (d)** the date on which the company finished, or expects to finish, sending notices; and
- (e)** the number of restraint systems or booster seats that are subject to the notice.

### **Exception**

**(2)** Despite paragraph (1)(b), a company is not required to provide a sample of the envelope if it uses an envelope that has previously been provided as a sample to the Minister and the report includes the date on which the sample was provided.

### **Initial report — notice to prescribed persons**

**(3)** Within five working days after the day on which a company begins sending a notice of defect or non-compliance to prescribed persons, the company must provide to the Minister a report containing

- (a)** a copy of the notice; and
- (b)** if no notices are sent to current owners, the number of restraint systems or booster seats that are subject to the notice.

### **Follow-up reports**

**(4)** For a period of five years beginning on the 60th day after the day on which a company gives a notice to the Minister under subsection 10(1) or 10.1(1) of the Act, the company must provide the Minister, within five working days after the day on which they are sent to their recipients, a copy of any of the following communications, with the date on which they were sent to their recipients:

- (a)** communications sent to more than one current owner relating to the defect or non-compliance; and
- (b)** communications sent to more than one prescribed person relating to

- (i) the information set out in subsection 110(9) or 110.01(9), and
- (ii) the defect or non-compliance.

#### **Quarterly reports**

**110.03 (1)** For the purposes of section 10.2 of the Act, a company that gives a notice of defect or non-compliance to a current owner or a prescribed person must provide the Minister with quarterly reports that contain the following information:

- (a) the motor vehicle safety recall number that is issued by the Department of Transport;
- (b) the number, title or other identification that is assigned by the company to the notice;
- (c) the number of restraint systems or booster seats that are subject to the notice, including the day on which the number was updated by the company;
- (d) the number of restraint systems or booster seats for which corrective measures have been taken, including those that required only an inspection, and the day on which that number was determined by the company; and
- (e) a statement setting out the manner in which the company disposed of the defective parts, restraint systems or booster seats.

#### **Calendar**

**(2)** The company must provide the Minister with quarterly reports, in accordance with the following schedule, for a period of two years beginning on the 60th day after the day on which the company gives a notice to the Minister under subsection 10(1) or 10.1(1) of the Act:

- (a) for the first calendar quarter, from January 1 through March 31, on or before April 30;
  - (b) for the second calendar quarter, from April 1 through June 30, on or before July 30;
  - (c) for the third calendar quarter, from July 1 through September 30, on or before October 30;
- and
- (d) for the fourth calendar quarter, from October 1 through December 31, on or before January 30 of the following year.

#### **Motor Vehicle Tire Safety Regulations**

**6 (1) Subsection 9(1) of the *Motor Vehicle Tire Safety Regulations* <sup>3</sup> is replaced by the following:**

##### **Records**

**9 (1)** A company must maintain — for each tire to which it applies the national safety mark or that it imports into Canada — the records referred to in paragraph 5(1)(g) of the Act and retain those records, in paper form or in readily readable electronic form, for a period of at least five years after the day on which the tire is manufactured or imported.

**(2) Section 9 of the Regulations is amended by adding the following after subsection (2):**

##### **Request from inspector**

**(2.1)** On request in writing from an inspector, a company must send to that inspector a copy, in either official language, of the records referred to in subsection (1) within

- (a) 30 working days after the day on which the request is mailed; or
- (b) if the records must be translated, 45 working days after the day on which the request is mailed.

**7 Section 13 of the Regulations and the heading before it are replaced by the following:**

##### **Notice of Defect**

##### **Prescribed person**

**13 (1)** For the purposes of subsection 10(1) of the Act, a person, other than the first retail purchaser, who obtained a tire from a company is a prescribed person.

##### **Form and language**

**(2)** A notice of defect that is required to be given under subsection 10(1) of the Act must be in writing, in either paper or electronic form, and

- (a) in the case of a notice given to the Minister, be in either official language; and
- (b) in the case of a notice given to the tire's current owner or a prescribed person,
  - (i) be in the person's official language of choice, if it is known, or
  - (ii) be in both official languages.

#### **Period**

(3) A company must give the notice of defect to the tire's current owner and to the prescribed person as soon as feasible, but not later than 60 days after the day on which the company gives the notice of defect to the Minister.

#### **Notice to Minister — content**

- (4) The notice of defect that is given to the Minister must contain the following information:
- (a) the company's name and its contact information for the purpose of correspondence;
  - (b) the name of the manufacturer of the tire;
  - (c) the number, title or other identification that is assigned by the company to the notice;
  - (d) for each tire that may contain the defect, its brand name, size designation and type and any other information that is necessary to permit its identification;
  - (e) the period during which the tires were manufactured;
  - (f) the estimated number of tires that could potentially contain the defect;
  - (g) the estimated percentage of the tires referred to in paragraph (f) that contain the defect;
  - (h) a description of the nature of the defect, including the causes and contributing factors, if known, and a description of the location of the defect;
  - (i) the systems or components that may be affected by the defect;
  - (j) a chronology of the principal events that led to the determination of the existence of the defect;
  - (k) all relevant information, including a summary of warranty claims, field reports and service reports, with their dates of receipt, that the company used to determine the existence of the defect;
  - (l) a description of the safety risk to persons arising from the defect;
  - (m) a description of the corrective measures to be taken in respect of the defect and how they are to be implemented;
  - (n) any precautions that may be taken to minimize the safety risk until the corrective measures are implemented; and
  - (o) the estimated date on which the notice of defect will be sent to the tire's current owner and the estimated date on which the notice of defect will be sent to a prescribed person.

#### **Unavailable information**

(5) The company is not required to provide the Minister with the information referred to in paragraphs (4)(j), (k), (m) and (n) if it is not available on the day on which the notice is given but must provide that information as soon as it is available.

#### **Notice to owner — content**

- (6) A notice of defect that is given to the tire's current owner must contain the following information:
- (a) the company's name;
  - (b) the brand name, the size designation, the type and the tire identification number;
  - (c) the following statements:
    - (i) "This notice is sent to you in accordance with the requirements of the *Motor Vehicle Safety Act*," and
    - (ii) "This is to inform you that your tire may contain a defect that could affect the safety of a person.";
  - (d) the number, title or other identification that is assigned by the company to the notice;
  - (e) the motor vehicle safety recall number that is issued by the Department of Transport;
  - (f) a description of the nature of the defect, including the causes, and a description of the location

of the defect;

(g) the systems or components that may be affected by the defect;

(h) operating conditions or other factors that may cause a malfunction of the tire;

(i) the warning signs, if any, of any malfunction that could arise as a result of the defect;

(j) a description of the safety risk to persons arising from the defect;

(k) a statement that the defect could cause a crash, if applicable;

(l) if the defect is not likely to cause a crash, the type of injury that may result from the defect;

(m) a description of the corrective measures to be taken in respect of the defect and how they are to be implemented, including

(i) a general description of the work involved,

(ii) the estimated time required in order to take the corrective measures,

(iii) a statement that the company will cover the costs of the corrective measures or an estimate of the cost of the corrective measures to the tire's current owner,

(iv) information identifying the persons who can implement the corrective measures, and

(v) the instruction that the tire identification number not be removed unless the tire is destroyed or otherwise rendered permanently unusable; and

(n) any precautions that may be taken to minimize the safety risk until the corrective measures are implemented.

#### **Unavailable information**

(7) The company is not required to provide to the current owner the information referred to in paragraph (6)(m) if it is not available on the day on which the notice is given but must provide that information

(a) as soon as it is available; or

(b) at the same time as the company provides the information required under subsection 10.4(1) of the Act.

#### **Required wording**

(8) The words "SAFETY", "RECALL", "RAPPEL" and "SÉCURITÉ" are required to be clearly visible

(a) on the envelope, or through a window of the envelope, in upper case and in a font size that is larger than the one used for the recipient's address, if the notice of defect is given to the current owner in paper form; or

(b) in the subject line of the communication, in upper case if the notice of defect is given to the current owner of the tire in electronic form.

#### **Notice to prescribed person — content**

(9) A notice of defect that is given to a prescribed person must contain the following information:

(a) the company's name;

(b) for each tire that may contain the defect, its brand name, size designation, type and tire identification number and any other information that is necessary to permit its identification;

(c) the number, title or other identification that is assigned by the company to the notice;

(d) the motor vehicle safety recall number that is issued by the Department of Transport;

(e) a description of the nature of the defect, including the causes, and a description of the location of the defect;

(f) operating conditions or other factors that may cause a malfunction of the tire;

(g) a description of the safety risk to persons arising from the defect;

(h) a description of the corrective measures to be taken in respect of the defect and how they are to be implemented;

(i) the instruction that the tire identification number not be removed unless the tire is destroyed or otherwise rendered permanently unusable; and

(j) any precautions that may be taken to minimize the safety risk until the corrective measures are

implemented.

#### **Unavailable information**

(10) The company is not required to provide to the prescribed person the information referred to in paragraph (9)(h) if it is not available on the day on which the notice is given but must provide that information as soon as it is available.

### **Notice of Non-compliance**

#### **Prescribed person**

**13.01 (1)** For the purposes of subsection 10.1(1) of the Act, a person, other than the first retail purchaser, who obtained a tire from a company is a prescribed person.

#### **Form and language**

(2) A notice of non-compliance that is required to be given under subsection 10.1(1) of the Act must be in writing, in either paper or electronic form, and

- (a) in the case of a notice given to the Minister, be in either official language; and
- (b) in the case of a notice given to the tire's current owner or a prescribed person,
  - (i) be in the person's official language of choice, if it is known, or
  - (ii) be in both official languages.

#### **Period**

(3) Unless the notice of non-compliance contains a statement under subparagraph (4)(k)(i), a company must give the notice of non-compliance to the tire's current owner and to the prescribed person as soon as feasible, but not later than 60 days after the day on which the company gives the notice of non-compliance to the Minister.

#### **Period — statement denied**

(3.1) If the notice of non-compliance contains a statement under subparagraph (4)(k)(i) and the Minister advises the company that the Minister has determined that the non-compliance is not inconsequential to safety, the company must give the notice of non-compliance to the tire's current owner and to the prescribed person as soon as feasible after the day on which the company receives the Minister's determination, but not later than 60 days after that day.

#### **Notice to Minister — content**

(4) A notice of non-compliance that is given to the Minister must contain the following information:

- (a) the company's name and its contact information for the purpose of correspondence;
- (b) the name of the manufacturer of the tire;
- (c) the number, title or other identification that is assigned by the company to the notice;
- (d) for each tire that may be non-compliant, the brand name, the size designation, the type and any other information that is necessary to permit its identification;
- (e) the period during which the tires were manufactured;
- (f) the estimated number of tires that could potentially be non-compliant;
- (g) the estimated percentage of the tires referred to in paragraph (f) that are non-compliant;
- (h) a description of the non-compliance, including the applicable regulatory requirement, the causes and contributing factors, if known;
- (i) the systems or components that may be affected by the non-compliance;
- (j) a chronology of the principal events that led to the determination of the non-compliance, including the test results, observations, inspections and any other relevant information;
- (k) as the case may be,
  - (i) a statement that the non-compliance is inconsequential to safety, including detailed information in support of the statement, or
  - (ii) a description of the safety risk to persons arising from the non-compliance;
- (l) a description of the corrective measures to be taken in respect of the non-compliance and how they are to be implemented;



(m) any precautions that may be taken to minimize the safety risk until the corrective measures are implemented; and

(n) the estimated date on which the notice of non-compliance will be sent to the tire's current owner and the estimated date on which the notice of non-compliance will be sent to a prescribed person.

#### **Unavailable information**

(5) The company is not required to provide the Minister with the information referred to in paragraphs (4)(j), (l) and (m) if it is not available on the day on which the notice is given but must provide that information as soon as it is available.

#### **Information referred to in paragraph (4)(n)**

(5.1) The company is not required to provide the Minister with the information referred to in paragraph (4)(n) if the notice of non-compliance contains a statement under subparagraph (4)(k)(i), but if the Minister advises the company that the Minister has determined that the non-compliance is not inconsequential to safety, the company must provide that information within five working days after the day on which the company receives the Minister's determination.

#### **Notice to owner — content**

(6) A notice of non-compliance that is given to the tire's current owner must contain the following information:

(a) the company's name;

(b) the brand name, the size designation, the type and tire identification number;

(c) the following statements:

(i) "This notice is sent to you in accordance with the requirements of the *Motor Vehicle Safety Act*," and

(ii) "This is to inform you that your tire may be non-compliant with the requirements of the *Motor Vehicle Tire Safety Regulations* and that the non-compliance could affect the safety of a person.";

(d) the number, title or other identification that is assigned by the company to the notice;

(e) the motor vehicle safety recall number that is issued by the Department of Transport;

(f) a description of the non-compliance, including the causes;

(g) the systems or components that may be affected by the non-compliance;

(h) operating conditions or other factors that may cause a malfunction of the tire;

(i) the warning signs, if any, of any malfunction that could arise as a result of the non-compliance;

(j) a description of the safety risk to persons arising from the non-compliance, if any;

(k) a statement that the non-compliance could cause a crash, if applicable;

(l) if the non-compliance is not likely to cause a crash, the type of injury that may result from the non-compliance;

(m) a description of the corrective measures to be taken in respect of the non-compliance and how they are to be implemented, including

(i) a general description of the work involved,

(ii) the estimated time required in order to take the corrective measures,

(iii) a statement that the company will cover the costs of the corrective measures or an estimate of the cost of the corrective measures to the tire's current owner,

(iv) information identifying the persons who can implement the corrective measures, and

(v) the instruction that the tire identification number not be removed unless the tire is destroyed or otherwise rendered permanently unusable; and

(n) any precautions that may be taken to minimize the safety risk until the corrective measures are implemented.

#### **Unavailable information**

(7) The company is not required to provide to the current owner the information referred to in paragraph (6)(m) if it is not available on the day on which the notice is given but must provide that

information

- (a) as soon as it is available; or
- (b) at the same time as the company provides the information required under subsection 10.4(1) of the Act.

#### **Required wording**

- (8) The words “SAFETY”, “RECALL”, “RAPPEL” and “SÉCURITÉ” are required to be clearly visible
- (a) on the envelope, or through a window of the envelope, in upper case and in a font size that is larger than the one used for the recipient’s address, if the notice of non-compliance is given to the current owner in paper form; or
  - (b) in the subject line of the communication, in upper case, if the notice of non-compliance is given to the current owner in electronic form.

#### **Notice to prescribed person — content**

(9) A notice of non-compliance that is given to a prescribed person must contain the following information:

- (a) the company’s name;
- (b) for each tire that may be non-compliant, the brand name, the size designation, the type, the identification number and any other information necessary to permit its identification;
- (c) the number, title or other identification that is assigned by the company to the notice;
- (d) the motor vehicle safety recall number that is issued by the Department of Transport;
- (e) a description of the non-compliance, including the causes;
- (f) operating conditions or other factors that may cause a malfunction of the tire;
- (g) a description of the safety risk to persons arising from the non-compliance, if any;
- (h) a description of the corrective measures to be taken in respect of the non-compliance and how they are to be implemented;
- (i) the instruction that the tire identification number not be removed unless the tire is destroyed or otherwise rendered permanently unusable; and
- (j) any precautions that may be taken to minimize the safety risk until the corrective measures are implemented.

#### **Unavailable information**

(10) The company is not required to provide to the prescribed person the information referred to in paragraph (9)(h) if it is not available on the day on which the notice is given but must provide that information as soon as it is available.

## **Reports**

#### **Initial report — notice to current owners**

**13.02 (1)** Within five working days after the day on which a company begins sending a notice of defect or non-compliance to current owners, the company must provide the Minister with a report containing

- (a) a copy of the notice;
- (b) a sample of the envelope used to mail the notice;
- (c) the date on which the company began sending notices;
- (d) the date on which the company finished, or expects to finish, sending notices;
- (e) the number of tires that are subject to the notice; and
- (f) the tire identification number for each tire that may contain the defect or may be non-compliant, unless that information is provided to the Minister under paragraph (3)(a).

#### **Exception**

(2) Despite paragraph (1)(b), a company is not required to provide a sample of the envelope if it uses an envelope that has previously been provided as a sample to the Minister and the report includes the date on which the sample was provided.

### **Initial report — notice to prescribed persons**

(3) Within five working days after the day on which a company begins sending a notice of defect or non-compliance to prescribed persons, the company must provide to the Minister a report containing

- (a) a copy of the notice; and
- (b) if no notices are sent to current owners, the number of tires that are subject to the notice.

### **Follow-up reports**

(4) For a period of five years beginning on the 60th day after the day on which a company gives a notice to the Minister under subsection 10(1) or 10.1 of the Act, the company must provide the Minister, within five working days after the day on which they are sent to their recipients, a copy of any of the following communications, with the date on which they were sent to their recipients:

- (a) communications sent to more than one current owner relating to the defect or non-compliance; and
- (b) communications sent to more than one prescribed person relating to
  - (i) the information set out in subsection 13(9) or 13.01(9), and
  - (ii) the defect or non-compliance.

### **Quarterly reports**

**13.03 (1)** For the purposes of section 10.2 of the Act, a company that gives a notice of defect or non-compliance to a current owner or a prescribed person must provide the Minister with quarterly reports that contain the following information:

- (a) the motor vehicle safety recall number that is issued by the Department of Transport;
- (b) the number, title or other identification that is assigned by the company to the notice;
- (c) the number of tires that are subject to the notice, including the day on which the number was updated by the company;
- (d) the number of tires for which corrective measures have been taken, including those that required only an inspection, and the day on which that number was determined by the company; and
- (e) a statement setting out the manner in which the company disposed of the defective tires.

### **Calendar**

(2) The company must provide the Minister with quarterly reports, in accordance with the following schedule, for a period of two years beginning on the 60th day after the day on which the company gives a notice to the Minister under subsection 10(1) or 10.1(1) of the Act:

- (a) for the first calendar quarter, from January 1 through March 31, on or before April 30;
- (b) for the second calendar quarter, from April 1 through June 30, on or before July 30;
- (c) for the third calendar quarter, from July 1 through September 30, on or before October 30; and
- (d) for the fourth calendar quarter, from October 1 through December 31, on or before January 30 of the following year.

## **Coming into Force**

**8** These Regulations come into force on the day on which they are published in the *Canada Gazette, Part II*.

## **REGULATORY IMPACT ANALYSIS STATEMENT**

*(This statement is not part of the Regulations.)*

### **Issues**

The *Motor Vehicle Safety Act* (the Act) was amended in 2014 to enhance the alignment of Canadian motor vehicle notice of defect and non-compliance requirements with similar requirements in the United States, and to improve safety. The amendments to the Act addressed key gaps in the motor vehicle safety notification regime, including providing the Minister with the authority to require that a

company issue a notice of defect, and introduced new notice of non-compliance requirements. Elements of this enhanced safety notification regime are implemented with this amendment to the regulations made under the Act, realizing the intended alignment and safety benefits.

## Background

The Department of Transport (the Department) manages many of the safety risks associated with motor vehicles and equipment <sup>4</sup> via the administration and enforcement of the Act and three regulations: the *Motor Vehicle Safety Regulations* (MVSR), the *Motor Vehicle Tire Safety Regulations* (MVTSR) and the *Motor Vehicle Restraint Systems and Booster Seat Safety Regulations* (RSSR) [collectively referred to as “the Regulations”].

The Act requires that a company that manufactures, sells or imports any vehicle or equipment of a prescribed class (referred to as a “company” throughout the Regulatory Impact Analysis Statement), on becoming aware of a defect in the design, construction or functioning of the vehicle or equipment that affects or is likely to affect the safety of any person, notify the Minister of Transport, owners and retailers in accordance with the notification requirements set out in the Regulations.

The Department also manages a program to receive feedback from the public regarding motor vehicle and equipment safety concerns. Through this program, the Department has identified limitations with the previous safety notification regime.

The Act was amended by the *Economic Action Plan 2014 Act, No. 1*, which received royal assent on June 19, 2014, to enable (a) enhanced notice of defect requirements; and (b) new requirements addressing notices of non-compliance. The amendments further enabled the Governor in Council to make regulations to improve the quality of safety information contained in notices of defect and non-compliance, and to revise the reporting regime to enhance oversight of notices of defect and non-compliance by the Department. The amendments to the Act were brought into force on June 3, 2015, concurrently with the publication of non-substantive amendments to the Regulations that promoted continued alignment with the Act.

## Notice of defect

A notice of defect refers to a notice, issued by a company to the Minister, owners and retailers, describing a safety issue with a vehicle or equipment that affects or is likely to affect the safety of any person, independent of the safety standards prescribed by the Regulations. For example, while the Regulations do not directly address vehicle suspension component requirements, a safety notice may nevertheless be required if it is found that the materials used in the fabrication of a component are inadequate and thus could result in a failure with the potential to cause a loss of control or collision. Between 2002 and 2018, the number of notices of defect increased from 248 to 750; in 2015, the Department was notified of 624 defect campaigns involving 125 separate companies.

## Notice of non-compliance

A notice of non-compliance refers to a notice, issued by a company, describing a situation whereby a vehicle or equipment does not meet one or more requirements within the Regulations. Previous to the Amendments, the Regulations did not prescribe notification requirements in the event of non-compliance with the Regulations. Nevertheless, companies have historically treated such occurrences as a notice of defect, and provided non-compliance information under the guise of a notice of defect. As of April 2018, the Department has recorded 1 834 notices issued by companies since 1975 to address non-compliance issues.

## Notification and reporting

A notice to the Minister is required at the time a company becomes aware of a defect or non-compliance with a vehicle or equipment. The information required is generally broad in scope, with a view to expediting the notification. Among other details, the notice must identify the company, include available details to help the identification of the affected vehicles or equipment, an estimate of the number of affected products, and a general description of the issue. Companies must also notify owners and retailers within 60 days of providing the notice to the Minister, unless it is a non-compliance deemed inconsequential to safety. Owner and retailer information is similarly broad, but includes additional detail related to the issue.

Companies must submit a follow-up report to the Minister, updating specific information regarding the scope of the issue and planned corrective measures, within 65 days of providing the notice to the Minister. For two years following the original notice to the Minister, companies continue to be required to submit quarterly reports to update the Minister on the progress of the corrective measures put in

place by the companies. With the Amendments, copies of related communications between companies and owners and retailers must also be provided to the Minister for up to five years, as discussed further below.

## Objectives

The objective of the *Regulations Amending Certain Regulations Made Under the Motor Vehicle Safety Act (Notice of Defect and Notice of Non-compliance)* [the Amendments] is to improve the alignment of motor vehicle defect and non-compliance requirements with U.S. requirements; improve motor vehicle safety by making enhanced vehicle safety information available to the Minister, and to vehicle or equipment owners and retailers; and improve departmental oversight of safety defects and instances of non-compliance with the Regulations.

## Description

The Amendments require that vehicle and equipment companies required to give a notice of defect or notice of non-compliance (a) provide greater clarity and relevant details in their notices; (b) revise their notification process to address non-compliance separately from a defect; and (c) augment reporting requirements associated with these notifications.

### Notice of defect

In addition to the currently required information (e.g. the make, model and model year of the affected vehicle), the Amendments require that additional specific information be included in notices provided to the Minister, owners and retailers (see Table 1).

Understanding the importance of communicating the information as soon as possible, provisions are included to allow the delivery of certain information at a later time, as noted in Table 1. This additional time allows companies to conduct a more thorough investigation and assessment of the safety issue, as well as address corrective measures. The Amendments also clarify that notices may be provided in written or electronic form.

### Notice of non-compliance

The Amendments establish new requirements that mirror those for giving a notice of defect, with slight differences to address the characteristics of a non-compliance. Non-compliance with the Regulations may or may not have any safety implications. A company may be exempt from having to go beyond notifying the Minister if, following a request by the company, the Minister determines that the implications are inconsequential to safety. Otherwise, the full spectrum of requirements for notification needs to be followed.

### Administrative requirements

*Reporting.* The Amendments strengthen the previous reporting and oversight provisions in the Regulations by

- (1) increasing and standardizing across the Regulations, the time limit for providing a follow-up report to the Minister, to 65 days after providing a notice to the Minister;
- (2) requiring that companies submit, to the Minister, copies of related subsequent communications to owners and retailers for a period of five years; and
- (3) aligning the submission dates for the currently required quarterly reports with the schedule mandated by the U.S. National Highway Traffic Safety Administration (NHTSA), and in owner notifications, supplementing the current required information with the motor vehicle safety recall number issued by Transport Canada.

#### Table 1: Summary of new and supplemental information required in notices

*Note: This summary generally applies across the Regulations for defects and non-compliance. Please refer to the text of the Amendments for specific requirements.*

Notice Recipient	Summary of Information Required
Minister	* Company contact information for correspondence (new for the MVSR).

	<p>* Estimate of the number of vehicles or equipment that actually contain a defect or non-compliance.</p>
	<p>* Systems or components that may be affected.</p>
	<p>* Chronology of events, summary of warranty claims, field or service reports, and any other relevant information. <sup>1</sup></p>
	<p>** Estimated date when the notice will be sent to owners and retailers.</p>
Owner	<p>** Correspondence to owner requires specific opening statement, and specific text on the envelope or subject line of electronic communication.</p>
	<p>** Provide the motor vehicle safety recall number issued by the Department (also required in the notification to retailers).</p>
	<p>* Systems or components that may be affected.</p>
	<p>* Operating conditions or other factors that may cause a malfunction.</p>
	<p>* Warning signs, if any, of any related malfunction that could arise.</p>
	<p>* State whether the defect or non-compliance could cause a vehicle crash, if applicable, or the type of injury that may result.</p>
	<p>* Describe the work involved and time estimate to take corrective measures. <sup>2</sup></p>
	<p>* Statement that the company will cover the costs or provide an estimate of the cost of the corrective measures. <sup>2</sup></p>
	<p>* Indicate who can perform the corrective measures. <sup>2</sup></p>
Minister, owner and retailer	<p>** Identification number assigned by the company (new for the MVSR).</p>
	<p>* Description of the nature of the defect or non-compliance, including the causes and contributing factors, and its location.</p>
	<p>* Description of the safety risk to persons, arising from the defect or non-compliance.</p>
	<p>* Precautions to take to minimize safety risks. <sup>1</sup></p>
	<p>* Corrective measures and implementation program. <sup>1 2</sup></p>
<p>* Supplemental information expanding on previous requirements.</p>	
<p>** Requirement for new information.</p>	
<p><sup>1</sup> Minister's notice: Missing information may be provided as soon as it becomes available.</p>	
<p><sup>2</sup> Owner's notice: Missing information may be provided when collectively available, or in combination with subsection 10.4(2) of the Act.</p>	

**Requests for records.** The Amendments standardize the MVSR provisions across the Regulations. The ability for an inspector to request and obtain certification documentation from companies is an important aspect of the Minister's oversight responsibilities. The MVSR includes such a provision, whereby on request from an inspector, companies have 30 working days after the mailing of the request, or 45 days where the records must be translated, to provide records demonstrating that the vehicles conform to all required safety standards. This provision was previously absent from the

MVTSR, and the 45-day time allowance for translation was absent from the RSSR.

*Vehicle owner's manual.* The Amendments require that companies provide, in the vehicle owner's manual, instructions on how to contact Transport Canada to report a safety concern related to the vehicle.

## “One-for-One” Rule

The Amendments include a number of modifications to the previous notification and reporting requirements, including: (1) notifying the Minister of non-compliance with the Regulations; (2) submitting, to the Minister, copies of subsequent communications to owners and retailers for a period of five years; and (3) aligning quarterly report submission dates with the NHTSA. Notwithstanding these modifications, the Department does not anticipate that the Amendments will result in any incremental administrative burden (see Table 2), and the “One-for-One” Rule therefore does not apply.

**Table 2: Administrative costs**

Requirement	Assumptions and Anticipated Administrative Burden Costs
Notifying the Minister of non-compliance with the Regulations.	Impacted companies are already issuing notices of non-compliance under the guise of notices of defect; therefore, the Department anticipates that the Amendments will not result in any incremental administrative burden.
Submitting, to the Minister, copies of any subsequent communications to owners and retailers for a period of five years.	Given that the requirement involves adding one recipient (the Minister) to a list of recipients including owners and retailers, and that electronic submissions is possible, no incremental administrative burden is anticipated.
Aligning quarterly report submission dates with the NHTSA.	The Amendments modify the timing of quarterly report submission and require including the motor vehicle safety recall number issued by Transport Canada. Otherwise, it does not modify the content of the reports or add to the cost associated with submissions.

## Small business lens

The small business lens does not apply to the Amendments, as nationwide cost impacts are estimated to be less than \$1 million annually, and no costs would be incurred by small business.

## Consultation

The proposal for the Amendments was published in the *Canada Gazette*, Part I, on June 30, 2018, and was followed by a 75-day comment period. Written submissions were received from three stakeholders in response to the proposed Amendments. The stakeholders included the Canadian Vehicle Manufacturers' Association (CVMA),<sup>5</sup> the Global Automakers of Canada (GAC)<sup>6</sup> and the Truck and Engine Manufacturers Association (EMA),<sup>7</sup> each association representing vehicle companies to which the Amendments would apply. The written submissions provided by the stakeholders addressed three key issues: (1) concerns that the Amendments would significantly increase the administrative burden of companies; (2) the need to add flexibility to the Amendments to lessen potential administrative burden; and (3) the need to make clear and transparent the processes and timelines required for the administration of non-compliances believed to be inconsequential to safety.

As noted in the Part I publication, the Department estimated that any additional administrative burden would be minimal given that the Amendments would align with the requirements of the United States, and that companies often voluntarily provide the required information in their current notices. In their written submissions, stakeholders raised concerns that the Department has significantly underestimated the potential increase in burden, in particular as it relates to the extent of detailed information required to be provided in the notice to the Minister, the potential for multiple owner notification letters, and the requirement to provide the Minister with copies of “any” subsequent communications sent to owners and retailers for a period of five years.

The Department undertook additional consultations to address these and other concerns regarding the proposed Amendments. To address stakeholder concerns regarding increased burden, the

Amendments were revised to ensure they do not extend beyond the scope of the Department's original intent, while maintaining the goal to improve oversight and align with the requirements in the United States. Noteworthy changes were made to the Amendments with respect to the information required to be provided to the Minister. These changes include: (1) limiting notice information specifically to the information which formed the basis of a company's determination of a defect; (2) providing that any missing information can be supplied as soon as it becomes available; and (3) requiring that only communications containing specific and pertinent information be sent to the Minister in the subsequent five-year period so as not to inundate the Minister with unnecessary information (e.g. administrative details such as correcting a part number). Regarding the notices to owners, the Amendments were revised to provide that missing information regarding corrective measures may be provided when collectively available (i.e. in one follow-up notification), or in combination with subsection 10.4(2) of the Act.

Other revisions made to the Regulations, to further minimize the burden and to provide additional flexibility, include: (1) permitting the use of blank envelopes with a transparent window through which the message relative to a safety recall can be seen on an insert in the envelope; (2) not requiring that notifications sent to dealers include the Transport Canada recall number; and (3) not requiring that notifications sent to dealers include the vehicle information number if that number is made available on the company's public website.

Further clarifications include that the required description of the safety risk in the notices is within the scope of the Act, which is specifically as it pertains to persons, thereby excluding such things as safety risks to livestock which could be in transit. The Department also made revisions to reflect plain language in the opening message of a notice of defect provided to owners, and a correction by adding that the company name be included in the notice to owners.

The Department will continue to require that in the notice to Minister, companies identify precautionary actions that may be taken to minimize the safety risk until corrective measures are implemented. The same information is provided to the NHTSA through copies of the notifications to owners and retailers, no later than 55 days after the initial notice to the NHTSA. The Minister believes it is important that such safety-related information be made available at the earliest possible time, thereby providing improved oversight and creating an opportunity for open communications between companies and the Minister when necessary.

To clarify the processes and timelines in the administration of non-compliances believed to be inconsequential to safety, the Amendments were revised to clarify that until such time as the Minister's determination is shared with the company, notification requirements to owners and retailers are suspended, as is the requirement to provide details regarding estimated dates of when owners and retailers would be notified. No further notification is required if the Minister determines that the implications are inconsequential to safety. If, however, the Minister determines that the implications are not inconsequential to safety, then the full spectrum of requirements for notification must be followed and the company must notify owners and retailers within 60 days of the Minister's determination in writing to the company.

While the U.S. *Code of Federal Regulations* includes additional processes for the handling of inconsequential submissions, the legal framework under which the Amendments are being developed do not permit the same capabilities. Nevertheless, the Department will continue to seek alignment with the U.S. process for handling inconsequential submissions, and will address such additional details through separate policy measures.

Finally, it was also expressed that the Department provide companies an opportunity to upload required documentation directly to a Transport Canada website, similar to a process provided by the NHTSA for the uploading of customer letters. The Amendments allow for the submission of notices in electronic form, but do not specify the means of transmission. While submission of documentation by electronic means to a Transport Canada website is not currently available, the Department will consider this means of delivery in future development of the Transport Canada website. Providing such a means of delivery will not require an amendment to the Regulations.

## Regulatory cooperation

The Amendments improve alignment with U.S. notification and reporting requirements. Some Canada-unique elements are included to address bilingual language requirements, or due to differences with the legal framework under which the respective laws and regulations are developed. Other Canada-unique requirements are intended to strengthen Canada's notice of defect and non-compliance regime by making additional safety-related defect and non-compliance information available to the Minister, and to vehicle or equipment owners and retailers.



*Notice of defect and notice of non-compliance.* Notices of defect and non-compliance are already required under U.S. rules, prescribing information that companies must provide to the NHTSA, and the owners and retailers of affected vehicles or equipment. The Amendments require that companies provide, in notifications to the Minister, owners and retailers, a description of the vehicle system or components that may be affected, the location of the defect, precautions to take to minimize the safety risk until corrective measures have been implemented, and operating conditions or other factors that may contribute to a malfunction of the vehicle system or components, which is information that is not explicitly required for each respective recipient through the U.S. rules. The Department is requiring this slightly broader approach in an effort to promote safety and transparency, in direct response to safety concerns raised by Canadians. The associated cost is expected to be low, given that companies are expected to have this information readily available, and many are already providing this information in their notices.

*Reporting.* The requirement that companies submit, to the Minister, copies of any subsequent communications to owners and retailers for a period of five years differs from the comparable U.S. requirement, which has no duration limit. The Department anticipates that the five-year limit is sufficient to enable oversight of responses to a given defect or non-compliance.

## Rationale

The Amendments enhance oversight capabilities and improve the quality of information made available to Canadians in the event of a motor vehicle defect or instance of non-compliance with the Regulations, thereby improving consumer protection, and contributing to accident prevention. Taking into consideration the qualitative and monetized benefits and costs described below, the Amendments are expected to result in an overall benefit for Canadians.

*Notice of defect.* The Amendments enhance the content of notices of defect to better inform owners and retailers of preventive measures that can be taken to mitigate any safety risks, and anticipated corrective measures. The U.S. NHTSA already requires that companies provide much of this information in their safety notices, and departmental oversight activities indicate that this information is currently recorded and available from individual companies and often already provided to Canadians.

The Department recognizes that some of the required information may take additional time to finalize for notification purposes, in particular any information regarding appropriate corrective measures. Some companies may also incur a small one-time cost to adjust their administrative processes to ensure that the proper information is provided, after which any additional costs would be negligible. Overall, the Department estimates that industry would incur incremental costs of \$160,501 over 10 years. <sup>8</sup>

*Notice of non-compliance.* Adding provisions for non-compliance in the Regulations address safety defects and non-compliance conditions distinctly and separately. An increase in the number of notices is not expected with this addition, given that notices of non-compliance are already generally issued, and that notification is required in the United States. The Amendments provide clarity and ensure consistency regarding notifications of non-compliance.

*Reporting.* The modification to the time limits for submission of a follow-up report is housekeeping in nature, and provide additional flexibility to industry with no anticipated impact on safety.

Quarterly reports to the Minister end after two years, which limits the Department's ability to track any extended activities undertaken by companies to correct a defect or non-compliance. Requiring copies of companies' related communications to owners and retailers for five years enhances oversight and keeps the Department informed of extended remediation efforts. A similar requirement, without a time limit, is included in the comparable U.S. regulations.

Based on an average of 659 notices from 2014 to 2018, the Department anticipates that the review of supplementary information will require less than one month of additional work for one departmental official over the full year, such that the Amendments will result in incremental costs to Government of \$65,827 over 10 years. However, these costs are expected to be more than offset by reductions in the workload related to calls and correspondence from the public regarding a lack of detail in the notices, with savings of \$103,884 over 10 years.

*Requests for records.* The Minister's oversight capabilities will be significantly hampered if an inspector is unable to obtain certification documentation from companies. While previously present in the MVSRR, this requirement is added to the MVSTR and RSSR. The Regulations currently require that companies keep such documentation on hand, and the requirements therefore result in negligible incremental costs.

*Vehicle owner's manual.* The information and experience voiced by the public has provided the Department with insight regarding the vehicles and equipment in use. The Amendments will facilitate stakeholder feedback by requiring that the owner's manual, currently required to be supplied with vehicles, also include information on how to contact the Department in order to report a safety concern relating to a vehicle.

## Implementation, enforcement and service standards

Companies are responsible for ensuring compliance with the requirements of the Act and the Regulations. The Department will monitor notices of defect and non-compliance to ensure that they contain, at a minimum, the information required by the Regulations, and that companies take action in accordance with timelines specified by the Regulations. In addition, the Department will gather information related to the presence of safety issues through public complaints and other reports, and through vehicle or component inspection, testing and other proven investigative techniques. Under the authority of the Act, designated inspectors may also search places believed on reasonable grounds to contain records related to the vehicle or equipment, with a view to ascertain any defect or non-compliance with a product, and request documentation believed to contain information relevant to the enforcement of the Act. Any person or company that contravenes a provision of the Act or its regulations is guilty of an offence, and liable to the applicable penalty set out in the Act.

The Amendments come into force on the date of publication in the *Canada Gazette*, Part II.

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## Footnotes

- <sup>a</sup> S.C. 2014, c. 20, s. 223(1)
- <sup>b</sup> S.C. 1993, c. 16
- <sup>1</sup> C.R.C., c. 1038
- <sup>2</sup> SOR/2010-90
- <sup>3</sup> SOR/2013-198
- <sup>4</sup> Equipment refers to tires or equipment used in the restraint of children and disabled persons.
- <sup>5</sup> The Canadian Vehicle Manufacturers' Association (CVMA) representing FCA Canada Inc.; Ford Motor Company of Canada, Limited; and General Motors of Canada Company.
- <sup>6</sup> The Global Automakers of Canada (GAC) representing BMW Canada Inc.; Honda Canada Inc.; Hyundai Auto Canada Corp.; Jaguar Land Rover Canada ULC.; Kia Canada Inc.; Maserati Canada Inc.; Mazda Canada Inc.; Mercedes-Benz Canada Inc.; Mitsubishi Motor Sales of Canada Inc.; Nissan Canada Inc.; Porsche Cars Canada Ltd.; Subaru Canada Inc.; Toyota Canada Inc.; Volkswagen Group Canada Inc.; and Volvo Cars of Canada Corp.
- <sup>7</sup> The Truck and Engine Manufacturers Association (EMA) representing worldwide manufacturers of heavy-duty engines and commercial motor vehicles (greater than 10 000 pounds gross vehicle weight rating).
- <sup>8</sup> All values are discounted over 10 years using a discount rate of 7%.
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## Government of Canada activities and initiatives

### **#YourBudget2018 – Advancement**



[https://www.budget.gc.ca/2018/docs/themes/advancement-advancement-en.html?utm\\_source=CanCa&utm\\_medium=Activities\\_e&utm\\_content=Advancement&utm\\_campaign=CABdgt18](https://www.budget.gc.ca/2018/docs/themes/advancement-advancement-en.html?utm_source=CanCa&utm_medium=Activities_e&utm_content=Advancement&utm_campaign=CABdgt18)

Advancing our shared values

### **#YourBudget2018 – Reconciliation**



[https://www.budget.gc.ca/2018/docs/themes/reconciliation-reconciliation-en.html?utm\\_source=CanCa&utm\\_medium=%20Activities\\_e&utm\\_content=Reconciliation&utm\\_campaign=CABdgt18](https://www.budget.gc.ca/2018/docs/themes/reconciliation-reconciliation-en.html?utm_source=CanCa&utm_medium=%20Activities_e&utm_content=Reconciliation&utm_campaign=CABdgt18)

Advancing reconciliation with Indigenous Peoples

### **#YourBudget2018 – Progress**



[https://www.budget.gc.ca/2018/docs/themes/progress-progres-en.html?utm\\_source=CanCa&utm\\_medium=Activities\\_e&utm\\_content=Progress&utm\\_campaign=CABdgt18](https://www.budget.gc.ca/2018/docs/themes/progress-progres-en.html?utm_source=CanCa&utm_medium=Activities_e&utm_content=Progress&utm_campaign=CABdgt18)

Supporting Canada's researchers to build a more innovative economy