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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 579

[Docket No. NHTSA-2006-25653; Notice 1]
RIN 2127-AJ94

Reporting of Early Warning Information

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes amendments to certain provisions of the early warning reporting rule published pursuant to the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. This document proposes to modify and clarify some of the manufacturers' reporting requirements under the rule. It would identify a subclass of field reports referred to as product evaluation reports and eliminate the requirement that manufacturers submit copies of them to the agency, revise the definition of fire, modify reporting relating to fuel systems on medium-heavy vehicles and buses, and limit the time period for required updates to a few data elements in reports of deaths and injuries.

DATES: Comments Closing Date: Comments must be received on or before October 31, 2006.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number NHTSA 2006-25653 by any of the following methods:
Web site: http://dms.dot.gov. Follow the instructions for

submitting comments on the DOT electronic docket site.
Fax: 1-202-493-2251.

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

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

Federal eRulemaking Portal: Go to http://www.regulations.gov. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Request for Comments heading of the SUPPLEMENTARY INFORMATION section of this document. Note that all comments received will be posted without change to http://dms.dot.gov, including any personal information provided.

Please see the Privacy Act heading of the SUPPLEMENTARY INFORMATION section of this document regarding documents submitted to the agency's dockets.

Docket: For access to the docket to read background documents or comments received, go to http://dms.dot.gov at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For all issues except legal issues, contact Tina Morgan, Office of Defects Investigation, NHTSA (phone: 202-366-0699). For legal issues, contact Andrew DiMarsico, Office of Chief Counsel, NHTSA (phone: 202-366-5263). You may send mail to these officials at National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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Introduction

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

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

Monthly reporting of manufacturer communications (e.g., notices to

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distributors or vehicle owners, customer satisfaction campaign letters, etc.) concerning defective equipment or repair or replacement of equipment;

Reporting (within five days of a determination to take such an action) of information concerning foreign safety recalls and other safety campaigns in foreign countries; and

Quarterly reporting of early warning information: Production information; information on incidents involving death or injury; aggregate data on property damage claims, consumer complaints, warranty claims, and field reports; and copies of field reports (other than dealer reports) involving specified vehicle components, a fire, or a rollover.

We use the term ``Early Warning Reporting'' (EWR) here to apply to the requirements in the third category above, which are found at 49 CFR

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

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

The Early Warning Reporting Division of the Office of Defects Investigation (ODI) reviews and analyzes a huge volume of early warning data and documents (e.g., an average of more than 50,000 individual field reports per calendar quarter) submitted by manufacturers. ODI continues to achieve its primary mission of identifying and ensuring the recall of defective vehicles and equipment that pose an unreasonable risk to safety. Using both its traditional sources of information such as complaints from vehicle owners and manufacturers' own communications, as well as the additional quantum of information provided by EWR submissions, ODI continues to conduct many investigations of potential safety defects and to influence recalls where defects have been determined to be present. In 2005, for example, manufacturers recalled more than 17 million vehicles for defective conditions, a majority of which involved recalls influenced by ODI's investigations.

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

NHTSA is evaluating the EWR rule in two phases. The first phase covers the definitional issues that are addressed in this document. We were able to evaluate these issues within a short period of time based on available information and present proposed resolutions of the issues in this notice.

The second phase of our evaluation will address issues that require more analysis than those addressed in the first phase. For example, in the second phase we expect to evaluate whether there is a need to adjust any of the reporting thresholds and whether any categories of aggregate data should either be enhanced or eliminated. This will entail making reasonable estimates of the quantity and quality of data

that might be lost if the threshold is increased to particular levels and analyzing whether such a loss would have an appreciable effect on ODI's ability to identify possible safety defects. With regard to the specific categories of aggregate data (e.g., data concerning light vehicles), we expect to address whether the information being provided has value in terms of helping identify defects and, if not, how the requirement might be adjusted to provide such value. These tasks will require considerable time, but we want to ensure that any significant changes in EWR requirements, or decisions not to make such changes, are based on sound analysis. We anticipate that the agency's internal evaluation of phase two issues will be completed in the latter part of 2007 and that a Federal Register notice (if regulatory changes are contemplated) or a report containing the agency's conclusions will follow.

I. Summary of the Proposed Rule

The early warning reporting (EWR) rule requires certain manufacturers of motor vehicles and motor vehicle equipment to submit information to NHTSA. 49 CFR part 579, subpart C. This proposed rule would reduce some of the reporting requirements and reporting burden on manufacturers in a manner that would not adversely impact NHTSA's ability to identify and assess potential safety-related defects. The proposed rule does not address and, therefore, does not propose modifications of the basic structure of the EWR rule.

Under the EWR rule, certain manufacturers must submit to NHTSA numerical tallies, by specified system and component, of all field reports as well as copies of field reports, except copies of field reports by dealers. The proposed rule would create another exception regarding the copies of field reports that must be sent to NHTSA. The proposed rule would denominate a subset of field reports known as product evaluation reports and eliminate the requirement that manufacturers submit them to NHTSA. In general, product evaluation reports essentially are evaluations by employees of manufacturers who as a condition of personal use of new vehicles fill out evaluations of the vehicles. These employees have no role in engineering or technical analysis of any conditions noted in the evaluations. The proposed rule would specifically define product evaluation reports. This proposal would not change the existing requirements that specified manufacturers report the numbers of field reports received.

The EWR rule requires certain vehicle manufacturers to submit to NHTSA numerical tallies indicating whether the underlying matter (e.g., consumer complaint, warranty claim or field report) involved a specified system or component and whether it involved a fire, as well as field reports on fires. The regulatory definition of fire includes fires and precursors of fires. This proposal would change the

definition of a fire to eliminate two precursors of fire--the terms ``sparks'' and ``smoldering''--and add one term, ``melt'', to the definition.

Under the EWR rule, manufacturers in the medium-heavy truck and bus category submit specified information on fuel systems. The information is submitted separately by the type of fuel system in the vehicle: Gasoline, diesel or other. ``Other'' includes compressed natural gas and vehicles that operate on more than one type of fuel. Under this proposed rule, the denomination of the category ``Fuel System Other'' would be changed to ``Fuel System Other/Unknown''. This expanded category would include vehicles where the type of fuel system in the vehicle is not known.

Last, the EWR rule requires manufacturers to submit reports of incidents involving death or injury, and

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to update these reports to include missing vehicle identification numbers (VINs), tire identification numbers (TINs) and codes on systems or components that allegedly contributed to the incident and whether the incident involved a fire or rollover, if this information is later identified by the manufacturer. This notice proposes to limit the requirement to submit updates to a period of no more than one year after NHTSA receives the initial report.

II. Background

A. The Early Warning Reporting Rule

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

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

On a quarterly basis, manufacturers in the first group must provide comprehensive reports for each make and model for the calendar year of the report and nine previous model years. Tire and child restraint manufacturers must provide comprehensive reports for the calendar year of the report and four previous model years. Each report is subdivided so that the information on each make and model is provided by specified vehicle systems and components. The vehicle systems or components on which manufacturers provide information vary depending upon the type of vehicle or equipment manufactured.\1\

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

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

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

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

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

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

Production (the cumulative total of vehicles or items of equipment manufactured in the year)

Incidents involving death or injury based on claims and notices received by the manufacturer

Claims relating to property damage received by the

manufacturer

Warranty claims paid by the manufacturer pursuant to a warranty program (in the tire industry these are warranty adjustment claims)

Consumer complaints (a communication by a consumer to the manufacturer that expresses dissatisfaction with the manufacturer's product or performance of its product or an alleged defect)

Field reports (a report prepared by an employee or representative of the manufacturer concerning the failure, malfunction, lack of durability or other performance problem of a motor vehicle or item of motor vehicle equipment).

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

In contrast to the comprehensive reports provided by manufacturers in the first group, the second group of manufacturers reports only incidents relating to death and any injuries associated with the reported death incident.

B. Industry Recommendations

Beginning in late 2005, in anticipation of the agency's evaluation of the EWR regulation, several industry associations submitted unsolicited recommendations to modify the EWR rule. Those associations included the Alliance of Automobile Manufacturers (Alliance), the National Truck Equipment Association (NTEA) and the Truck Manufacturers Association (TMA).\2\ In general, the various industry associations did not recommend a significant restructuring of the current EWR program. They expressed the view that their members have invested significant resources to establish their EWR reporting programs and cautioned against changes that would alter the format of reporting or the templates required by the agency because such changes would impose substantial costs on them. In view of these concerns, the industry associations recommended changes to the EWR regulation that, in their view, would improve the focus of the early warning reports and reduce the reporting burden on their members and, at the same time, that could be implemented without substantial expenditures.

\2\ The letters from the industry associations are available for review in the docket. You can view them by going to http://dms.dot.gov/ .

As noted above, the first phase of the agency's evaluation of the EWR rule covers definitional issues that could be evaluated in a relatively short period of time. Many of the issues raised in these industry submissions are addressed in this NPRM. Some issues require more analysis and will be part of the second phase of NHTSA's EWR evaluation.

In addition, on April 14, 2006, NTEA petitioned NHTSA to amend the EWR rule in various ways. The issues raised in that petition are not being addressed in this notice. As a matter of resource allocation and planning, as discussed above, this notice is limited in scope. NHTSA intends to consider the issues raised by NTEA in that petition in the second phase of NHTSA's evaluation.

C. Scope of This Rulemaking

This rulemaking is limited in scope to the changes to the EWR requirements proposed in this NPRM, as well as logical outgrowths of the proposal. While NHTSA has received

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recommendations on other issues (e.g., possible changes in the reporting thresholds), those are outside the scope of this notice. During the next phase of the EWR rule evaluation, NHTSA may decide to address some of these issues through additional rulemaking, in which case interested persons may address those issues in response to a subsequent notice of proposed rulemaking.

III. Discussion

A. Field Reports

The EWR regulation requires manufacturers of light vehicles, medium-heavy vehicles and buses, motorcycles, trailers and child seats to submit copies of non-dealer field reports to NHTSA. 49 CFR 579.21(d), 579.22(d), 579.23(d), 579.24(d) and 579.25(d).

Field reports include written communications from an employee or representative of the manufacturer, a manufacturer's dealer or authorized service facility or a fleet operating the manufacturer's vehicles to the manufacturer regarding the failure, malfunction, lack of durability, or other performance in the manufacturer's vehicle or equipment.\3\ See 49 CFR 579.4. Field reports often contain significant information about a potential problem because the reports are completed by a manufacturer's employee or representative with technical

expertise. In the EWR rule, we recognized that, in general, field reports from some entities tend to yield more information than field reports from others. For example, field reports by manufacturers' technical representatives tend to be more technically informative than field reports by vehicle dealers' employees. In light of this difference, the EWR regulation required manufacturers to report tallies of numbers, by system or component, fire and rollover, of all field reports, but limited the submission of copies of field reports to reports by persons other than dealers. Compare 49 CFR 579.21(c) with 49 CFR 579.21(d).

\3\ The EWR field report definition states: Field report means a communication in writing, including communications in electronic form, from an employee or representative of a manufacturer of motor vehicles or motor vehicle equipment, a dealer or authorized service facility of such manufacturer, or an entity known to the manufacturer as owning or operating a fleet, to the manufacturer regarding the failure, malfunction, lack of durability, or other performance problem of a motor vehicle or motor vehicle equipment, or any part thereof, produced for sale by that manufacturer and transported beyond the direct control of the manufacturer, regardless of whether verified or assessed to be lacking in merit, but does not include any document covered by the attorney-client privilege or the work product exclusion. 49 CFR 579.4(c).

Under the EWR rule, manufacturers have submitted large volumes of non-dealer field reports to NHTSA. In fact, in 2004 and 2005, manufacturers submitted approximately 430,000 copies of non-dealer field reports.\4\ In turn, NHTSA's Office of Defects Investigation (ODI) has devoted substantial resources to the review of these field reports.\5\

\4\ Roughly 93 percent of non-dealer field reports submitted to NHTSA addressed light vehicles.

\5\ In addition to reviewing all hard copies of non-dealer field reports as they are received by the agency, ODI also searches the EWR hard-copies of non-dealer field reports during its process of identifying potential safety issues through other non-EWR data (i.e., consumer complaints, technical service bulletins and other non-EWR data).

The Alliance and TMA suggested that the agency consider ways to reduce the number of field reports submitted. In the Alliance's view,

the current definition of ``field report'' is overly broad because it requires manufacturers to submit all communications written by an employee regarding a performance problem in a motor vehicle. The Alliance points out that this includes thousands of reports prepared by non-technical employees of the manufacturer. These reports--which are referred to as ``product evaluations''--are generated by a manufacturer's employees who lease or use a new vehicle for personal use subject to the condition that they provide written evaluations of the vehicles. The Alliance asserts that the product evaluations are not based on any technical review or analysis of an issue or on an inspection of any part or system noted in the evaluation. Rather, the Alliance contends, product evaluation reports are more like consumer complaints (see 49 CFR 579.4(c)) because they are not grounded on specific technical expertise. According to the Alliance, the product evaluations have little or no value as indicators of potential safety-related defects, but are a significant burden on manufacturers to submit.

The Alliance recommends that the agency revise the EWR rule provision requiring the submission of field reports to eliminate the requirement for manufacturers to submit copies of the product evaluations. In particular, the Alliance suggests that the parenthetical exclusion in 49 CFR 579.21(d) be changed from ``(other than a dealer report)'' to ``(other than a dealer report or a report from the operator of the vehicle).'' The Alliance also suggests that the reporting of the numbers of field reports in the aggregate data remain unchanged. It contends that the costs to the manufacturers to change their information technology (IT) infrastructure to report product evaluations as consumer complaints would be large, while the expected benefits would be low, and therefore that a change to the reporting of numbers would not be warranted.

We tentatively agree with the Alliance's suggestion that manufacturers should not be required to submit copies of field reports that amount only to product evaluations by their employees. To begin, a very large number of product evaluation reports are submitted under the EWR rule. About 50 to 60 percent of the approximately 50,000 field reports submitted each quarter fall within the product evaluation classification. The review of these by NHTSA's ODI consumes substantial resources.

The information provided by reviewing individual product evaluations has not advanced ODI's identification of potential safety defects, and the elimination of the requirement to submit copies of product evaluations will not affect ODI's overall capability to identify potential defects. A substantial majority of the product evaluations do not contain sufficient information to identify a potential safety-related problem area. In fact, because product evaluation reports are not intended to focus specifically on safety

issues, they often concern non-safety issues such as the comfort and convenience of the vehicle driver. Even when they touch on subjects that may be safety-related, the product evaluation field reports do not provide a technical assessment of the alleged problem. During the screening process that NHTSA uses to review all available information to identify likely candidates for further investigation, ODI often utilizes information submitted by manufacturers (written communications such as technical service bulletins) \6\ and consumers (such as vehicle owner complaints, also known as vehicle owner questionnaires (VOQ)) \7\ as well as EWR information. In this process, the information in EWR field reports, other than product evaluation reports, adds technical insight into potential safety problems identified through VOQs and other sources of information. However, product evaluation reports have not added this technical insight. When an issue has been noted in a product evaluation report, ODI has had other data (e.g., VOQs, technical service bulletins or EWR field reports other than product evaluation reports) that, in our view, would have been sufficient for

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opening an investigation without the product evaluation field report(s).

\6\ See 49 CFR 579.5.
\7\ See http://www.odi.nhtsa.dot.gov/ivoq/.

In short, eliminating the requirement to submit copies of product evaluation reports would not have a detrimental impact on ODI's ability to identify potential safety-related issues, would facilitate a far more productive use of ODI's limited resources by significantly reducing the sheer volume of reports that must be reviewed, and would reduce the burden on the manufacturers to submit them.

Therefore, we propose to amend paragraph (d) of 49 CFR 579.21-579.25 to add ``product evaluation report'' to the parenthetical in the first sentence. Thus, for example, section 579.21(d) would read:

Copies of field reports. For all light vehicles manufactured during a model year covered by the reporting period and the nine model years prior to the earliest model year in the reporting period, a copy of each field report (other than a dealer report or product evaluation report) involving one or more of the systems or components identified in paragraph (b)(2) of this section, or fire, or rollover, containing any assessment of an alleged failure, malfunction, lack of durability, or other performance problem of a

motor vehicle or item of motor vehicle equipment (including any part thereof) that is originated by an employee or representative of the manufacturer and that the manufacturer received during a reporting period.

We also propose to add the definition of ``a product evaluation report'' to 49 CFR 579.4(c). We propose the following definition:

Product evaluation report means a field report prepared by, and containing the observations or comments of, a manufacturer's employee who is required to submit the report concerning the operation or performance of a vehicle or child restraint system as a condition of the employee's personal use of that vehicle or child restraint system, but who has no responsibility with respect to engineering or technical analysis of the subjects mentioned in the report.

The proposed definition would eliminate only those reports from a manufacturer's employee who has personal use of a new production vehicle or child restraint system and is required to submit a product evaluation as a condition of the employee's use of the vehicle, where the employee has no responsibility for engineering or technical analysis of the subject matter of the report.

This proposal would not eliminate the requirement to report the numbers of product evaluation reports in the submission of aggregate data. Specifically, manufacturers would continue to report the number of product evaluation field reports, broken down by codes indicating the affected system or component, as part of the field report aggregate data. Retaining the count of product evaluation reports as part of the aggregate data submissions on field reports will ensure that any significant trends in the volume of such reports related to particular components or systems, which may provide some indication of a possible safety issue, will still be reflected in the aggregate data without the need for time-consuming review of all such reports, which experience has shown is very unlikely to yield important safety information.

We seek comment on the elimination of the requirement to submit copies of product evaluation reports. We also seek comment on the proposed definition of ``product evaluation report''. We specifically ask whether the proposed definition of ``product evaluation report'' is tailored to eliminate employees'' product evaluations but not other assessments. Any comments should be supported by sufficient justification.

B. Definition of Fire

The EWR regulation requires manufacturers of light vehicles, medium-heavy vehicles and buses, motorcycles and trailers to report

incidents involving fires, as well as the underlying component or system where it originated if included in specified reporting elements. 49 CFR 579.21-24. The EWR regulation defines fire as:

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

49 CFR 579.4(c). The definition was cast broadly to capture not only incidents involving actual fires, but also incidents that are indicative of a fire or potential fire. 67 FR 45822, 45861 (July 10, 2002). In a response to a petition for reconsideration of the EWR regulation, NHTSA added the last clause to exclude events or phenomena associated with a normally functioning vehicle. 68 FR 35132, 35134 (June 11, 2003).

The Alliance and TMA requested that we amend the fire definition because, in their view, it is inappropriately broad. Based upon its members' experience during the past two years, the Alliance contends that due to the scope of the definition, the numbers of fires reported in the aggregate warranty, consumer complaint, property damage and field report data are artificially high. According to the Alliance, this creates an inaccurate picture of fire-related incidents and obscures relevant data.

As explained by the Alliance, its members commonly employ a two-step process to report fires under the EWR rule. In a first level screening, they use text-mining tools to locate potentially reportable incidents. In a second level review, the manufacturers review the documents identified in the initial screening and decide whether the item is actually within the scope of the EWR definition of fire. The Alliance claims that the inclusion of the terms ``smoke'' and ``sparks'' has created a large burden on the manufacturers, since in the first step they identify a relatively large number of potentially reportable fires. Furthermore, the Alliance asserts that in the second step, when in doubt whether an item is related to a fire, manufacturers report the incident to NHTSA, whether or not the incident is actually related to a fire, which leads to over-reporting.\8\ TMA has the same view as the Alliance.

\8\ The Alliance did not provide any support for its contentions that its members submit artificially high numbers of fire related EWR warranty claims, and such reporting creates a significant burden.

To address these concerns, the Alliance recommends that the agency amend the second sentence of the definition for ``fire'' to remove the phrase ``but is not limited to'' and the precursor terms ``smoke'' and ``sparks''. Under the Alliance proposal, the fire definition would read: ``The term also includes (i) thermal events that are precursors to fire and (ii) fire related phenomena that are precursors of fires, such as smoldering but does not include events and phenomena associated with a normally functioning vehicle such as combustion of fuel within an engine or exhaust from an engine.''

To evaluate whether the definition of fire could be improved, we reviewed a substantial number of field reports to see what words were used in them and to assess if they presented one or more potential fire-related issues of concern, such as a precursor to a fire. Field reports were reviewed because they contain free field text. In contrast, other EWR data, such as aggregate data on consumer complaints, does not contain free field text. For the third and fourth quarters of 2005, ODI received about 750 field reports under the fire category. Five words or parts thereof were used most often in these reports to describe a fire event or an incident that could be a precursor to a fire in the fire-related field report. These were: Burn, flame, fire, melt and smoke.\9\ The definition of

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fire in the current regulation includes two terms describing precursors to fires that were seldom used when reporting fire-related events in field reports: ``sparks'' and ``smoldering''. Moreover, the word spark could relate to legitimate functions such as sparking of spark plugs, which would present a screening burden to manufacturers. NHTSA tentatively believes that these two words could be deleted from the definition of fire. Another term, ``melt'', is frequently used by manufacturers in descriptions of fire events or precursor to a fire.\10\ The agency tentatively believes that this word should be added to the definition of fire.

\9\ We continue to encounter euphemistic descriptions of fires by manufacturers such as ``thermal incident'', ``rapid oxidation'' and ``hot spot''. We consider those descriptions to fall within the scope of the definition of fire.

\10\ The ODI study also found that the terms ``flame'' and ``burn'' are used frequently, but it is unnecessary to add them to the second sentence since those terms are included in the first sentence of the definition.

The agency, therefore, proposes to amend the fire definition to read:

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

We recognize that the amendment to the fire definition offered by the Alliance did not include the phrase ``but is not limited to''. The Alliance did not explain why it would have NHTSA delete the phrase ``but is not limited to'' from the EWR definition. We have retained that language in the proposed version of the definition to assure that that there is no confusion about whether the terms used in the definition are intended to be an exhaustive list of all terms that might trigger a need to report an event as a fire event. They are not intended to provide an exhaustive list. Those terms (``fire,'' ``burn,'' ``flame,'' ``smoke,'' and ``melt'') are the words most often associated, in ODI's experience, with manufacturer reports of events that actually entail a fire or precursor to a fire. Including those terms (or some form of them) in the definition helps sharpen the definition and provide guidance on the terms most likely to be used to indicate a reportable event. Nevertheless, some reports involving such events include other terms, such as ``thermal incidents'', ``rapid oxidation'' and ``hot spots''. Under the revised definition as proposed, manufacturers would retain the duty to report fires, thermal events, and other fire-related phenomena, other than those associated with the normal functioning of a vehicle, regardless of whether the specific words used in the definition are present in relevant documents.

C. Brake and Fuel System Subcategories

The EWR regulation requires manufacturers of medium-heavy vehicles and buses (MHB) to report the numbers of claims, complaints, warranties and field reports regarding brake systems separately depending on the type of brake system. The types of brake systems identified by the EWR regulation are: ``Service Brake System: service brake system 03; (hydraulic) and service brake system 04; (air)'' 49 CFR 579.22(b)(2), (c). Similarly, MHB manufacturers must report fuel systems separately depending on the type of systems. The types of fuel systems identified by the EWR regulation are: ``Fuel System: Fuel system 07; (gasoline), fuel system 08; (diesel), and fuel system 09; (other)''. Id.

Instead of reporting based on the specific type of system, the

Alliance and TMA recommend that the two brake systems be combined into ``Service Brake System'' and the three fuel systems be combined into ``Fuel System''. Their concerns appear to be grounded on the availability of accurate data. They recognize that information on the brake and fuel systems could be entered accurately into EWR data if the manufacturers had the vehicle identification number (VIN) or sufficient information to identify the brake system (i.e., hydraulic or air brakes) or fuel system (gasoline, diesel or other (e.g., multiple fuels or compressed natural gas)) on the vehicle. However, the manufacturers receive some claims and complaints that lack this information. In those instances where manufacturers are uncertain as to which brake or fuel category is appropriate, the Alliance states that the manufacturers generally do report the incident by categorizing it in the system with the highest production volume for the model that is the subject of the claim or complaint. The associations contend that this practice leads to erroneous comparisons between two vehicles with different brake and fuel systems.

NHTSA is concerned, among other things, about the accuracy of EWR data. ODI assessed whether the brake and fuel system categories in the EWR rule should be collapsed into one category for each system in order to improve the functioning of the EWR rule.

The Alliance is correct that in the MHB industry segment, some models of vehicles have different types of brakes and operate on different fuels. Relatively lighter vehicles have hydraulic brakes while the heavy vehicles have air brakes. There is not a precise bright line that divides the use of the systems. Based on available information, we estimate that about one-sixth of the average annual production of MHBs is produced with more than one type of brake system. For the fuel system category, approximately two-fifths of the average annual production of models of MHB vehicles have more than one type of fuel system, generally gasoline and diesel fuel.

The Alliance and TMA expressed concern that if significant amounts of data were binned into the incorrect brake and fuel system subcategories, an incorrect analysis could follow. In our view, however, at most a very small percentage of the data may have been binned incorrectly. Warranty claims data account for 94 percent of all aggregate data on MHBs, while field reports constitute 3 percent. Warranty claims and field reports almost always contain a VIN because the manufacturer's authorized dealer or representative has access to the vehicle and, in the case of warranty claims, a vehicle manufacturer will not pay a warranty claim unless the claim includes the VIN. In the vast majority of cases, the VIN identifies the type of brake or fuel systems on the vehicle. Since almost all of the MHB EWR aggregate data would be based on the VIN, in general, the reports would be accurate.

Moreover, there is considerable value in knowing the nature of the underlying brake or fuel system. ODI's defects investigations and

manufacturers' recalls related to fuel or brake systems frequently affect only one of the multiple fuel or brake systems offered on a particular model. Approximately one third of the brake system recalls and almost one third of the brake system defects investigations of MHB vehicles involved models where manufacturers offered either hydraulic or air brake systems. Similarly, over one third of the defects investigations and recalls of MHB vehicles involved models where manufacturers offered either gasoline or diesel fuel systems. Were NHTSA to combine the two brake systems and three fuel systems into one each for brake and fuel systems, we would be unable to distinguish whether the EWR data related to a particular brake or fuel system, which would limit our use of the data. A potential problem in one subset of brake or fuels data could be masked if the subsets of brake and fuel data were combined. Thus, combining the brake and fuel system subcategories for MHB vehicles would possibly obscure a potential safety issue in

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vehicles with distinct brake or fuel systems and make identifying a potential safety trend more difficult.

The Alliance's and TMA's recommendation to combine the brake system subcategories and the fuel system subcategories would increase the overall likelihood that ODI would not identify a potential problem because trends in the less distinct component subcategories would tend to be masked within a broader category of numbers. Therefore, we decline to adopt the Alliance's and TMA's recommendation to combine the brake and fuel system subcategories into one category for each system.

However, in order to reduce the potential for erroneous analyses, NHTSA is proposing to amend the MHB fuel system subcategory. The agency is proposing to amend the component category ``09 Fuel System Other'' to ``09 Fuel System Other/Unknown''. Under this proposal, as a matter of practice, manufacturers would not report the vehicles with unknown fuel systems in the fuel system category with the highest production. This would tend to increase the quality of the data by eliminating unknown data from within the component subcategories of gasoline and diesel fuel systems, although as noted above, we do not believe that the error rate is significant. This modification would require a minor amendment to section 579.22 and would not appear to require a costly change to the EWR IT infrastructure for manufacturers or NHTSA because the current reporting system already has an ``other'' subcategory for fuel systems, which can simply be amended to include those that are unknown. However, the current system does not include an ``other'' subcategory for brake systems, so we cannot address the issue of unknown brake systems without adding a new subcategory. We seek comment on this proposed change.

NHTSA is also seeking comment on whether the agency should, rather than merely expanding the ``other'' subcategory for fuel systems to become ``other/unknown,'' add new subcategories to one or both of the brake and fuel component categories. Under this approach, the agency would add ``Fuel System Unknown'' and ``Brake System Unknown'' to MHB reports. With the addition of these two subcategories, the vehicles with unknown fuel or unknown brake systems would be binned into distinct subcategories, thus improving the quality of the data in other categories. However, this alternative might require appreciable costs to both manufacturers and NHTSA, as the IT infrastructure for EWR would have to be changed. We seek comment on this potential amendment. We also seek comment on the costs that manufacturers would incur if this alternative were adopted. We also are interested in comments on whether the benefits of improved data would outweigh the costs incurred by manufacturers if this were adopted.

D. Updating of Reports on Death and Injury Incidents

The EWR rule requires manufacturers of light vehicles, medium-heavy vehicles and buses, motorcycles, trailers and child seats and tires to submit information on incidents involving death or injury identified in a notice or claim received by a manufacturer in the specified reporting period. 49 CFR 579.21(b), 579.22(b), 579.23(b), 579.24(b), 579.25(b) and 579.26(b). For vehicles, these reports include the VIN; for tires they include the tire identification number (TIN). Generally, these reports include the system or component, by codes specified in the rule, that allegedly contributed to the incident. Manufacturers must submit reports on incidents involving death and injury even if they do not know the VIN, TIN or system or component. The EWR regulation requires manufacturers to update their reports on incidents involving death or injury if the manufacturer becomes aware of (i) the VIN/TIN that was previously unknown or (ii) one or more of the specified systems or components that allegedly contributed to the incident. 49 CFR 579.28(f)(2). The requirement to update is unlimited in time.

The Alliance expressed concern about the open-ended nature of the updating requirement. According to the Alliance, only a small percentage of reports require updating, with manufacturers only able to provide a newly-identified VIN in fewer than one-third of those cases where the VIN was originally unavailable. The Alliance adds that even fewer updates involve an originally-unknown and unreported system or component code. It contends that the agency receives very little additional information through updating. In addition, the Alliance asserts any new information supplied through updating most likely has very little value, since with the passage of time, the information loses any value that it might have had as an ``early'' warning of potential defects. It further contends that updating imposes a

significant burden in those rare instances where outside counsel learn of a missing VIN or component. The Alliance also claims that providing updates on death and injury incidents imposes a substantial administrative burden on manufacturers because the updating process requires manufacturers to revise and resubmit the entire data file for the calendar quarter being updated.

The agency has considered the burdens and benefits of updating death and injury reports. About 95 percent of the EWR reports on incidents involving a death or injury include a VIN or a TIN when initially submitted by manufacturers. About 94 percent of the initial reports include the allegedly contributing system or component. After accounting for updating, the number of death and injury incidents in the EWR database that include a VIN or a TIN increases to about 96 percent, and the number that include component identifications increases to about 95 percent. Most of the updates to an incomplete or unknown VIN or component are submitted within one year after the initial EWR submission.

In view of the above, NHTSA's tentative assessment is that updating involves a small burden and provides a modest benefit. The Alliance overstates the burden imposed on manufacturers to update the EWR reports on death or injury. First, the vast majority of reports do not require updates. Only five percent do not include the VIN or TIN. Second, when information is missing, prior to a lawsuit, in-house counsel and, after a lawsuit, outside counsel need simply to check once a quarter for the VIN or TIN and component or system involved, which is particularly basic information. The information can readily be communicated from outside counsel, to a paralegal in the office of in-house counsel, and from there to the company's EWR coordinator. Finally, in our view, it is not overly burdensome for manufacturers to edit a quarterly EWR submission. To provide an update, a manufacturer would only have to update an existing data file such as changing a value in a table. After amending it, the manufacturer merely has to electronically communicate it to NHTSA to submit the update.\11\

\11\ Contrary to the Alliance's belief, there is no burden on NHTSA when manufacturers provide updates. Manufacturers can update their reported incidents of death and injury at anytime without intervention by NHTSA.

The agency believes that information on deaths and injuries is important. Updating is necessary to provide complete and accurate information relating to death and injury incidents as an early indicant of a potential safety-related trend. The requirement for updates also serves as an inducement for manufacturers to undertake a thorough

effort to obtain the information

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for the initial submission, in order to conclude the reporting obligation. Thus, NHTSA is not proposing to eliminate the updating requirement in 49 CFR 579.28(f)(2).

Nonetheless, it appears that at some stage the likelihood of obtaining missing information on VINs/TINs and the systems and components that allegedly contributed to the incident diminishes substantially. As a result, at some point it would not be worthwhile to continue the updating process. The agency tentatively believes that since about 95 percent of the initial reports contain the VIN/TIN and 94 percent identify the component or system that allegedly contributed to the incident, and the majority of the updates occur within one (1) year after the incidents of death and injury were initially reported to NHTSA, it would be appropriate to discontinue the requirement to update the reports on incidents of death or injury one year after the incident is initially reported to the agency. In other words, updating would be required for four quarters or less. We believe this approach would reduce some of the burden on manufacturers, and that the EWR program would not be adversely affected by the absence of the information that would no longer be received after one year. Manufacturers that identify a missing VIN, TIN or component later than one (1) year after the submission of the initial report may submit an updated report of such incident at their option.

Therefore, NHTSA is proposing to amend 49 CFR 579.28(f)(i) to read:

If a vehicle manufacturer is not aware of the VIN, or a tire manufacturer is not aware of the TIN, at the time the incident is initially reported, the manufacturer shall submit an updated report of such incident in its report covering the reporting period in which the VIN or TIN is identified. A manufacturer need not submit an updated report if the VIN or TIN is identified by the manufacturer in a reporting period that is more than one year later than the initial report to NHTSA.

The agency further proposes to amend 49 CFR 579.28(f)(ii) to read:

If a manufacturer indicated code 99 in its report because a system or component had not been identified in the claim or notice that led to the report, and the manufacturer becomes aware during a subsequent calendar quarter that one or more of the specified systems or components allegedly contributed to the incident, the manufacturer shall submit an updated report of such incident in its report covering the reporting period in which the involved specified system(s) or component(s) is (are) identified. A manufacturer need

not submit an updated report if the system(s) or component(s) is (are) identified by the manufacturer in a reporting period that is more than one year later than the initial report to NHTSA.

We seek comments on our proposal to limit the requirement to update incidents of death and injury identified in claims and notices received by the manufacturer up to one year after the incident is received by the agency.

IV. Request for Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address shown at the beginning of this document, under ADDRESSES. You may also submit your comments electronically to the docket following the steps outlined under ADDRESSES.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit the following to the Chief Counsel (NCC-110) at the address given at the beginning of this document under the heading FOR FURTHER INFORMATION CONTACT: (1) A complete copy of the submission; (2) a redacted copy of the submission with the confidential information removed; and (3) either a second complete copy or those portions of the submission containing the material for which confidential treatment is claimed and any additional information that you deem important to the Chief Counsel's consideration of your confidentiality claim. A request for confidential treatment that complies with 49 CFR part 512 must accompany the complete submission

provided to the Chief Counsel. For further information, submitters who plan to request confidential treatment for any portion of their submissions are advised to review 49 CFR part 512, particularly those sections relating to document submission requirements. Failure to adhere to the requirements of part 512 may result in the release of confidential information to the public docket. In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at the address given at the beginning of this document under ADDRESSES.

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated at the beginning of this notice under DATES. In accordance with our policies, to the extent possible, we will also consider comments that Docket Management receives after the specified comment closing date. If Docket Management receives a comment too late for us to consider in developing the final rule, we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address and times given near the beginning of this document under ADDRESSES.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (http://dms.dot.gov/).

(2) On that page, click on ``search.''

(3) On the next page (http://dms.dot.gov/search/), type in the

four-digit docket number shown at the heading of this document. Example: if the docket number were ``NHTSA-2001-1234,'' you would type ``1234.''

(4) After typing the docket number, click on ``search.''

(5) The next page contains docket summary information for the docket you selected. Click on the comments you wish to see.

You may download the comments. The comments are imaged documents, in either TIFF or PDF format. Please note that even after the comment closing date, we will continue to file relevant information in the docket as it becomes available. Further, some people may submit late comments. Accordingly, we

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recommend that you periodically search the docket for new material.

V. Privacy Act Statement

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

VI. Rulemaking Analyses and Notices

A. Regulatory Policies and Procedures

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

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

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

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

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

This document was not reviewed under E.O. 12866 or the Department of Transportation's regulatory policies and procedures. This rulemaking action is not significant under Department of Transportation policies and procedures. The impacts of this proposed rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation because this proposal would alleviate some of the burden on manufacturers to provide EWR reports by eliminating the requirement to submit copies of product evaluation field reports, modifying the definition of a fire, modifying a ``Fuel Systems'' category for medium-heavy trucks and buses, and temporally limiting the requirement to update reports on incidents of death and injury.

B. Regulatory Flexibility Act

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

This proposed rule would affect all EWR manufacturers, of which there are currently about 540. NHTSA estimates that a majority of these EWR manufacturers are small entities. Therefore, NHTSA has determined that this proposed rule would have an impact on a substantial number of small entities.

However, NHTSA has determined that the impact on the entities affected by the proposed rule would not be significant. This notice proposes to eliminate the reporting of product evaluation field reports, revise the definition of fire, modify the reporting of fuel systems for medium-heavy vehicles and buses, and limit the time period for required updates to a few data elements in reports of deaths and injuries. The effect of these proposed changes would be to reduce annual reporting costs to manufacturers. The proposed modification relating to reporting of fuel systems on medium-heavy vehicles and buses would entail a small first-year cost for manufacturers of those vehicles to change their respective systems. NHTSA expects the impact of the proposed rule would be a reduction in the paperwork burden for EWR manufacturers. NHTSA asserts that the economic impact of the reduction in paperwork, if any, would be minimal and entirely beneficial to small EWR manufacturers. Accordingly, I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities.

C. Executive Order 13132 (Federalism)

Executive Order 13132 on ``Federalism'' requires us to develop an accountable process to ensure ``meaningful and timely input by State and local officials in the development of ``regulatory policies that have federalism implications.'' The Executive Order defines this phrase to include regulations ``that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' The agency has analyzed this proposed rule in accordance with the principles and criteria set forth in Executive Order 13132 and has determined that it will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact

statement. The changes proposed in this document only affect a rule that regulates the manufacturers of motor vehicles and motor vehicle equipment, which does not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

D. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted annually for inflation with base year of 1995). The Final Rule did not have unfunded mandates implications. 67 FR 49263 (July 30, 2002). Today's proposal would alleviate some of the burden for manufacturers to provide EWR reports by eliminating the requirement to submit copies of product evaluation field reports, modifying the definition of a fire, modifying a ``Fuel Systems'' category for medium-heavy trucks and buses, and temporally limiting the requirement to update reports on incidents of death and injury.

E. Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988, ``Civil Justice Reform'' \12\ the agency has considered whether this proposed rule would have any retroactive effect. We conclude that it would not have a retroactive or preemptive effect, and judicial review of it may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

\12\ See 61 FR 4729, February 7, 1996.

F. Paperwork Reduction Act

Today's proposal would not increase the burden of reporting EWR data by manufacturers of motor vehicles and motor vehicle equipment. The proposal

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does not create new information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. To the extent that this proposed rule implicates the Paperwork

Reduction Act, we will rely upon our previous clearance from OMB. To obtain a three-year clearance for information collection for the EWR rule, NHTSA published a Paperwork Reduction Act notice on April 27, 2005 pursuant to the requirements of that Act (44 U.S.C. 3501 et seq.). We received clearance from OMB on February 24, 2006, which will expire on February 29, 2008. The clearance number is 2127-0616. The amendments proposed by this document do not increase the burdens on manufacturers of motor vehicles and motor vehicle equipment covered by the information clearance.

G. Executive Order 13045

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

This rulemaking is not economically significant.

H. Regulation Identifier Number (RIN)

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

I. Plain Language

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

Have we organized the material to suit the public's needs?

Are the requirements in the rule clearly stated?

Does the rule contain technical language or jargon that isn't clear?

Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?

Would more (but shorter) sections be better?

Could we improve clarity by adding tables, lists or diagrams?

What else could we do to make the rule easier to

understand?

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

J. Data Quality Act

Section 515 of the FY 2001 Treasury and General Government Appropriations Act (Pub. L. 106-554, section 515, codified at 44 U.S.C. 3516 historical and statutory note), commonly referred to as the Data Quality Act, directed OMB to establish government-wide standards in the form of guidelines designed to maximize the ``quality,'' ``objectivity,'' ``utility,'' and ``integrity'' of information that Federal agencies disseminate to the public. As noted in the EWR final rule (67 FR 45822), NHTSA has reviewed its data collection, generation, and dissemination processes in order to ensure that agency information meets the standards articulated in the OMB and DOT guidelines. The changes proposed by today's document would alleviate some of the burden for manufacturers to provide EWR reports by eliminating the requirement to submit copies of product evaluation field reports, modifying the definition of a fire, modifying a ``Fuel Systems'' category for medium-heavy trucks and buses, and temporally limiting the requirement to update reports on incidents of death and injury.

List of Subjects in 49 CFR Part 579

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

Proposed Regulatory Text

In consideration of the foregoing, 49 CFR chapter V is proposed to be amended as follows:

PART 579--REPORTING OF INFORMATION AND COMMUNICATIONS ABOUT POTENTIAL DEFECTS

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

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

Subpart A--General

2. Amend Sec. 579.4(c) to revise the definition of ``fire'' and add the definition of ``product evaluation report'', in alphabetical order, to read as follows:

Sec. 579.4 Terminology.

* * * * *

(c) Other terms. * * *

* * * * *

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

* * * * *

Product evaluation report means a field report prepared by, and containing the observations or comments of, a manufacturer's employee who is required to submit the report concerning the operation or performance of a vehicle or child restraint system as a condition of the employee's personal use of that vehicle or child restraint system, but who has no responsibility with respect to engineering or technical analysis of the subjects mentioned in the report.

* * * * *

Subpart C--Reporting of Early Warning Information

3. Amend Sec. 579.21 to revise the first sentence of paragraph (d) to read as follows:

Sec. 579.21 Reporting requirements for manufacturers of 500 or more light vehicles annually.

* * * * *

(d) Copies of field reports. For all light vehicles manufactured during a model year covered by the reporting period and the nine model years prior to the earliest model year in the reporting period, a copy of each field report (other than a dealer report or a product evaluation report) involving one or more of the systems or components identified in paragraph (b)(2) of this section, or fire, or rollover, containing any assessment of an alleged failure, malfunction, lack of durability, or other performance problem of a motor vehicle or item of motor vehicle equipment (including any part thereof) that is originated by an employee or representative of the manufacturer and that the manufacturer received during a reporting period. * * *

4. Amend Sec. 579.22 to revise the first sentence of paragraph (b)(2) and the first

sentence of paragraph (d) to read as follows:

Sec. 579.22 Reporting requirements for manufacturers of 500 or more medium-heavy vehicles and buses annually.

* * * * *

(b) * * *

(1) * * *

(2) For each incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model, model year, and VIN of the medium-heavy vehicle or bus, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the vehicle that allegedly contributed to the incident, and whether the incident involved a fire or rollover, coded as follows: 01 steering system, 02 suspension system, 03 service brake system, hydraulic, 04 service brake system, air, 05 parking brake, 06 engine and engine cooling system, 07 fuel system, gasoline, 08 fuel system, diesel, 09 fuel system, other/ unknown, 10 power train, 11 electrical, 12 exterior lighting, 13 visibility, 14 air bags, 15 seat belts, 16 structure, 17 latch, 18 vehicle speed control, 19 tires, 20 wheels, 21 trailer hitch, 22 seats, 23 fire, 24 rollover, 98 where a system or component not covered by categories 01 through 22 is specified in the claim or notice, and 99 where no system or component of the vehicle is specified in the claim or notice. * * *

* * * * *

(d) Copies of field reports. For all medium heavy vehicles and buses manufactured during a model year covered by the reporting period and the nine model years prior to the earliest model year in the reporting period, a copy of each field report (other than a dealer report or a product evaluation report) involving one or more of the systems or components identified in paragraph (b)(2) of this section, or fire, or rollover, containing any assessment of an alleged failure, malfunction, lack of durability, or other performance problem of a motor vehicle or item of motor vehicle equipment (including any part thereof) that is originated by an employee or representative of the manufacturer and that the manufacturer received during a reporting period. * * *

5. Amend Sec. 579.23 to revise the first sentence of paragraph (d) to read as follows:

Sec. 579.23 Reporting requirements for manufacturers of 500 or more

motorcycles annually.

* * * * *

(d) Copies of field reports. For all motorcycles manufactured during a model year covered by the reporting period and the nine model years prior to the earliest model year in the reporting period, a copy of each field report (other than a dealer report or a product evaluation report) involving one or more of the systems or components identified in paragraph (b)(2) of this section or fire, containing any assessment of an alleged failure, malfunction, lack of durability, or other performance problem of a motorcycle or item of motor vehicle equipment (including any part thereof) that is originated by an employee or representative of the manufacturer and that the manufacturer received during a reporting period. * * *

6. Amend Sec. 579.24 to revise the first sentence of paragraph (d) to read as follows:

Sec. 579.24 Reporting requirements for manufacturers of 500 or more trailers annually.

* * * * *

(d) Copies of field reports. For all trailers manufactured during a model year covered by the reporting period and the nine model years prior to the earliest model year in the reporting period, a copy of each field report (other than a dealer report or a product evaluation report) involving one or more of the systems or components identified in paragraph (b)(2) of this section or fire, containing any assessment of an alleged failure, malfunction, lack of durability, or other performance problem of a trailer or item of motor vehicle equipment (including any part thereof) that is originated by an employee or representative of the manufacturer and that the manufacturer received during a reporting period. * * *

7. Amend Sec. 579.25 to revise the first sentence of paragraph (d) to read as follows:

Sec. 579.25 Reporting requirements for manufacturers of child restraint systems.

* * * * *

(d) Copies of field reports. For all child restraint systems manufactured during a production year covered by the reporting period and the four production years prior to the earliest production year in the reporting period, a copy of each field report (other than a dealer report or a product evaluation report) involving one or more of the systems or components identified in paragraph (b)(2) of this section,

containing any assessment of an alleged failure, malfunction, lack of durability, or other performance problem of a child restraint system (including any part thereof) that is originated by an employee or representative of the manufacturer and that the manufacturer received during a reporting period. * * *

8. Amend Sec. 579.28 to revise paragraphs (f)(2)(i) and (f)(2)(ii) to read as follows:

Sec. 579.28 Due date of reports and other miscellaneous provisions.

* * * * *

(f) * * *

(1) * * *

(2) * * *

(i) If a vehicle manufacturer is not aware of the VIN, or a tire manufacturer is not aware of the TIN, at the time the incident is initially reported, the manufacturer shall submit an updated report of such incident in its report covering the reporting period in which the VIN or TIN is identified. A manufacturer need not submit an updated report if the VIN or TIN is identified by the manufacturer in a reporting period that is more than one year later than the initial report to NHTSA.

(ii) If a manufacturer indicated code 99 in its report because a system or component had not been identified in the claim or notice that led to the report, and the manufacturer becomes aware during a subsequent calendar quarter that one or more of the specified systems or components allegedly contributed to the incident, the manufacturer shall submit an updated report of such incident in its report covering the reporting period in which the involved specified system(s) or component(s) is (are) identified. A manufacturer need not submit an updated report if the system(s) or component(s) is(are) identified by the manufacturer in a reporting period that is more than one year later than the initial report to NHTSA.

* * * * *

Issued on: August 28, 2006.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E6-14580 Filed 8-31-06; 8:45 am]

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