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Early Warning Reporting, Foreign Defect Reporting, and Motor Vehicle and Equipment Recall Regulations; Proposed Rule

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Parts 573, 577, and 579**

[Docket No. NHTSA–2012–0068; Notice 1]

RIN 2127–AK72

Early Warning Reporting, Foreign Defect Reporting, and Motor Vehicle and Equipment Recall Regulations

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

ACTION: Notice of proposed rulemaking (NPRM); Proposal to revise a currently approved information collection.

SUMMARY: NHTSA is proposing amendments to certain provisions of the early warning reporting (EWR) rule and the regulations governing motor vehicle and equipment safety recalls. The amendments to the EWR rule would require light vehicle manufacturers to specify the vehicle type and the fuel and/or propulsion system type in their reports and add new component categories of stability control systems for light vehicles, buses, emergency vehicles, and medium-heavy vehicle manufacturers, and forward collision avoidance, lane departure prevention, and backover prevention for light vehicle manufacturers. In addition, NHTSA proposes to require motor vehicle manufacturers to report their annual list of substantially similar vehicles via the Internet.

As to safety recalls, we propose, among other things, to require certain manufacturers to submit vehicle identification numbers (VIN) for recalled vehicles and to daily report changes in recall remedy status for those vehicles; require online submission of recalls reports and information; and require adjustments to the required content of the owner notification letters and envelopes required to be issued to owners and purchasers of recalled vehicles and equipment.

DATES: Written comments regarding these proposed rule changes may be submitted to NHTSA and must be received on or before: November 9, 2012. In compliance with the Paperwork Reduction Act, NHTSA is also seeking comment on proposed revisions to existing information collections. See the Paperwork Reduction Act section under Rulemaking Analyses below. All comments relating to the revised information collection requirements should be submitted to NHTSA and to the Office of Management and Budget

(OMB) at the address listed in the **ADDRESSES** section on or before November 9, 2012. Comments to OMB are most useful if submitted within 30 days of publication.

ADDRESSES: Written comments to NHTSA may be submitted using any one of the following methods:

- *Mail:* Send comments to: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590.

- *Fax:* Written comments may be faxed to (202) 493–2251.

- *Internet:* To submit comments electronically, go to the US Government regulations Web site at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Hand Delivery:* If you plan to submit written comments by hand or courier, please do so at 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except federal holidays.

Whichever way you submit your comments, please remember to mention the docket number of this document within your correspondence. The docket may be accessed via telephone at 202–366–9324.

Comments regarding the proposed revisions to existing information collections should be submitted to NHTSA through one of the preceding methods and a copy should also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street NW., Washington, DC 20503, Attention: NHTSA Desk Officer.

Instructions: All comments submitted in relation to these proposed rule changes 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. Please note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Privacy Act: Please see the Privacy Act heading under Rulemaking Analyses and Notices.

FOR FURTHER INFORMATION CONTACT: For non-legal issues on EWR requirements, contact Tina Morgan, Office of Defects Investigation, NHTSA (telephone: 202–366–0699). For non-legal issues on recall requirements, contact Jennifer

Timian, Office of Defects Investigation (telephone: 202–366–0209). For legal issues, contact Andrew J. DiMarsico, Office of Chief Counsel, NHTSA (telephone: 202–366–5263). You may send mail to these officials at National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building, Washington, DC 20590.

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I. Introduction

In 2000, Congress enacted the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. Public Law 106–414. Up until the TREAD Act's enactment, NHTSA relied primarily on analyses of complaints from consumers and technical service bulletins (TSBs) from manufacturers to identify potential safety related defects in motor vehicles and motor vehicle equipment. Congress concluded that NHTSA did not have access to data that may provide an earlier warning of safety defects or information related to foreign recalls and safety campaigns. Accordingly, the TREAD Act required that NHTSA prescribe rules requiring motor vehicle and equipment manufacturers to submit certain information to NHTSA that would assist identifying potential safety related defects and to require manufacturers to submit reports on foreign defects and safety campaigns. See 49 U.S.C. 30166(m) and (l).

On July 10, 2002, NHTSA published its Early Warning Reporting (EWR) regulations requiring that motor vehicle and equipment manufacturers provide certain early warning data. 49 CFR part 579, subpart C; see 67 FR 45822. The EWR rule requires 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 and product evaluation reports) involving specified vehicle components, a fire, or a rollover.

On October 11, 2002, NHTSA published regulations requiring manufacturers to report foreign recalls or other safety campaigns in a foreign country covering a motor vehicle, item of motor vehicle equipment or tire that is identical or substantially similar to a motor vehicle, item of motor vehicle equipment or tire sold or offered for sale in the United States. 49 CFR part 579, subpart B, 67 FR 63310. Under these

regulations, manufacturers are required to submit annual lists of substantially similar vehicles to NHTSA. 49 CFR 579.11(e)

As described more fully in the Background section, below, EWR 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. The EWR information NHTSA receives is stored in a database, called Artemis, which also contains additional information (e.g., domestic and foreign recall details and complaints filed directly by consumers) related to defects and investigations.

The Early Warning Division of the Office of Defects Investigation (ODI) reviews and analyzes a huge volume of early warning data and documents submitted by manufacturers. Using its traditional sources of information, such as consumer complaints from vehicle owner questionnaires (VOQs) and manufacturers' own communications, and the additional information provided by EWR submissions, ODI investigates potential safety defects. These investigations often result in recalls.

In the last several years, the agency published two amendments to the EWR regulations. On May 29, 2007, NHTSA made three changes to the EWR rule. 72 FR 29435. First, the definition of "fire" was amended to more accurately capture fire-related events. 72 FR 29443. Second, the agency eliminated the requirement to produce hard copies of a subset of field reports known as "product evaluation reports." *Id.* Last, the agency limited the time that manufacturers must update a missing vehicle identification number (VIN)/tire identification number (TIN) information or a component in a death or injury incident to a period of no more than one year after NHTSA receives the initial report. 72 FR 29444. On December 5, 2008, NHTSA issued a notice of proposed rulemaking (NPRM) which was followed in September 2009 by a final rule that modified the reporting threshold for light vehicle, bus, medium-heavy vehicle (excluding emergency vehicles), motorcycle and trailer manufacturers' quarterly EWR reports. See 73 FR 74101 (December 5, 2008); 74 FR 47740, 47757–58 (September 17, 2009). This rule further required manufacturers to submit EWR reports with consistent product names from quarter to quarter and amended part 573 *Defect and Noncompliance Responsibility and Reports* to require tire manufacturers to provide tire

identification number ranges for recalled tires. 74 FR 47757–58. The final rule also stated that manufacturers must provide the country of origin for a recalled component. *Id.* Last, the rule amended the definition of "other safety campaign" to be consistent with the definition of "customer satisfaction campaign." *Id.*

The September 2009 rule did not address several proposals in the preceding December 2008 NPRM. Those proposals sought to require light vehicle manufacturers to include the vehicle type in the aggregate portion of their quarterly EWR reports, report on use of electronic stability control in light vehicles, and specify fuel and/or propulsion systems when providing model designations. *Id.* The agency decided to issue a separate rulemaking addressing some of the foregoing proposals to obtain more meaningful comments. See 74 FR 47744. Today's document addresses proposals raised in the December 2008 NPRM not resolved by the September 2009 final rule.

Recently, in July 2012, Congress enacted the Moving Ahead for Progress in the 21st Century (MAP-21) Act, Public Law 112–141, 126 Stat 405, 763 (July 6, 2012). Section 31301 of this Act requires the Secretary of Transportation to mandate that motor vehicle safety recall information be made available to the public on the Internet, be searchable by vehicle make and model and vehicle identification number (VIN), be in a format that preserves consumer privacy, and includes information about each recall that has not been completed for each vehicle. The section further provides that the Secretary may initiate a rulemaking to require manufacturers to provide this information on a publicly accessible Internet Web site. *Id.*

II. 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. The EWR rule divides vehicle manufacturers into different segments based upon weight or vehicle application. These segments are light vehicles, buses, emergency vehicles, medium-heavy vehicles, motorcycles and trailers. The proposed amendments to the EWR rule concern light vehicles, buses, emergency vehicles, and medium-heavy vehicles.

Today's document proposes requiring light vehicle manufacturers to report vehicle type in their death and injury and aggregate reports. Under the current EWR rule, light vehicle manufacturers submit vehicle type as part of

production reports, but do not report vehicle types in either their death and injury reports or their aggregate reports. This proposal seeks to correct this inconsistency.

We propose to require reporting on additional components in the light vehicle, bus, emergency vehicle, and medium-heavy vehicle component categories and to amend the light vehicle, bus, emergency vehicle, and medium-heavy vehicle reporting templates.

This proposal also would add a requirement that light vehicle manufacturers provide the fuel and/or propulsion system type for nine (9) different fuel and/or propulsion system types. In addition, the proposal would add definitions for each fuel and/or propulsion system.

Furthermore, today's document proposes to add four (4) new light vehicle and one (1) new medium-heavy vehicle component reporting categories. The new light vehicle component categories are electronic stability control, forward collision avoidance, lane departure prevention, and backover prevention; the new medium-heavy vehicle component category is stability control/roll stability control. We also propose new definitions for each of these components. We are also proposing to correct a minor inconsistency in light vehicle manufacturer reporting of vehicle types to capture several recently introduced light vehicle technologies.

This proposal also seeks comments on amendments to a manufacturer's reporting requirements related to safety recalls and other safety campaigns in foreign countries under subpart B of part 579. 49 CFR part 579, subpart B. We propose to standardize the manner of submitting annual lists of substantially similar vehicles under 579.11(e) by uploading them, via a secure Internet connection, to NHTSA's Artemis database using a template provided on NHTSA's EWR Web site. Currently, manufacturers may submit their substantially similar lists by mail, facsimile or email. See 49 CFR 579.6(a).

Today's proposed rule proposes changes and additions to the regulations governing recalls, 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*, and 49 CFR Part 577, *Defect and Noncompliance Notification*.

We are proposing a number of measures in an effort to improve the information the agency receives from recalling manufacturers concerning the motor vehicles and equipment they are recalling and the plans for remedying those products, in addition to

distribution of that information to the affected public.

First, for motor vehicle recalls, and in accordance with the MAP-21 Act, we are proposing to adopt regulations that would implement MAP-21's mandate that the Secretary require motor vehicle safety recall information be made available to the public on the Internet, be searchable by vehicle make and model and vehicle identification number (VIN), be in a format that preserves consumer privacy, and includes information about each recall that has not been completed for each vehicle. See MAP-21 Act, Public Law 112-141, § 31301, 126 Stat 405, 763 (July 6, 2012). The Secretary was given the discretion to engage in rulemaking to require each manufacturer to provide the information above on vehicles it manufactures on a publicly accessible Internet Web site. Id. at section 31301(b). We propose to exercise the authority given the Secretary in sections (a) and (b), not only to meet the *Act's mandate, but to increase the numbers of motor vehicles remedied under safety recall campaigns which, in turn, will serve to reduce the risk of incidents, as well as injuries or fatalities, associated with vehicles that contain safety defects or fail to meet minimum FMVSS.*

To meet MAP-21, and increase the number of motor vehicles remedied under safety recall campaigns, the agency proposes to offer vehicle owners and prospective purchasers an enhanced vehicle recalls search tool through its Web site, www.safercar.gov, that will go beyond the current functionality to search by specific make and model vehicle, and will offer a VIN-based search function that will report back whether a vehicle has been subject to a safety recall, and whether that vehicle has had the manufacturer's free remedy performed.

In order to gather the information necessary for us to provide this enhanced functionality, we are proposing to require larger volume, light vehicle manufacturers to submit the VINs for vehicles affected by a safety recall to NHTSA. We further propose to require these manufacturers to submit to NHTSA recall remedy completion information on those vehicles, again supplied by VIN, that is updated at least once daily so that our search tool has "real time" information that can inform owners and other interested parties if a recall is outstanding on a vehicle. In our effort to improve the information received from recalling manufacturers, and so NHTSA can better understand and process recalls, as well as manage and oversee the recall campaigns and the manufacturers conducting those

campaigns, we are proposing to require certain additional items of information from recalling manufacturers. These additional items include an identification and description of the risk associated with the safety defect or noncompliance with a FMVSS, and, as to motor vehicle equipment recalls, the brand name, model name, and model number, of the equipment recalled. We are also proposing that manufacturers be prohibited from including disclaimers in their Part 573 information reports.

Similarly, as part of our effort to ensure we are apprised of information related to recalls that we oversee, we are also proposing changes to add or make more specific current requirements for manufacturers to keep NHTSA informed of changes and updates in information provided in the defect and noncompliance information reports they supply.

We are proposing to require manufacturers to submit through a secure, agency-owned and managed web-based application, all recall-related reports, information, and associated documents. This is to improve our efficiency and accuracy in collecting and processing important recalls information and then distributing it to the public. It also will reduce a current and significant allocation of agency resources spent translating and processing the same information that is currently submitted in a free text fashion, whether that text is delivered via a hard copy, mailed submission, or delivered electronically through email.

In order to ensure that owners are promptly notified of safety defects and failures to meet minimum safety standards, we are proposing to specify that manufacturers notify owners and purchasers no later than 60 days of when a safety defect or noncompliance decision is made. In the event the free remedy is not available at the time of notification, we are proposing that manufacturers be required to issue a second notification to owners and purchasers once that remedy is available.

In an effort to encourage owners to have recall repairs made to their vehicles and vehicle equipment, we are proposing additional requirements governing the content and formatting of owner notification letters and the envelopes in which they are mailed in an effort to improve the number of vehicles that receive a remedy under a recall. We are proposing that all letters include "URGENT SAFETY RECALL" in all capitals letters and in an enlarged font at the top of those letters, and that for vehicle recalls, the manufacturer place the VIN of the owner's vehicle

affected by the safety defect or noncompliance, within the letter. To further emphasize the importance of the communication, and to distinguish it from other commercial communications, we are proposing that the envelopes in which the letters are mailed be stamped with the logos of the National Highway Traffic Safety Administration and the U.S. Department of Transportation, along with a statement that the letter is an important safety recall notice issued in accordance with Federal law.

Lastly, we are proposing to add a requirement for manufacturers to notify the agency in the event they file for bankruptcy. This requirement will help us preserve our ability to take necessary and appropriate measures to ensure recalling manufacturers, or others such as corporate successors, continue to honor obligations to provide free remedies to owners of unsafe vehicle and equipment products.

III. Background

A. The Early Warning Reporting Rule

On July 10, 2002, NHTSA published a rule implementing the EWR provisions of the TREAD Act, 49 U.S.C. 30166(m). 67 FR 45822. This 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 that meet certain production thresholds that produce light vehicles, buses, emergency vehicles, medium-heavy vehicles, trailers and/or motorcycles; (b) tire manufacturers that produce over a certain number per tire line; and (c) all manufacturers of child restraints. Light vehicle, motorcycle, trailer and medium-heavy vehicle manufacturers except buses and emergency vehicles that produced, imported, offered for sale, or sold 5,000 or more vehicles annually in the United States are required to report comprehensive reports every calendar quarter. Emergency vehicle manufacturers must report if they produced, imported, offered for sale, or sold 500 or more vehicles annually and bus manufacturers must report if they produced, imported or offered for sale, or sold 100 or more buses annually in the United States. Passenger car tire,

light truck tire and motorcycle tire manufacturers that produced, imported, offered for sale, or sold 15,000 or more per tire line are also required to provide comprehensive quarterly reports. The first group must provide comprehensive reports every calendar quarter. 49 CFR 579.21–26. The second group consists of all other manufacturers of motor vehicles and motor vehicle equipment (i.e., vehicle manufacturers that produce, import, or sell in the United States fewer than 5,000 light vehicles, medium-heavy vehicles (excluding emergency vehicles and buses), motorcycles, or trailers annually; fewer than 500 emergency vehicles annually; fewer than 100 buses annually; manufacturers of original motor vehicle equipment; and manufacturers of replacement motor vehicle equipment other than child restraint systems and tires). The second group has limited reporting responsibility.¹ 49 CFR 579.27.

Light vehicle, bus, emergency vehicle and medium-heavy vehicle manufacturers 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.
- 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).
- Warranty claims paid by the manufacturer pursuant to a warranty program (in the tire industry these are warranty adjustment claims).
- 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).

For property damage claims, warranty claims, consumer complaints and field reports, light vehicle, bus, emergency vehicle and medium-heavy vehicle manufacturers 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

¹ In contrast to the comprehensive quarterly reports provided by manufacturers in the first group, the second group of manufacturers does not have to provide quarterly reports. These manufacturers only submit information about a death incident when they receive a claim or notice of a death.

specified data elements. In addition, light vehicle, bus, emergency vehicle and medium-heavy vehicle manufacturers are required to submit copies of field reports, except for dealer and product evaluation reports.

On a quarterly basis, vehicle and equipment manufacturers meeting the production thresholds discussed above must provide comprehensive reports for each make and model for the calendar year of the report and nine previous model years for vehicles and four years for equipment. The vehicle systems or components on which manufacturers provide information vary depending upon the type of vehicle or equipment manufactured. 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. Bus, emergency vehicle and medium-heavy vehicle manufacturers must provide reports on an additional four (4) vehicle components or systems: service brake air, fuel system diesel, fuel system other, and trailer hitch.²

B. The Foreign Defect Reporting Rule

On October 11, 2002, NHTSA published regulations implementing foreign motor vehicle and product defect reporting provisions of the TREAD Act, 49 U.S.C. 30166(1). 67 FR 63295, 63310; 49 CFR 579, subpart B. The Foreign Defect Reporting rule requires certain motor vehicle manufacturers and motor vehicle equipment manufacturers to report information and submit documents to NHTSA when a manufacturer or a foreign government determines that a safety recall or other safety campaign should be conducted in a foreign country for products that are identical or substantially similar to vehicles or items of equipment sold or offered for sale in the United States. 49 U.S.C. 30166(1)(1) & (2). To assist the agency's program implementation, manufacturers must submit an annual list of substantially similar vehicles to NHTSA. 49 CFR 579.11(e). This list is due by November 1 of each year. Manufacturers may submit their substantially similar vehicle list by mail, facsimile or by email. 49 CFR 579.6(a). NHTSA offers a Microsoft Excel template on its Web site <http://>

² Manufacturers of motorcycles, trailers, child restraints and tires report on varying systems and components. See 49 CFR 579.23–26.

www.safercar.gov/ that manufacturers can download and use to upload their substantially similar lists directly to NHTSA's Artemis database. The vast majority of manufacturers submit their substantially similar list by uploading the template directly to the agency.

C. Defect and Noncompliance Information Reports and Notifications

Pursuant to 49 U.S.C. 30118 and 30119, manufacturers are required to provide notice to the Secretary if the manufacturer determines that a motor vehicle or item of motor vehicle equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard. The regulation implementing the manufacturer's requirement to provide notice to NHTSA is located at 49 CFR part 573 *Defect and Noncompliance Responsibility and Reports*, which, among other things, requires manufacturers to provide reports (commonly referred to as Defect or Noncompliance reports, or Part 573 Reports, as the case may be) to NHTSA on defects in motor vehicles and motor vehicle equipment and noncompliances with motor vehicle safety standards found in 49 CFR part 571. Section 573.6 specifies the information that manufacturers are required to submit to the agency and Section 573.9 specifies the address for submitting reports. One element is the identification of the vehicles containing the defect or noncompliance. Section 573.6(c)(2)(i) requires manufacturers to identify passenger cars by the make, line, model year, the dates of manufacture and other information as necessary to describe the vehicles. For all other vehicles, Section 573.6(c)(2)(ii) requires manufacturers to identify the vehicles by body style or type, dates of manufacture and any other information as necessary to describe the vehicle, such as the GVWR. Section 573.6(c)(3) requires manufacturers to submit the total number of vehicles that potentially contain the defect or noncompliance. Section 573.8 requires manufacturers to maintain lists of VINs of the vehicles involved in a recall as well as the remedy status for each vehicle to be included in a manufacturer's quarterly reporting as specified in 573.7.

The conduct of a recall notification campaign, including how and when owners, dealers, and distributors are notified, is addressed by regulation in 49 CFR Part 577, *Defect and Noncompliance Notification*. Section 577.5 specifies required content and structure of the owner notifications. Section 577.13 specifies required content for dealer and distributor

notifications. Section 577.7 dictates the time and manner of these notifications.

Recently, in July 2012, Congress enacted the MAP-21 Act, Public Law 112-141, 126 Stat. 405 (July 6, 2012). It requires, among other things, that the Secretary of Transportation require that motor vehicle safety recall information be made available to the public on the Internet, be searchable by vehicle make and model and vehicle identification number (VIN), be in a format that preserves consumer privacy, and includes information about each recall that has not been completed for each vehicle. *Id.* at section 31301(a). The Act provides that the Secretary may initiate a rulemaking to require manufacturers to provide this information on a publicly accessible Internet Web site. *Id.* at 31301(b).

D. Scope of this Rulemaking

Today's proposed rule is limited in scope to the proposed amendments to the EWR requirements, the foreign defect reporting rule, and to the requirements associated with safety recall reporting, administration, and execution as delineated in Parts 573 and 577 of Title 49 of the Code of Federal Regulations. Apart from the proposed changes noted above in the summary section, NHTSA intends to leave the remaining current EWR, foreign defect reporting regulations, and safety recalls implementing regulations Parts 573 and 577 unchanged.

IV. Discussion

A. Statutory Background on Early Warning Reporting, Foreign Defect Reporting and Recall Notification Requirements

Under the early warning reporting requirements of the TREAD Act, NHTSA is required to issue a rule establishing reporting requirements for manufacturers of motor vehicles and motor vehicle equipment to enhance the agency's ability to carry out the provisions of Chapter 301 of Title 49, United States Code, which is commonly referred to by its initial name the National Traffic and Motor Vehicle Safety Act or as the Safety Act. *See* 49 U.S.C. 30166(m)(1), (2). Under one subsection of the early warning provisions, NHTSA is to require reports of information in the manufacturers' possession to the extent that such information may assist in the identification of safety-related defects and which concern, *inter alia*, data on claims for deaths and aggregate statistical data on property damage. 49 U.S.C. 30166(m)(3)(A)(i); *see also* 49 U.S.C. 30166(m)(3)(C). Another

subsection, specifically 30166(m)(3)(B), authorizes the agency to require manufacturers to report information that may assist in the identification of safety defects. Specifically, section 30166(m)(3)(B) states: "As part of the final rule * * * the Secretary may, to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States, require manufacturers of motor vehicles or motor vehicle equipment to report, periodically or upon request of the Secretary, such information as the Secretary may request." This subsection conveys substantial authority and discretion to the agency. Most EWR data, with the exception of information on deaths and property damage claims, is reported under regulations authorized by this provision.

The agency's discretion is not unfettered. Per 49 U.S.C. 30166(m)(4)(D), NHTSA may not impose undue burdens upon manufacturers, taking into account the cost incurred by manufacturers to report EWR data and the agency's ability to use the EWR data meaningfully to assist in the identification of safety defects.

The TREAD Act also amended 49 U.S.C. 30166 to add a new subsection (l) to address reporting of foreign defects and other safety campaigns by vehicle and equipment manufacturers. This section requires manufacturers of motor vehicles or items of motor vehicle equipment to notify NHTSA if the manufacturer or a foreign government determines that the manufacturer should conduct a recall or other safety campaign on a motor vehicle or item of motor vehicle equipment that is identical or substantially similar to a motor vehicle or item of motor vehicle equipment offered for sale in the United States. 49 U.S.C. 30166(l). Subsection (l) does not define "identical" or the term "substantially similar." Under the TREAD Act's foreign defect reporting provisions, NHTSA is to specify the contents of the notification. *Id.*

The Safety Act also requires manufacturers of motor vehicles or items of motor vehicle equipment to notify NHTSA and owners and purchasers of the vehicle or equipment if the manufacturer determines that a motor vehicle or item of motor vehicle equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard. 49 U.S.C. 30118(c). Manufacturers must provide notification pursuant to the procedures set forth in section 30119 of the Safety Act. Section 30119 sets forth the contents of the

notification, which includes a clear description of the defect or noncompliance, the timing of the notification, means of providing notification and when a second notification is required. 49 U.S.C. 30119. Subsection (a) of section 30119 confers considerable authority and discretion on NHTSA, by rulemaking, to require additional information in a manufacturer's notification. *See* 49 U.S.C. 30119(a)(7).

In July 2012, Congress enacted the MAP-21 Act. *See* Public Law 112-141, 126 Stat. 405 (July 6, 2012). Sections 31301 of the MAP-21 Act mandates that the Secretary require that motor vehicle safety recall information be made available to the public on the Internet, and it provides authority to the Secretary, in his discretion, to conduct a rulemaking to require each manufacturer to provide its safety recall information on a publicly accessible Internet Web site. Under section 31301(a), Congress has directed the Secretary to require motor vehicle safety information be available on the Internet, searchable by vehicle make, model and VIN, preserves consumer privacy and includes information regarding completion of the particular recall. Section 31301(b) authorizes the Secretary, in his discretion, to conduct a rulemaking requiring each manufacturer to provide the safety recall information in paragraph (a) on a publicly accessible Internet Web site. Specifically, section 31301(a) states:

(a) **VEHICLE RECALL INFORMATION.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall require that motor vehicle safety recall information—

- (1) Be available to the public on the Internet;
- (2) be searchable by vehicle make and model and vehicle identification number;
- (3) be in a format that preserves consumer privacy; and
- (4) includes information about each recall that has not been completed for each vehicle.

While Congress has provided certain parameters to its mandate to make safety recall information available on the Internet, it has not directly spoken on the mechanism to implement section 31301(a), leaving the agency to use its discretion to fill any ambiguity. Paragraph (a) is silent with respect to who is required to make safety recall information available, which manufacturers are subject to the requirement, the types of safety information to be made available and how and when the information is placed on the Internet.

While it is clear that motor vehicle manufacturers have data regarding safety recalls, NHTSA also receives safety recall information from manufacturers pursuant to other provisions of the Safety Act and NHTSA's regulations. *See* 49 U.S.C. §§ 30118 and 30119; 49 CFR part 573. With both manufacturers and NHTSA collecting safety recall information, section 30301(a) lacks precise language as to who is required to make that information available on the Internet. Paragraph (a) is clear that the "Secretary shall require" the information be placed on the Internet, but it is unclear who the Secretary is to require to place safety recall information on the Internet. Under this language, either manufacturers or NHTSA may be required to place safety recall information on the Internet.

In addition, section 30301(a) is silent on which manufacturers are subject to making information available on the Internet, only requiring motor vehicle safety recall information be made available. This section does not specify which vehicle manufacturers are required to make their information available. Consistent with traditional tools of statutory construction, Congress is presumed to know each agency's statutory and regulatory scheme. Under its regulatory scheme, NHTSA often breaks down motor vehicle manufacturers into different vehicle classes based upon each vehicle's application. For example, under the Early Warning Reporting (EWR) Regulation, 49 CFR part 579, subpart C, NHTSA divides motor vehicle manufacturers into several reporting categories such as light vehicles, medium-heavy vehicles, motorcycles and trailers and has limited the reporting obligations of classes of vehicle manufacturers that annually produce under a certain amount. *See* 49 CFP 579.21-24. Here, Congress has not directly spoken on whether safety recall information must be made available from all vehicle manufacturers, certain classes of vehicle manufacturers or, like the EWR rule, certain manufacturers based on annual production. Congress, accordingly, has left it to NHTSA to determine the scope of manufacturers that are required to place safety recall information on the Internet.

Moreover, section 30301(a) does not expressly state the type of safety recall information that must be placed on the Internet, merely requiring "motor vehicle safety recall information" and requiring that this information be searchable by vehicle, make and model and VIN. Other than vehicle make, model and VIN, section 30301(a)

requires only that "motor vehicle safety information" include information about each recall that has not been completed for each vehicle. However, under NHTSA regulations, recall information is broader than the information specifically listed in section 30301(a). Under 49 CFR part 573, in general, manufacturers are required to submit several types of information, such as the total number of vehicles, an estimate of the percentage of vehicles with the defect, a description of the defect, a chronology of all the principal events that lead to the determination of a recall, a description of the manufacturer's remedy program, etc. *See* 49 CFR 573.6. Given the diversity of information that could constitute safety recall information, Congress has vested considerable discretion with NHTSA to determine the appropriate types of information to be placed on the Internet.

Section 30301(a) also fails to specify how and when the safety recall information shall be placed on the Internet. Other than providing for the information to be searchable by vehicle make, model and VIN, and that the format preserves consumer privacy, section 31301(a) is silent on the format and degree of availability of the safety recall information. Current information available on the Safercar.com Web site is available in different formats and degrees of availability. For instance, the agency makes consumer complaints available on the Internet in two different formats. One format is searchable by vehicle, make, model and component. The other format provides the public the ability to download NHTSA's consumer complaint database, which permits the individual to perform customized searches of the consumer complaint database. Without precise language specifying the format and degree of availability, NHTSA is left to determine the appropriate mechanism for placement on the Internet.

While providing authority to conduct a rulemaking, section 31301(b) provides little help in resolving the issues in paragraph (a). Paragraph (b) provides the Secretary with the authority to conduct a rulemaking to provide the information in subsection (a) and provides limited instructions as to the scope of any such rulemaking and sharing such information with automobile dealers and consumers. Section 31301(b) states:

(b) **RULEMAKING.**—The Secretary may initiate a rulemaking proceeding to require each manufacturer to provide the information described in subsection (a), with respect to that manufacturer's motor vehicles, on a publicly accessible

Internet Web site. Any rules promulgated under this subsection—

(1) shall limit the information that must be made available under this section to include only those recalls issued not more than 15 years prior to the date of enactment of [MAP-21];

(2) may require information under paragraph (1) to be provided to a dealer or an owner of a vehicle at no charge; and

(3) shall permit a manufacturer a reasonable period of time after receiving information from a dealer with respect to a vehicle to update the information about the vehicle on the publicly accessible Internet Web site.

Similar to paragraph (a) of 31301, paragraph (b) does not address which manufacturers are subject to the requirement to provide safety recall information on the publicly accessible Internet, whether the information is placed on the manufacturer's public Web site or NHTSA's Web site, the types of safety information to be made available and how and when the information is placed on the Internet. Instead, it vests considerable discretion in the agency to conduct a rulemaking to best meet the statutory goals of section 31301. The MAP-21 Act further specifies that a manufacturer's filing of a bankruptcy petition under Chapter 11 of Title 11 of the United States Code, does not negate its duty to comply with, among other things, the defect and noncompliance notification and reporting obligations, nor the requirement to provide a free remedy, under the Safety Act. *MAP-21 Act at section at 31312.*

B. Matters Considered in Adding Data Elements to Early Warning Reports

Under EWR, we endeavor to collect a body of information that may assist in the identification of potential safety-related defects in motor vehicles and motor vehicle equipment. When we believe that the EWR information may be refined or enhanced to further advance our goal of identifying safety defects, we consider factors that are relevant to the particular area of EWR under consideration. In view of our broad statutory authority to require reporting of information that may assist in the identification of potential safety-related defects, we do not believe that it is necessary or appropriate to identify a prescriptive list of factors for delineating particular data elements. Nonetheless, based on our experience, the following considerations, among other things, have been identified as relevant to evaluating whether or not adding data elements to light vehicle, bus, emergency vehicle and medium-

heavy vehicle reporting would assist in identifying safety-related defects:

- The importance of the data to motor vehicle safety.
- The maturity of a particular technology and its market penetration.
- Whether the current component categories are adequate to capture information related to proposed data elements.
- Whether ODI has investigated or been notified of vehicle recalls related to the proposed data elements.
- Whether VOQ complaints related to the data elements have been useful in opening investigations into potential safety-related defects and whether those investigations have resulted or may result in recalls.
- Whether manufacturers collect information on the proposed data elements.
- The burden on manufacturers.

We emphasize that the general approach of the EWR program is to collect data on numerous systems and components in a very wide range and volume of vehicles for the agency to then systematically review information, with the end result being the identification of a relatively small number of potential safety problems, compared to the amount of data collected and reviewed. These data are considered along with other information collected by and available to the agency in deciding whether to open investigations.

C. Vehicle Type for Light Vehicle Aggregate Data

The EWR regulation requires light vehicle manufacturers producing 5000 or more vehicles annually to submit production information including the make, the model, the model year, the type, the platform and the production. 49 CFR 579.21(a). Manufacturers must provide the production as a cumulative total for the model year, unless production of the product has ceased. *Id.* While light vehicle manufacturers are required to provide the type of vehicle with their production, they are not required to provide the type of vehicle when they submit death and injury data pursuant to 49 CFR 579.21(b) or with aggregate data under 49 CFR 579.21(c).³ Under today's notice, we propose to amend 579.21(b) and (c) to require light vehicle manufacturers to provide the type of vehicle when they submit their death and injury data and

³ For light vehicles, type means a vehicle certified by its manufacturer pursuant to 49 CFR 567.4(g)(7) as a passenger car, multipurpose passenger vehicle, or truck or a vehicle identified by its manufacturer as an incomplete vehicle pursuant to 48 CFR 568.4. See 49 CFR 579.4.

aggregate data under those sections. We also propose to amend the light vehicle reporting templates for the EWR death and injury and aggregate reports to reflect adding vehicle type. The proposed light vehicle templates are located in Appendix A below.

Today's proposal will assist ODI to identify potential safety-related defects by making light vehicle EWR data received internally consistent. Because light vehicle manufacturers providing quarterly EWR reports are not obligated to provide the vehicle type in their death and injury and aggregate EWR reports, NHTSA is unable to distinguish whether the light vehicle death and injury and aggregate data are associated with certain vehicle types such as passenger cars, multi-purpose vehicles, light trucks or incomplete vehicles. Without being able to isolate this information by vehicle type, ODI cannot match aggregate data with production data.

If this proposal is adopted, NHTSA could perform a more focused analysis of the EWR information. For instance, warranty claims by vehicle type from the aggregate data can be matched with corresponding vehicle type production data, allowing us to determine the occurrence of warranty claims per vehicle type. This proportion can be used in a subsequent, more focused and thorough analysis of EWR data. A relatively high rate of warranty claims per production unit may warrant further examination of EWR and other ODI sources of information. This proposal would permit a more efficient and targeted use of the EWR data in terms of detecting and identifying potential safety concerns.

Light vehicle manufacturers should be able to readily identify the vehicle type from the VIN provided in the information they receive. About 95 percent of the EWR reports on incidents involving a death or injury include a VIN when initially submitted by manufacturers. 71 FR 52040, 52046 (September 1, 2006). Warranty claims and field reports normally 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. For consumer complaints and property damage claims, the VIN or other information is generally available to identify the type of vehicle. If the VIN is not available, we propose that the manufacturer submit "UN" for "unknown" in the required field.

NHTSA believes that this change would place a minimal burden on light

vehicle manufacturers. Each manufacturer would need to add a field to its EWR database containing the light vehicle type and perform reprogramming of internal software. In its response to the December 2008 NPRM, the Alliance of Automobile Manufacturers (Alliance), an industry trade group,⁴ did not object to this proposal, stating that the costs were relatively modest. See Comment of Alliance of Automobile Manufacturers to December 5, 2008 NPRM (docket #NHTSA 2008–0169–0013.1, located at <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=09000064808443c2>).

We seek comment on today's proposed amendments to 49 CFR 579.21(b) and (c) to add a vehicle type requirement to EWR death and injury and aggregate data reports. In any comments on burden, we seek details on costs to revise EWR templates and software to meet this proposal.

D. Reporting by Fuel and/or Propulsion System Type

The EWR regulation requires light vehicle manufacturers to report the required information by make, model and model year. 49 CFR 579.21(a), (b)(2), (c). The rule also requires light vehicle manufacturers to subdivide their EWR death and injury and aggregate reports by components. 49 CFR 579.21(b)(2), (c). The reporting by make, model and model year and component categories have remained unchanged since the EWR regulation was published in July 2002. Since that time, manufacturers have introduced new technologies to meet the demand for more fuel efficient vehicles. Currently, light vehicle manufacturers do not identify the specific fuel or propulsion system used in their vehicles. As use of these new technologies expands, we are concerned that the current EWR reporting scheme is not sufficiently sensitive for readily identifying vehicles with different fuel and/or propulsion system types. For example, some models, such as the Toyota Camry, are offered with both conventional and hybrid propulsion systems. To address these concerns, we propose to amend 579.21(a), (b), and (c) to require light vehicle manufacturers to report fuel and/or propulsion system types in their EWR reports. We also propose to amend the light vehicle reporting templates to reflect these proposals. We propose adding eight (8) fuel and/or propulsion

systems and an "other" category in which manufacturers may bin their vehicles. We are also proposing definitions for each fuel and/or propulsion system and codes that a manufacturer would use when reporting.

The current Corporate Average Fuel Economy (CAFE) standard and new proposed CAFE standards will spur manufacturers to increasingly produce fuel efficient vehicles employing various technologies. Following the direction set by President Obama on May 21, 2010, NHTSA and the Environmental Protection Agency (EPA) have issued a Notice of Proposed Rulemaking (NPRM) for Fuel Economy and Greenhouse Gas emissions regulations for model year (MY) 2017–2025 light-duty vehicles.⁵ NHTSA believes that to meet the proposed CAFE rule, manufacturers will increase their production of light vehicles with alternate fuel/propulsion systems which will raise new safety issues in these vehicle that are currently unaccounted for in the EWR regulatory scheme.

Therefore, as the automotive industry begins to introduce and produce more vehicles with new propulsion systems, NHTSA believes now is an opportune time to start collecting EWR information to assist in identifying potential defects in these new systems. As currently configured, the EWR reporting structure may mask potential problems with these systems. NHTSA is currently unable to discern from EWR data whether a particular vehicle problem is unique to a particular fuel or propulsion system. Under today's proposal, problems with a particular make and model that may be unique to one fuel/propulsion system could be readily distinguished from problems that may apply to that make and model regardless of the fuel/propulsion system. Also, this proposal would permit NHTSA to investigate safety concerns in many makes and models with similar fuel/propulsion systems (e.g., a battery problem in a plug-in electric vehicle or a hydrogen fuel cell problem that may extend to similarly equipped vehicles).

We believe that adding the appropriate fuel and/or propulsion system type to EWR will enhance NHTSA's ability to identify and address potential safety defects related to specific fuel and/or propulsion systems. Recent investigations indicate that dividing light vehicles by make, model,

and fuel/propulsion system will assist in our identification of safety defect trends. NHTSA has opened several investigations on light vehicle models manufactured with more than one fuel or propulsion system as an option. Each investigation involved an issue with a specific fuel or propulsion system that under current EWR reporting is masked by light vehicle manufacturers reporting the vehicles under one category for fuel/propulsion:

- PE02–071 and EA03–001 involved alleged vehicle explosions during fires on 1996–2003 Ford Crown Victoria vehicles powered by compressed natural gas (CNG). The 1996–2003 Crown Victoria was manufactured with two (2) different fuel/propulsion systems: Spark ignition fuel (SIF) and CNG. This resulted in a recall: NHTSA recall number 03V472.

- PE07–028 involved alleged CNG tanks exploding during fires on 2003 Honda Civic vehicles powered by CNG. Honda recalled the vehicles. See NHTSA recall number 07V512. The 2003 Honda Civic is available with three (3) different fuel/propulsion systems: SIF, hybrid (HEV) or CNG.

Accordingly, we propose amending 49 CFR 579.21(a), (b), and (c) to require light vehicle manufacturers to provide the type of fuel and/or propulsion system when they submit their EWR data. We also propose amending the light vehicle reporting templates for the EWR production information, death and injury, and aggregate reports to reflect adding fuel and/or propulsion type.

We propose adding a new definition of "fuel and/or propulsion system type" in 49 CFR 579.4. The new definition would provide that "*Fuel and/or propulsion system type* means the variety of fuel and/or propulsion systems used in a vehicle, as follows: Compressed natural gas (CNG); compression ignition fuel (CIF); electric battery power (EBP); fuel-cell power (FCP); hybrid electric vehicle (HEV); hydrogen based power (HBP); plug-in hybrid (PHV); and spark ignition fuel (SIF)." Manufacturers would identify the fuel and/or propulsion system on the EWR template in the appropriate field. In addition to amending 579.4 to add "fuel and/or propulsion system type", we propose to amend that section to add a definition for each fuel/propulsion system type, as follows:

- *Compressed natural gas (CNG)* means, in the context of reporting fuel and/or propulsion system type, a system that uses compressed natural gas to propel a motor vehicle.

- *Compression ignition Fuel (CIF)* means, in the context of reporting fuel and/or propulsion system type, a system

⁴ The Alliance members are BMW Group, Chrysler LLC, Ford Motor Company, General Motors, Jaguar Land Rover, Mazda, Mercedes-Benz, Mitsubishi Motors, Porsche, Toyota, and Volkswagen.

⁵ Notice of Proposed Rulemaking, *2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards*, 76 FR 74854–75420, December 1, 2011 (located at http://www.nhtsa.gov/staticfiles/rulemaking/pdf/cafe/2017-25_CAFE_NPRM.pdf).

that uses diesel or any diesel-based fuels to propel a motor vehicle. This includes biodiesel.

- *Electric battery power (EBP)* means, in the context of reporting fuel and/or propulsion system type, a system that uses only batteries to power an electric motor to propel a motor vehicle.

- *Fuel-cell power (FCP)* means, in the context of reporting fuel and/or propulsion system type, a system that uses fuel cells to generate electricity to power an electric motor to propel the vehicle.

- *Hybrid electric vehicle (HEV)* means, in the context of reporting fuel and/or propulsion system type, a system that uses a combination of an electric motor and internal combustion engine to propel a motor vehicle.

- *Hydrogen based power (HBP)* means, in the context of reporting fuel and/or propulsion system type, a system that uses hydrogen to propel a motor vehicle through means other than a fuel cell.

- *Plug-in hybrid (PHV)* means, in the context of reporting fuel and/or propulsion system type, a system that combines an electric motor and an internal combustion engine to propel a motor vehicle and is capable of recharging its batteries by plugging in to an external electric current.

- *Spark ignition fuel (SIF)* means, in the context of reporting fuel and/or propulsion system type, a system that uses gasoline, ethanol, or methanol based fuels to propel a motor vehicle.

We anticipate that the majority of vehicles produced by manufacturers will be captured by our proposed definitions. However, the proposal includes the term “other” to identify vehicle models employing a fuel/propulsion system that is not enumerated in our other proposed fuel and/or propulsion types. For example, the Dual fuel F-150 would be classified as “Other,” since it is propelled by either gasoline or CNG. We propose to use the following codes for fuel/propulsion type: CNG, CIF, EBP, FCP, HEV, HBP, PHV, SIF and OTH (Other).

Our fuel/propulsion system types include most of the alternative fuels found in the Energy Policy and Conservation Act (EPCA), as amended, 49 U.S.C. 32901, but not all. Due to differences in the Corporate Average Fuel Economy (CAFE) and EWR programs, our proposed categories of fuel/propulsion systems differ slightly from the alternative fuels listed in section 32901. While EPCA encourages manufacturers to produce vehicles using alternative fuels, the EWR program has a different focus. In the context of alternative fuel vehicles, that focus is on

potential problems that may occur within a fuel or propulsion system, which requires the agency to differentiate between propulsion technologies that are, or will be, available to consumers. For EWR purposes, there is no technical hardware difference between a vehicle with a spark ignition fuel engine capable of using a variety of fuels, such as ethanol or gasoline, or a mixture of fuels, such as E85 (ethanol/gasoline mixture) and a vehicle with a spark ignition fuel engine using gasoline only. While such a fuel distinction is appropriate for the CAFE program, EWR will not benefit from that level of detail because the specific fuel type being used will be unknown.

We solicit comment on our proposed definitions and seek input on clarifying each distinct system type. We also seek comment on whether additional fuel and/or propulsion system types should be added and how they might be defined.

The Alliance’s comments to the December 2008 NPRM opposed adding fuel or propulsion systems because it would increase manufacturers’ reporting costs. First, the Alliance contended that adding fuel/propulsion system reporting by distinct models would impose a one-time cost of approximately \$170,000 (per manufacturer) to revise their EWR systems to collect and properly bin the data. Substantial ongoing costs would be incurred as well. According to these comments, manufacturers separately maintain some data, such as production and sales information, based upon the type of fuel or propulsion system in various models. However, the Alliance states that manufacturers do not separate vehicles by fuel or propulsion system when reporting EWR data by component category. Doing so, the Alliance states, would require manufacturers to revise their systems, which appears to be the bulk of the manufacturers’ costs. The Alliance also noted that adding fuel/propulsion types would require manufacturers to report on hundreds of different models. Today’s proposal is different than the one proposed in the December 2008 NPRM. Our current proposal would not add the fuel and/or propulsion system type to the model name as was proposed in December 2008. It proposes to add a new separate reporting element to the EWR.

If today’s proposal is adopted, manufacturers will incur a one-time cost to revise EWR templates and software to incorporate the fuel and/or propulsion system types in their EWR reporting. However, in the agency’s view, adding the fuel and/or propulsion system type to EWR will not be unduly burdensome

for manufacturers because manufacturers already collect this information. Manufacturers collect and analyze data on alternative fueled models, like any other model, to monitor quality control, safety problems and to make in-process improvements. In their data collections, manufacturers distinguish between fuel/propulsion systems within a model to conduct root cause analyses. Once EWR systems are revised, additional ongoing burdens should be negligible as manufacturers already have established EWR operations. In addition, the agency has proposed a relatively small number of fuel and/or propulsion system types that should not require manufacturers to report on hundreds of different models, as stated by the Alliance.

We seek comments on our proposal to amend 49 CFR 579.21 to add fuel and/or propulsion system type to light vehicle reporting, the proposed types of fuel or propulsion systems and each proposed fuel or propulsion type definition. We also seek comments on the proposed light vehicle templates located in section F below incorporating our proposed amendments. Finally, on comments related to burden, we seek details on costs to revise EWR templates and software to meet the fuel and/or propulsion system type proposal.

E. New Component Categories for Light Vehicles, Buses, Emergency Vehicles, and Medium-Heavy Vehicles

The EWR regulation requires light and medium-heavy vehicle manufacturers to report the required information by specific component categories. 49 CFR 579.21(b)(2), (c), (d) and 579.22(b), (c), (d). The component categories for each vehicle type have remained unchanged since the EWR regulation was published in July 2002. Since that time, new technologies, such as Electronic Stability Control (ESC), Roll Stability Control (RSC), Forward Collision Avoidance (FCA), Lane Departure Prevention (LDP), and Backover Prevention, have been introduced into the marketplace. As these new technologies are implemented, and demand for these products increases in the market place, we are concerned that the EWR component categories are unsuitable for capturing these newer technologies. As a result, today we propose to add components ESC, RSC, FCA, LDP and backover prevention to EWR reporting.

1. Stability Control Systems

We propose to add a new component for light vehicles, buses, emergency vehicles and medium/heavy vehicles in 49 CFR 579.21(b)(2) and 49 CFR

579.22(b)(2) for stability control systems.⁶ On April 6, 2007, NHTSA published a final rule adding Federal Motor Vehicle Safety Standard (FMVSS) No. 126 *Electronic Stability Control Systems*. 72 FR 17236, 17310, as amended 72 FR 34410 (June 22, 2007). FMVSS No. 126 requires that all new light vehicles, with certain exceptions, must be equipped with an ESC system meeting the standard's requirements. As it pertains to buses, emergency vehicles and medium-heavy vehicles, NHTSA studies indicate that stability control systems provide potential safety benefits for heavy trucks.⁷ In addition, for some manufacturers, stability control systems are standard on all heavy trucks.⁸ As a result of FMVSS No. 126 and safety benefits of stability control systems on heavy vehicles, the number of vehicles containing stability control systems is increasing rapidly and potentially could include most of the vehicle fleet.

In addition to stability control systems, RSC systems are increasingly being installed on heavy trucks. RSC detects a high lateral acceleration condition that could lead to a truck rolling over, and intervenes by automatically applying the vehicle's brakes and/or reducing engine power and applying the engine retarder. We are proposing to include RSC in the definition of stability control in this notice for medium-heavy trucks. In addition, while trailer-based RSC systems are available, we are not proposing to include reporting of RSC incidents by trailer manufacturers at this time. RSC systems are installed predominantly on powered vehicles such as truck tractors, rather than trailers, in the current marketplace.

The EWR regulation currently does not have a specific component for stability control issues. See 49 CFR 579.21(b)(2) and 579.22(b)(2). Light vehicle manufacturers report ESC issues under "03 service brake system" and medium-heavy vehicle manufacturers

report stability control issues under "03 service brake, hydraulic" and "04 service brake, air" because those definitions include stability control. As a result, potential stability control issues may be masked within the broader service brake category, making NHTSA unable to examine and detect potential safety concerns that may be associated directly with a vehicle's stability control system. Adding an ESC component category to light vehicles and stability control and/or RSC to buses, emergency vehicles and medium-heavy vehicles reporting categories will allow NHTSA to capture data on this mandatory system on light vehicles and new system on medium-heavy trucks and analyze stability control data for potential defects.

We propose to use the ESC definition found in 49 CFR 571.126.S4 for light vehicles. We propose to define ESC for buses, emergency vehicles, and medium-heavy vehicles as a system that has all the following attributes:

- That augments vehicle directional stability by applying and adjusting the vehicle brake torques individually at each wheel position on at least one front and at least one rear axle of the vehicles to induce correcting yaw moment to limit vehicle oversteer and to limit vehicle understeer;
- That enhances rollover stability by applying and adjusting the vehicle brake torques individually at each wheel position on at least one front and at least one rear axle of the vehicle to reduce lateral acceleration of a vehicle;
- That is computer-controlled with the computer using a closed-loop algorithm to induce correcting yaw moment and enhance rollover stability;
- That has a means to determine the vehicle's lateral acceleration;
- That has the means to determine the vehicle's yaw rate and to estimate its side slip or side slip derivative with respect to time;
- That has the means to estimate vehicle mass or, if applicable, combination vehicle mass;
- That has the means to monitor driver steering input;
- That has a means to modify engine torque, as necessary, to assist the driver in maintaining control of the vehicle and/or combination vehicle; and
- That, when installed on a truck tractor, has the means to provide brake pressure to automatically apply and modulate the brake torques of a towed semi-trailer.

RSC has similar attributes related to rollover stability. We propose to define RSC as a system that has the following attributes:

- That enhances rollover stability by applying and adjusting the vehicle brake torques to reduce lateral acceleration of a vehicle;
- That is computer-controlled with the computer using a closed-loop algorithm to enhance rollover stability;
- That has a means to determine the vehicle's lateral acceleration;
- That has the means to determine the vehicle mass or, if applicable, combination vehicle mass; That has a means to modify engine torque, as necessary, to assist the driver in maintaining rollover stability of the vehicle and/or combination vehicle; and
- That, when installed on a truck tractor, has the means to provide brake pressure to automatically apply and modulate the brake torques of a towed semi-trailer.

Recent investigative activities and manufacturer recalls illustrate that adding a stability control component category likely will assist NHTSA to uncover potential safety issues. The agency has opened several light vehicle ESC investigations since 2007 that under current EWR reporting is masked by light vehicle manufacturers reporting ESC issues under service brake system:

- PE08-056 and EA09-002 involved alleged ESC malfunctions on 2005-2006 Chevrolet Corvettes. The subject vehicles are allegedly experiencing sudden and unexpected inappropriate brake application to one or more wheels causing the ESC to malfunction. This investigation resulted in a recall (10V172).

- PE08-072 and EA09-006 involved alleged ESC and/or Traction Control System (TCS) malfunctions on 2003 Toyota Sequoias. The subject vehicles are allegedly experiencing sudden and unexpected inappropriate brake application to one or more wheels causing the ESC to malfunction. This investigation resulted in a recall (10V176).

In addition, there have been eleven (11) light vehicle recalls⁹ due to ESC problems and three (3) medium-heavy vehicle recalls¹⁰ due to stability control problems. The agency believes that stability control issues are likely to increase as vehicle manufacturers add stability control to their fleets. In our view, it is important to capture EWR data on this key safety component, supplementing NHTSA's traditional screening methods to assist in

⁶ Manufacturers may market or refer to ESC as electronic stability program, vehicle stability control, rollover stability control, vehicle dynamics integrated management system, or active skid and traction control, among others.

⁷ See DOT HS 811 205, October 2009, "Safety Benefits of Stability Control Systems for Tractor-Semitrailers" located at <http://www.nhtsa.gov/DOT/NHTSA/NRD/Multimedia/PDFs/Crash%20Avoidance/2009/811205.pdf> and DOT HS 811 233, November 2009, "Heavy Truck ESC Effectiveness Study Using NADS" located at <http://www.nhtsa.gov/DOT/NHTSA/NRD/Multimedia/PDFs/Crash%20Avoidance/2009/811233.pdf>.

⁸ Not your daddy's brakes: Technology advances allow for shorter stopping distances and the development of stability and collision avoidance systems, but there is a need for good maintenance, Fleet Equipment, March 22, 2010 (located at http://www.fleetequipmentmag.com/Item/71983/not_your_daddys_brakes.aspx).

⁹ The light vehicle recalls are designated NHTSA recall nos.: 98V080, 04V554, 05V119, 05V120, 05V177, 05V316, 08V645, 09V122, 09V130, 09V187, and 09V280.

¹⁰ The medium-heavy vehicle recalls are designated NHTSA recall nos.: 05V543, 09V115, and 09V196.

identifying potential safety issues sooner.

The Alliance's comments to the December 2008 NPRM opposed adding an ESC component, citing both substantive concerns and cost burdens. The Alliance contends that most consumers will be unaware whether ESC was activated or operated properly during an accident. In addition, because ESC shares components with other systems, the Alliance states that it will be difficult for manufacturers to ascertain whether a consumer complaint, warranty claim, field report or other item reportable under EWR should be included in the ESC category. The Alliance also asserts that adding an ESC category would require a substantial investment.

The agency acknowledges that in some instances consumers may not perceive stability control problems during a crash or will be unable to distinguish stability control problems from problems with other components. This may occur when a consumer communicates through a complaint or a property damage claim to the manufacturer. Although there may be some of these instances, the agency believes that misidentification of stability control complaints will be negligible. The agency receives vehicle owner questionnaires (consumer complaints) reporting potential problems with ESC. Furthermore, consumer complaint data represent only 5 percent and property damage claims represent less than 1 percent of the EWR aggregate data for the service brake component. Consumer complaints and property damage claims data are likely to be analyzed by a dealer's technician or manufacturer's representative, who can identify customers' concerns and classify them accordingly as either stability control or another component.¹¹

The bulk of the EWR data for the service brake component consists of warranty claims and field reports. Manufacturers likely have the capability to identify and report specific problems associated with stability control in warranty claims and field reports. Manufacturers of light vehicles have elaborate warranty systems that capture information about discrete components and service codes. Manufacturers also track issues identified by their representatives in the field. These data

¹¹ ODI recently reviewed consumer complaints submitted to the agency by a manufacturer in the context of a follow-up information request on EWR service brake data. ODI was able to classify the manufacturer's consumer complaints into brake and ESC issues based on the text associated with each consumer complaint.

are valuable to manufacturers because they are the primary sources for manufacturers to identify problems, and to monitor quality and in-process improvements. With the ability to identify specific issues through service codes and field inspections, manufacturers should be able to code stability control issues appropriately.

Adding a new component to the light vehicle, bus, emergency vehicle and medium-heavy vehicle EWR reporting is likely to create a one-time cost for manufacturers to amend their reporting template and revise their software systems to appropriately categorize the stability control system data. We do not believe this cost will be substantial or pose an undue burden on manufacturers. In the agency's view, as discussed above, stability control is an important required component for vehicle control and a malfunction can have an impact on vehicle safety. Capturing data on this new technology will assist the agency in identifying potential problems sooner. Because the number of vehicles with stability control is increasing rapidly and all light vehicles manufactured after September 1, 2011 must have ESC, we believe that it is appropriate for the agency to start collecting EWR data on this specific component.

Therefore, we propose to amend 49 CFR 579.21(b)(2) and 49 CFR 579.22(b)(2) to add Stability Control System to the list of components in that section. We also propose to amend 49 CFR 579.4(b) to add the regulatory definition of ESC systems, found in 49 CFR 571.126.S4,¹² to add definition of stability control and RSC for buses, emergency vehicles, and medium-heavy vehicles, and to amend the definition of "service brake system" to remove stability control from the definition. We seek comments on our proposal to amend 49 CFR 579.21(b)(2) and 49 CFR

¹² FMVSS No. 126 defines Electronic Stability Control system or ESC system to mean a system that has all of the following attributes:

- (1) That augments vehicle directional stability by applying and adjusting the vehicle brake torques individually to induce a correcting yaw moment to a vehicle;
- (2) That is computer-controlled with the computer using a closed-loop algorithm to limit vehicle oversteer and to limit vehicle understeer;
- (3) That has a means to determine the vehicle's yaw rate and to estimate its side slip or side slip derivative with respect to time;
- (4) That has a means to monitor driver steering inputs;
- (5) That has an algorithm to determine the need, and a means to modify engine torque, as necessary, to assist the driver in maintaining control of the vehicle; and
- (6) That is operational over the full speed range of the vehicle (except at vehicle speeds less than 20 km/h (12.4 mph), when being driven in reverse, or during system initialization).

579.22(b)(2) to add the component "stability control system." We also seek comments on the proposed definition for this component.

2. Forward Collision Avoidance and Lane Departure Prevention

In addition to adding a component category for ESC, we propose to add Forward Collision Avoidance (FCA) and Lane Departure Prevention (LDP) system components for light vehicles in 49 CFR 579.21(b)(2). These emerging crash avoidance technologies have been in development for some time and are appearing in the current light vehicle fleet. As these new technologies are implemented, and demand increases, we are concerned that the EWR component categories will not capture them. NHTSA believes it is appropriate to add these technologies to EWR now.

An FCA system monitors and detects the presence of objects in a vehicle's forward travel lane and alerts the driver by means of an audible and/or visual warning of a potential impact with the object. FCA systems seek to warn drivers of stopped, decelerating or slower moving vehicles in the vehicle's lane of travel in order to avoid collisions. Some FCA systems may also assist with driver's braking or automatically brake to avoid collisions. Manufacturers may market or refer to this crash-avoidance technology as forward collision warning (FCW), predictive brake assist, crash imminent braking, dynamic brake support, collision warning system, collision warning with brake support, collision mitigation brake system, pre-sense or pre-safe systems, pre-collision system, collision warning with brake assist, and/or collision warning with auto brake, among other things. We propose to define FCA as a system:

- That has an algorithm or software to determine distance and relative speed of an object or another vehicle directly in the forward lane of travel; and
- That provides an audible, visible, and/or haptic warning to the driver of a potential collision with an object in the vehicle's forward travel lane.

The system may also include a feature:

- That pre-charges the brakes prior to, or immediately after, a warning is issued to the driver;
- That closes all windows, retracts the seat belts, and/or moves forward any memory seats in order to protect the vehicle's occupants during or immediately after a warning is issued; or
- That applies any type of braking assist or input during or immediately after a warning is issued.

FCA systems generally employ radar, laser and/or camera-based sensors to detect objects in front of the vehicle. Toyota Motor Corporation's Pre-Collision System (PCS) utilizes a radar-based system. Nissan's Infiniti brand offers a laser-based system. Toyota's Advanced Pre-Collision System combines both a radar and camera. For FCA reporting, we anticipate manufacturers will submit EWR data related to these systems and their specific components. Where an issue arises involving a component that has more than one function, we propose that manufacturers report EWR data based upon the functionality of the component as reported in the underlying claim, notice, warranty claim, complaint, property damage claim or field report.

An LDP system warns a driver that his or her vehicle is exiting a travel lane and may automatically provide steering input to help the driver maintain lane position. Manufacturers may market or refer to this crash-avoidance technology as lane departure warning, lane keeping assist, lane detection algorithm, lane assist, and/or lane monitoring systems, among others. These systems generally use a small camera to detect and track lane markings and provide an audible and/or visible warning to the driver if the vehicle is in danger of crossing the lane line unintentionally. Accordingly, we propose to define LDP as a system:

- That has an algorithm or software to determine the vehicle's position relative to the lane markers and the vehicle's projected direction; and
 - That provides an audible, visible, and/or haptic warning to the driver of unintended departure from a travel lane.
- The system may also include a feature:

- That applies the vehicle's stability control system to assist the driver to maintain lane position during or immediately after the warning is issued;
- That applies any type of steering input to assist the driver to maintain lane position during or immediately after the warning is issued; or
- That applies any type of braking pressure or input to assist the driver to maintain lane position during or immediately after the warning is issued.

Most LDP systems function through cameras placed on the windshield that detect lane markers in front of the vehicle and calculate the vehicle's position relative to the lane markers. For LDP reporting, we anticipate manufacturers will submit EWR data related to these systems and their components. When an issue arises with a component that has more than one function, we propose that manufacturers report EWR data based upon the

functionality of the component as reported in the underlying claim, notice, warranty claim, complaint, property damage claim or field report.

While FCA and LDP are relatively new technologies, their use is increasing. Registration data indicates that there are over 769,000 and 657,000 registered vehicles equipped with FCA and LDP systems, respectively.¹³ The latest production data from EWR indicate that the total number of vehicles with FCA and LDP systems is now 1,656,000 and 1,292,000, respectively.¹⁴

NHTSA is encouraging deployment of these important crash avoidance systems by notifying consumers which vehicles offer them through the New Car Assessment Program. On July 11, 2008, NHTSA published a final decision notice in the **Federal Register** announcing changes to the New Car Assessment Program (NCAP) for model year 2010. This change was delayed until model year 2011. 73FR 79206. Starting with model year 2011 vehicles, NHTSA recommends ESC, FCW and LDW systems that pass the NCAP performance tests on the Web site www.safercar.gov. 73 FR 40016, 40034. The agency believes that adding these technologies in NCAP will increase consumer awareness of these beneficial technologies and spur market demand. 73 FR 40033. We note that today's proposed EWR components FCA and LDP have slightly different naming conventions than the NCAP naming conventions of FCW and LDW. Both EWR's and NCAP's definitions capture basic warning functions of these technologies, but the EWR definition is more generic than NCAP due to the agency's attempt to capture future versions of these systems that the agency had not made a determination whether these systems are beneficial and therefore should receive additional credit under NCAP.

Adding FCA system and LDP component categories to the light vehicle reporting category will assist NHTSA in identifying potential safety issues for these critical safety systems. The EWR regulation currently does not have a specific component for FCA and LDP issues. *See* 49 CFR 579.21(b)(2). Manufacturers may report FCA and LDP issues under "01 steering system," "03 service brake system," or "18 vehicle speed control." As a result, potential FCA and LDP issues will be masked within these broader categories, making NHTSA unable to examine and detect potential safety concerns that may be

related to a vehicle's FCA or LDP systems. Adding these component categories to light vehicle reporting will allow NHTSA to obtain data on these important safety systems and analyze them for potential safety concerns.

Adding FCA and LDP as component categories to the light vehicle EWR reporting will require manufacturers to incur a one-time cost to amend their reporting template and revise their software systems to appropriately categorize the data. We do not believe these costs will be substantial or pose an undue burden.

3. Backover Prevention

In addition to adding component categories for ESC, FCA, and LDP, we propose to add a component category for systems designed to mitigate backover crashes for light vehicles in 49 CFR 579.21(b)(2). On December 7, 2010, NHTSA published an NPRM proposing to amend FMVSS No. 111, *Rearview Mirrors*, to expand the current rear visibility requirements for all light vehicles under 10,000 pounds Gross Vehicle Weight Rating by specifying an area behind the vehicle that a driver must be able to see when the vehicle is in reverse. *See* 75 FR 76186. The agency estimates that on average there are 292 fatalities and 18,000 injuries (3,000 of which NHTSA estimates are incapacitating) resulting from backover incidents every year. Of those, 228 fatalities and 17,000 injuries were attributed to backover incidents involving light vehicles under 10,000 pounds. *Id.* at 76187. While many manufacturers currently offer vehicle models with some form of a backover prevention system, in the near term NHTSA believes that manufacturers would meet these new requirements with a rear visibility system that includes a rear-mounted video camera and an in-vehicle visual display. As a result of the rulemaking and the acceptance of backover technologies in the market place, the agency believes that the number of vehicles utilizing some form of a backover prevention system will increase dramatically and that over time these systems will take on different trade names and include additional functionality not present today.

For the purposes of EWR, NHTSA is defining a backover prevention system as a system that provides a rearview image to a driver to prevent a vehicle from striking an individual or other object while traveling in reverse. This definition is similar to the definition in the December 2010 NPRM. Therefore, we propose to define backover prevention as a system that has:

¹³ RL Polk Registration data, July 1, 2009.

¹⁴ EWR Production Data, 3rd quarter of 2010.

- A visual image of the area directly behind a vehicle that is provided in a single location to the vehicle operator and by means of indirect vision.

We are proposing to define a backover detection system as a system that provides a visual image to the rear of the vehicle or a sensor-based system that provides a warning to the driver because manufacturers are currently using these types of systems. NHTSA estimates that 19.8 percent of MY 2010 light vehicles have an image-based backover prevention system.¹⁵

For backover prevention reporting, we anticipate manufacturers will submit EWR data related to these systems and their components. When an issue arises with a component that has more than one function, we propose manufacturers report EWR data based upon the functionality of the component as reported in the underlying claim, notice, warranty claim, complaint, property damage claim or field report.

The agency believes these measures will enhance its ability to identify and address potential safety defects related to this important safety system that is already in the market. The EWR regulation currently does not have a specific component for backover prevention issues. See 49 CFR 579.21(b)(2). Currently, manufacturers may report backover prevention issues under “13 visibility” or “11 electrical system.” As a result, potential backover prevention issues will be masked within these broader categories, making NHTSA unable to examine and detect potential safety concerns that may be associated directly with a vehicle’s backover prevention systems. Adding this component category to light vehicle reporting will allow NHTSA to obtain data on these important safety systems and analyze it for potential safety concerns.

Therefore, we propose to amend 49 CFR 579.21(b)(2) to add FCA, LDP, and backover prevention systems to the list of components in that section. We also propose to amend the definition of “visibility” to remove an exterior view-based television system for light vehicles. We seek comments on our proposal to amend 49 CFR 579.21(b)(2) to add the components “forward collision avoidance system,” “lane departure prevention system,” and “backover prevention system.” We also seek comments on the proposed definitions for these components.

F. Proposed EWR Reporting Templates

Based upon the proposed amendments for light vehicle manufacturers to provide the vehicle type and fuel and/or propulsion type in their quarterly EWR submissions, and adding ESC, FCA, LDP, and Backover Prevention system components to EWR reporting, we propose to amend the EWR light vehicle production, death and injury, and aggregate reporting templates. The proposed light vehicle reporting templates are located in Appendix A to this NPRM. Figure 1 represents the proposed amended light vehicle production template, Figure 2 represents the proposed amended light vehicle death and injury reporting template and Figure 3 represents the proposed amended light vehicle aggregate reporting template. Appendix B contains the proposed bus, emergency vehicle and medium-heavy vehicle reporting templates that incorporate the proposed amendment to add stability control to these vehicles. Figure 4 represents the proposed amended bus aggregate reporting template, Figure 5 represents the proposed amended emergency vehicle aggregate reporting template and Figure 6 represents the proposed amended medium-heavy vehicle aggregate reporting template. We seek comments on our proposed reporting templates.

G. Electronic Submission of Annual Substantially Similar Vehicle Lists

The foreign defect reporting regulations, 49 CFR part 579, subpart B, require manufacturers selling or offering motor vehicles for sale in the United States to submit annually a document that identifies each model of motor vehicle that the manufacturer sells or plans to sell during the following year in a foreign country that the manufacturer believes is identical or substantially similar to a motor vehicle sold or offered for sale in the United States (or to a motor vehicle that is planned for sale in the United States in the following year) and each such identical or substantially similar vehicle sold or offered for sale in the United States. 49 CFR 579.11(e). Manufacturers may submit this list to NHTSA by mail, facsimile or by email. 49 CFR 579.6. When a manufacturer notifies NHTSA of a safety recall or other safety campaign in a foreign country, the agency searches the manufacturer’s substantially similar list for vehicles in the U.S. that may contain a similar problem as identified in the foreign recall or campaign.

Unlike EWR reports, manufacturers are not required to upload their

substantially similar list directly to the Artemis database. However, most vehicle manufacturers upload their substantially similar lists directly to Artemis through the agency’s secure Internet server. These manufacturers use a template that is available on the agency’s Web site, located at <http://www-odi.nhtsa.dot.gov/ewr/xls.cfm>. The agency would prefer that manufacturers upload their lists in to Artemis because submissions by mail, facsimile, or email cannot be uploaded to Artemis and are not readily searchable. To ensure that NHTSA can readily search all substantially similar lists, we propose to amend section 579.6(b) to require that the annual list of substantially similar vehicles required by 579.11(e) be uploaded directly to the Artemis database.

We seek comments on our proposal to require manufacturers to submit their substantially similar list directly to the Artemis database.

H. VIN Submission and Recall Remedy Completion Information for Safety Recalls

We are proposing a number of changes in the regulations governing safety recalls in an effort to improve the information the agency receives from recalling manufacturers about the motor vehicles and equipment they are recalling, plans for remedying those products, and distribution of that information to the affected public.

The first of these changes proposes to require larger volume manufacturers, whose safety recalls address the vast majority of vehicles recalled, to provide to the agency VIN information for the vehicles covered by their respective recall campaigns. This proposed change is aimed, among other things, to accomplish the MAP-21 Act mandate that the Secretary require motor vehicle safety recall information be made available to the public on the Internet, be searchable by vehicle make and model and vehicle identification number (VIN), be in a format that preserves consumer privacy, and includes information about each recall that has not been completed for each vehicle. See MAP-21 Act, Public Law 112-141, § 31301(a), 126 Stat 405, 763. With section 31301’s mandate to make recall safety information publicly available, we believe the best way to meet MAP-21’s requirement is to increase the safety recall information currently available on the agency’s Web site. The agency makes a considerable amount of safety recall information available to the public. VIN information from vehicle manufacturers will be used to support an enhanced version of the

¹⁵ Preliminary Regulatory Impact Analysis, Backover Crash Avoidance Technologies NPRM FMVSS No. 111.

agency's current recalls look-up service available online at www.safercar.gov. It will enable vehicle owners and other interested users to determine with confidence whether a specific vehicle has a safety defect or noncompliance that has not been remedied under the manufacturer's remedy program. Our current recalls look-up offers the functionality of searching for vehicle safety recalls, among other ways, through a make and model search (and so meeting an express requirement of section 31301(a) of MAP-21 Act), but it does not offer information for any one, specific vehicle. We expect that providing vehicle-specific recalls information will have a positive impact on vehicle recalls completions, thereby reducing the risk of injuries and fatalities associated with motor vehicle safety defects and noncompliances with minimum FMVSS.

Our service will cover all major makes, models, and model years, so that consumers have a "one stop shop" for safety recall information on vehicles they may own or consider purchasing. Owners will not need to search multiple Web sites for recalls information regarding their vehicles. The search functionality and returned information will be consistent for all recalls, major manufacturers, and light vehicles.

Additionally, by receiving recall information by VIN, NHTSA's established recall email subscription service can immediately notify its users, over 70,000 at present and growing, when their VIN has been included in a recall. This benefit will be especially important when a recall involves an immediate and imminent safety threat. Consumers will be able to quickly conclude whether a serious safety concern they learn about through television or social media is linked to their particular vehicle.

We propose to amend subsection 573.6(c)(3) to require larger volume motor vehicle manufacturers that manufacture 25,000 or more light vehicles annually or 5,000 or more motorcycles annually to submit electronically the VIN of each vehicle that potentially contains a defect or noncompliance, and will be covered by a safety recall campaign. As with other information required to be submitted on vehicles being recalled, manufacturers would be required to submit this information when submitting a Part 573 Report, unless that information was not available at that time, in which case, it would be submitted when it became available, or, under a proposal addressed later in this notice, within

five working days of when that VIN information becomes available.¹⁶

Our proposal is consistent with recommendations to improve recall completion rates (the percentage of the recalled vehicle population that has the recall remedy performed) made by the U.S. General Accountability Office (GAO) in response to its review of NHTSA's safety recalls. See U.S. General Accountability Office, NHTSA Has Options to Improve the Safety Defect Recall Process, GAO-11-603 (2011), available in the agency's rulemaking docket.

Our proposal would impose little to no additional burden on manufacturers. Vehicle manufacturers already acquire VIN information from state motor vehicle agencies for purposes of conducting recalls. This is because, under the Safety Act, and its implementing regulations, a manufacturer must notify each person who is registered under State law as the owner of the vehicle of the recall, and registered owner information is maintained on a VIN basis by the respective State agencies. See 49 U.S.C. 30119(d)(1)(A) and 49 CFR 577.7(a)(2)(i). In addition, larger vehicle manufacturers submit specific VINs in connection with certain aspects of the Early Warning Reporting Rule. 49 CFR 579.21, 22, 23, and 24. The agency simply proposes here that vehicle manufacturers submit the VIN information in a prescribed format. Indeed, many manufacturers already provide VIN-based recall look-up functions on their Internet or other commercial Web pages.¹⁷

In our view, there are benefits to having NHTSA offer a similar application for owners and consumers that cuts across all major makes, models, and model years, so that consumers have a "one stop shop" for safety recall information on vehicles they may own or consider purchasing. We believe that providing easy access to this important safety information will facilitate notifications of a recall to owners and encourage owners and consumers to obtain the recall remedy. We believe this would result in increased completion rates and a reduction of the number of unsafe vehicles on U.S. roads.

NHTSA must obtain information from the manufacturer on whether the recall

remedy has been performed on each recalled vehicle in order to provide full information to a consumer and to meet the MAP-21 Act's requirement that the Secretary require "information about each recall that has not been completed for each vehicle." Otherwise, the recalls look-up function we envision will tell a consumer only that a vehicle was subject to a safety recall at some point, and not whether the remedy was performed. With the added recall information from large volume light vehicle manufacturers, NHTSA can inform consumers that a vehicle is subject to a safety recall and whether the remedy identified by the manufacturer has been performed and meet MAP-21's express provision to make this information available to the public. The information must be up-to-date, so we propose that manufacturers electronically submit on a daily basis the recall remedy status of each vehicle covered by a recall.

We propose that manufacturers provide a vehicle's remedy status using the categories required in the agency's quarterly reporting requirements: Unremedied; inspected and repaired; inspected and determined not to require repair; exported; stolen; scrapped; the owner was unable to be notified (returned mail); or other (for whatever other reason the manufacturer could not remedy the vehicle. See 49 CFR 573.7(b)(4) and (5).

We propose an additional category to account for the period between the time a manufacturer has decided to conduct a recall and notified NHTSA, and the time it notifies owners of the availability of the free remedy. This pre-recall launch or "recall remedy not yet available" category would inform an owner that his or her vehicle is subject to a recall, but the remedy is not yet available. We propose that for VINs designated by the manufacturer as falling within the pre-recall launch period, our service confirm that the vehicle is subject to the manufacturer's recall, so that an owner is not misinformed as to his/her vehicle's inclusion, and knows that the remedy campaign has not been launched. Our proposal expands the information we currently provide via our recalls search function where we summarize the recall campaign and inform when the recall is expected to start and provide a telephone number for owners to contact the manufacturer for further information. Under our proposal, more information would be available because the manufacturer will now have the ability to designate by VIN this pre-recall launch status in the event, due to parts delays or other circumstances, the

¹⁶ Our proposal to change from a less precise "as it becomes available" requirement to a more precise five working day requirement is addressed in section L, *infra*.

¹⁷ See e.g., www.carfax.com, Chrysler: <http://www.chrysler.com/en/owners/and> Ford: <http://www.ford.com/owner-services/customer-support/recall-information>.

manufacturer is unable to offer the free remedy to all involved owners on the same date.

We further propose a “deleted” category that will enable a manufacturer to remove vehicles from a recall population. For example, a manufacturer may have mistakenly assessed the scope of vehicles affected by a particular safety defect or noncompliance condition and will then need to adjust the population, by adding or removing vehicles and their respective VINs.

Also, we propose to require that manufacturers provide the date the recall remedy was performed, where applicable, so that we can also provide that information to interested owners and consumers.

Under our proposal, a manufacturer would first submit VIN data for vehicles covered by a recall when submitting a Part 573 Report (or, if that information is not available at that time, within the prescribed time of when it becomes available, typically within a matter of weeks). The information would be submitted electronically in a table format. Manufacturers would be required to list VINs vertically in rows with a horizontally adjacent column for reporting the current recall remedy status category, plus the pre-recall launch category, and a column for reporting the date the recall remedy was performed (where applicable). An example of the table we propose is located in Appendix C, Form C1, attached to this notice.

Thereafter, each day at a time specified by the agency, the manufacturer would submit to NHTSA the same table, but now limited to a list of VINs for which the recall remedy status had changed from the previous day’s submission, complete with the designations reflecting the new status. Also, if there were changes to the recall population, either additions or subtractions, the manufacturer would submit those VINs as well. VINs that need to be added to a manufacturer’s VIN list would be included in its daily update to the agency with an identification of the date of the addition. VINs that need to be removed from a manufacturer’s VIN list, due to later information establishing that the vehicle should not have been recalled, for one example, would be appropriately coded. We further propose to include a comment column that can be used to attach any notes, up to 30 characters, needed to help describe the status of a particular VIN. Appendix C, Form C1, demonstrates these functions.

A manufacturer’s VIN data submission would be an automated

process accomplished through a secure server using secure file transfer protocol (SFTP). The daily VIN updates of vehicles covered in a recall along with the remedy status would be updated using a NHTSA specified application programming interface (API). The manufacturer’s server would post to a secure server, operated by the agency, at a set time each day. Only changes to the previous day’s information would be submitted, thereby greatly limiting the volume of information being transferred from the manufacturer to the agency. After its submission is completed and verified, the manufacturer would receive an acceptance notice. If any portion of the submission was rejected, that information would be returned to the manufacturer on a secure, NHTSA operated Recalls Portal. The agency anticipates that its system will provide sufficient detail (to the specific recall and VIN level) to the manufacturer when information is rejected in order for the manufacturer to quickly identify and resolve any problems.

The requirement to submit VIN information electronically is not highly burdensome. The information we seek in today’s proposal is already captured by manufacturers and submitted to NHTSA in part. Under 49 CFR 573.8, manufacturers are required to maintain information, including VINs, on all vehicles involved in a recall notification. These lists are maintained in computer information storage devices and must be maintained for five years. However, because a manufacturer’s obligation to perform a recall remedy does not expire, manufacturers must maintain records that, at a minimum, reflect the current recall remedy status of the vehicles covered by their campaigns. In addition, manufacturers are currently required to submit quarterly reports that provide the recall remedy status of vehicles in a safety recall campaign. In order to maintain recall data and determine recall remedy status, most manufacturers use software and create large electronic databases that are integrated with their dealer network. Such electronic databases record VIN data and recall remedy status information, update it, and synchronize this information on regular intervals against their systems for processing and paying their dealerships or repair facilities to perform the recall remedy. Accordingly, larger volume manufacturers will only have to incur a one-time cost to reconfigure their systems to transmit VIN data and recall remedy status information in the electronic format NHTSA requires.

The MAP-21 Act specifies that any rules issued pursuant to the Act will

“permit a manufacturer a reasonable period of time after receiving information from a dealer with respect to a vehicle to update the information about the vehicle on the publicly accessible Internet Web site.” See MAP-21 Act at section 31301(b)(3). Given that paragraph (b) refers back to the information in paragraph (a) in section 31301, we read (b)(3) to include completion of the safety recall remedy offered by the manufacturer on that vehicle. In this proposed rule, we do not propose to define what that reasonable period of time is. In the agency’s experience, we have not encountered situations involving large volume manufacturers failing to update their records on recalls completions by dealers. Accordingly, we do not believe these manufacturers will inordinately delay updating their internal recalls completion records and thereby stymie the timeliness and accuracy of the VIN look-up service we propose to meet MAP-21’s requirements. We seek comments on the agency’s decision not to define the term “reasonable period of time.” Due to the statutory requirement under the Safety Act that a manufacturer must remedy recalled vehicles when presented, manufacturers maintain records reflecting a vehicle’s recall remedy status indefinitely. 49 U.S.C. 30120. Although manufacturers maintain such records indefinitely, the utility and safety benefit of NHTSA receiving such records decreases over time. Accordingly, we propose to limit the requirement to provide electronic updates to 10 years from the date a manufacturer first supplied the VIN list for a recall. Manufacturers are only required to provide a free remedy under the Safety Act for vehicles that were bought by the first purchaser less than 10 calendar years from when the manufacturer notified its owners of the safety defect or noncompliance. See 49 U.S.C. 30120(g). Also, in the agency’s experience and, based upon our interactions with manufacturers, very few vehicles can be expected to be presented for remedy 10 years after a recall notification has been made. In our view, very few consumers will utilize our VIN look-up service to learn of recalls on their vehicles that are over a decade old. Furthermore, the utility of, and safety benefits derived from, a VIN-lookup service will not be adversely affected with our proposed ten-year limit.

In order to offer a functional VIN recall search tool and to provide effective search capability at launch, we require a database of recalled vehicle VIN data. Otherwise, when our VIN

recall search tool is launched, there will be very little utility to the tool and users will be discouraged from using the tool, thereby undermining our efforts to facilitate owner notification and reducing the number of unsafe vehicles on U.S. roadways. Therefore, if the VIN proposal is adopted, we propose to require manufacturers, within 180 days of the effective date of this rule, to submit VIN data for each vehicle covered by a recall filed within 24 months prior to the effective date of this VIN submission requirement. To clarify, “filed” means a manufacturer submitted a Part 573 defect or noncompliance report indicating its intention to conduct a recall, except those manufacturers that stated an intent to file a petition for an exemption to the recall requirements on the basis that the noncompliance is inconsequential to motor vehicle safety (unless, of course the petition was denied in which case the manufacturer would be required to conduct a recall and provide VINs).

A proposal to require VIN data on vehicles covered by recalls filed prior to the MAP-21 Act’s enactment is directly contemplated in the Act, which provides that any implementing rulemaking, “shall limit the information that must be made available * * * to include only those recalls issued not more than 15 years prior to the date of enactment of this Act.” See MAP-21 Act, Public Law 112-141, § 31301(b)(1), 126 Stat 405, 763 (July 6, 2012). Accordingly, our proposal to require VIN data on vehicles covered by recalls filed within the prior 2 years’ time is well within the agency’s discretion. We seek comment on whether to require VIN data on recalls covered by recalls filed in earlier years.

Our proposal to require submission of VIN data to us is limited to larger, light vehicle manufacturers. Although already permissible under section 30119 of the Safety Act,¹⁸ the MAP-21 Act’s express grant of authority to the Secretary to require motor vehicle safety recall information to be publicly available provides the agency discretion in determining the information needed

¹⁸ Vehicle manufacturers must notify NHTSA and provide certain information when they decide to recall their vehicles to remedy a safety defect or noncompliance with a FMVSS. See 49 U.S.C. 30118 and 30119. Under section 30119, NHTSA has considerable discretion to determine the contents of such notices, including content that changes based on the product or manufacturer. 49 U.S.C. § 30119(a). For example, in the case of passenger vehicles, an identification of the vehicles to be recalled is to be made by make, line, model year, and dates of manufacture, whereas other types of vehicles (and items of equipment) are subject to different requirements. Compare 49 CFR 573.6(c)(2)(i) to 49 CFR 573.6(c)(2)(ii), (iii), (iv), and (v).

to meet the Act’s requirement. See MAP-21 Act at section 31301(b). This discretion includes setting parameters that determine which manufacturers must provide recall information for the Internet site that is contemplated under the Act.

We propose to limit the VIN submission requirement to manufacturers of 25,000 or more light vehicles, or manufacturers of 5,000 or more motorcycles, manufactured for sale, sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported into the United States annually.¹⁹ A manufacturer would meet these thresholds if it knows or anticipates it will meet these thresholds by the end of the current calendar, or if it reached those volumes during the previous calendar year.

Based on current data received by NHTSA’s Early Warning Division, this notice includes a list of vehicle manufacturers presently meeting the above stated production thresholds, found in *Appendix E*. At this time, we propose to limit this requirement to these manufacturers because, due to their production volume and their current obligation for EWR reports, these larger manufacturers have the resources to readily and efficiently meet the proposed VIN reporting requirements using the electronic media we propose here.

At this time, we are not proposing to require smaller light vehicle or motorcycle manufacturers to submit VIN data. The costs and burdens of this proposed rule would be greater on these smaller volume manufacturers than for their large volume counterparts. For smaller manufacturers that do not already operate robust computer systems and complex databases, a one-time investment to purchase the needed hardware and software and daily maintenance to meet the VIN requirement could be costly.

If after several years of experience with VIN data, we believe that receiving VIN data from smaller manufacturers would be beneficial, we may propose to include lower volume manufacturers. Of course, nothing prevents these manufacturers from voluntary participation in our VIN look-up service. We solicit comment on our decision to not include lower volume manufacturers in this proposed rule.

¹⁹ For purposes here, “light vehicle” means any motor vehicle, except a bus, motorcycle, or trailer, with a GVWR of 10,000 lbs or less. 49 CFR 579.4. “Motorcycle” means a motor vehicle with motive power having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground. 49 CFR 571.3.

Based on feedback we receive about our current recalls look-up service and email recall notification service, we anticipate that the majority of users of our service will be individual consumers or users of light vehicles and motorcycles, rather than medium-heavy commercial vehicle owners and users. The latter tend to communicate directly with the manufacturer or dealerships and rely less upon the Agency for information about recalls or vehicular safety issues. If at a later time, we believe that receiving VIN data from this community would be beneficial, we may amend our rulemaking. As with the smaller volume manufacturers, nothing prevents these manufacturers from voluntary participation. We seek comment on our decision.

Some large light vehicle manufacturers also manufacture medium-heavy vehicles. In some cases, these medium-heavy vehicles fall within the same model family (e.g., Ford F-series vehicles). Accordingly, we clarify that should a light vehicle manufacturer make a defect or noncompliance decision that results in a recall of its light vehicle applications as well as medium or heavier duty applications, then it would be required to provide the VINs on all the recalled vehicles. This is to avoid consumer confusion and possible misinformation from the agency in the event of such recalls. We wish to avoid foreseeable situations where a consumer would hear of a recall in the news media or through our recall notification system, go to our web site with their VIN, and retrieve an erroneous message that the recall does not apply to the vehicle or it is unknown whether it applies. Although we are not proposing to require manufacturers to submit VIN data for recalls that involve only their medium-heavy vehicle applications, we would expect that manufacturers will not bifurcate their defect or noncompliance decision-making and file separate defect or noncompliance reports in order to avoid producing VINs on their medium-heavy vehicle applications in those situations where the same safety defect or noncompliance affects both light and medium-heavy applications. We solicit comments on our approach of requiring light vehicle manufacturers, where they recall vehicles for defects or noncompliances that affect both light and medium-heavy applications, to submit VIN data on all the vehicles being recalled.

Some recalls involve safety defects where the consequences arise as the result of exposure to certain environmental conditions. These are commonly referred to as “regional

recalls," and in these recalls only the vehicles currently registered, or originally sold or registered, in those areas, are covered by the recall. Consistent with today's proposal to require submission of VINs associated with the recalled population, we clarify that only the VINs of the vehicles covered by the safety recall are to be provided.

To further comply with the directive in the MAP-21 Act, and meet the safety objective of providing the public specific and up-to-date recall information on vehicles, we propose to amend subsection 573.6(c)(3) to add three subparagraphs (i), (ii), and (iii). The first, subparagraph (i), contains requirements for VIN submission as well as recall remedy status for each VIN. Subparagraph (ii) contains the requirement that, on a one-time basis only, manufacturers must submit the VIN information for each vehicle covered by a safety recall filed within 24 months prior to the effective date of this rule. Subparagraph (iii) specifies that any vehicle manufacturer not covered by (i) or (ii), may voluntarily supply VIN information for vehicles it has recalled voluntarily, so long as it submits the information in accordance with the requirements of both (i) and (ii).

We seek comments on our proposal to require a list of VINs for vehicles subject to a recall from larger vehicle manufacturers, as well as our proposal to require these manufacturers to submit once daily any changes to the recall remedy status of vehicles involved in recall campaigns and the associated information identified above. We also seek comment on our proposal to require VIN information for recalls conducted within the 24 months prior to this rule's effective date.

In addition to comments on our proposal, we solicit information concerning plausible alternatives to our proposal. Specifically, we solicit suggestions for VIN-driven recalls search mechanisms that do not require manufacturer submission of VIN information to the agency, but provide a comparable level of timely and accurate vehicle-specific recall information, across a comparable breadth and depth of vehicle applications.

We would be interested in learning, for example, if vehicle manufacturer VIN-driven recalls search tools located on their Web sites are a realistic alternative or, as another example, if VIN-driven recalls search tools owned by third parties are comparable alternatives. We are interested in comments that address whether these or other tools are plausible alternatives to

a NHTSA-owned and operated tool, given the many factors that affect the completeness, reliability, and timeliness of information provided by a manufacturer on the recall history of vehicles that it manufactured. Among our present concerns are that not all vehicle manufacturers offer a VIN-driven service and some offer it only if the consumer is a registered user of the site with the manufacturer (a process that may or may not require input of personal information such as names, addresses, and phone numbers). Also, not all manufacturers provide recalls information to third party sites, those that do may not provide that information to the same third party sites. Some sites include marketing and other material not relevant or distracting from the recalls information, and the currency of the information as to whether a particular vehicle has been remedied varies between search tools.

We also solicit comments on the costs and burdens, as well as expected safety benefits, of any alternatives suggested in comments. We note that any alternatives must meet the MAP-21 Act's minimum requirements. Safety recall information provided under an alternative must be: available to the public on the Internet; searchable by vehicle make, model, and VIN; in a format that preserves consumer privacy; and include information about each recall that has not been completed for each vehicle. Although we will consider alternatives that may not be free of charge to dealers or owners, we are unlikely to adopt such alternatives. We believe safety critical information, such as recall information, should be provided to the public without charge.

We are open to considering, and request comment on, providing a vehicle manufacturer the choice to participate in the agency's VIN look-up tool and the information service, or, to expressly elect to provide on its own Web site a VIN look-up that would ensure a level of information at least equal to the Agency's proposed service. To meet the agency's requirements, we envision the manufacturer's recall look-up tool, for example, would need to be VIN-driven with information as to recall completion updated at least once daily (exclusive of any reasonable period of time the manufacturer may need to update its records based on information from dealers as to recall completion on a vehicle). We envision it being a free service available to the public, including dealers, owners, and any interested parties. In all likelihood, if we were to offer an alternative under which a manufacturer would be allowed to elect not to submit recall VIN

information to NHTSA and instead maintain its public Web site with the same information as would be posted on NHTSA's Web site and the same functionality as NHTSA's Web site, we would need to adopt regulations in order to ensure individual manufacturer's Web sites offer a standardized look and functionality regardless of the manufacturer providing the service. We tentatively believe these rules would likely include items such as requiring a conspicuous hyperlink to the VIN-driven recall tool found on the manufacturer's main Web page (or similarly easy to locate Web page), prohibiting any marketing or sales information in conjunction with the VIN recall tool, requiring straightforward ease-of-use without Web site registration or personal information other than a VIN, and providing of the same VIN specific recall information as what the agency proposes to provide through its proposed VIN-driven recalls tool.

We solicit comments on this alternative and on the above possible requirements for a manufacturer election to post information on its Web site in lieu of the manufacturer providing data for a NHTSA Web site. We solicit additional or different rules for manufacturer owned and operated recalls look-up tools. We solicit comments on the costs and burdens, as well as expected safety benefits, of this alternative.

After comments are received on this notice, we reserve the flexibility to develop and adopt an alternative based on outgrowths of this proposal or comments received on the discussion above.

Lastly, all manufacturers are required to file quarterly reports reporting on the progress of their recall campaigns. See 49 CFR 573.7. Given that the larger volume manufacturers and those small volume manufacturers that opt in to the VIN look-up service will be providing daily information from which the agency can determine completion information, the purpose of those quarterly reports would be obsolete as to those manufacturers' recalls. We, therefore, propose to eliminate the quarterly reports requirement for large volume manufacturers and small volume manufacturers that opt in to the VIN look-up service.

We seek comment on our proposal to remove the requirement to report quarterly for those manufacturers that will be required to submit VIN information and submit to NHTSA recall remedy completion information as described in our proposals.

I. Added Requirements for Information Required To Be Submitted in a Part 573 Defect and Noncompliance Information Report

Pursuant to 49 U.S.C. 30118 and 30119, manufacturers must provide notification to the agency if the manufacturer decides or the agency determines that a noncompliance or safety-related defect exists in a motor vehicle or item of motor vehicle equipment. NHTSA has significant discretion in determining the contents of this notification. See 49 U.S.C. 30119(a)(7). Among other things, NHTSA's regulation specifying the contents of the notification to the agency, 49 CFR Part 573, delineates the information to be contained in the notification to NHTSA in section 573.6 and instructions for submitting reports in section 573.9.

Manufacturers are currently required to submit certain details concerning the safety defect (or noncompliance, as the case may be), the affected products, the proposed schedule for notifying owners and dealers, in addition to a host of other recalls-related details, in their Part 573 reports. These requirements are located in subsection 573.6(c) of Part 573.

The information required to be submitted has been and remains useful. In our experience over the years, however, there are additional details that the agency needs in order to better understand and process safety recalls, as well as manage and oversee the recall campaigns and the manufacturers conducting those campaigns. Accordingly, we are proposing today to add the following requirements to subsection 573.6(c):

- An identification and description of the risk associated with the safety defect or noncompliance with FMVSS, and in terms consistent with the current requirements of 49 CFR 577.5(f) for providing in owner notifications an evaluation of the risk to motor vehicle safety from the safety defect or noncompliance; and
- For equipment recalls, the make, model name, and model number, as applicable, of the equipment and as it was identified and/or labeled at time of purchase to the purchaser.

We also propose to add a new paragraph to Part 573 to prohibit disclaimers in a manufacturer's Part 573 information report.

A discussion of these proposals follows.

1. An Identification and Description of the Risk Associated With the Safety Defect or Noncompliance With FMVSS

Under our current regulations, a manufacturer does not have to identify or describe the consequence or risk associated with a safety defect or noncompliance when it submits a Part 573 Information report to NHTSA. Many manufacturers voluntarily provide this information in their notifications and reports, but others may not or may not on a consistent basis.

We believe this information is critical to NHTSA's understanding and evaluation of the safety defect or noncompliance for which the manufacturer is conducting a recall. This information is valuable to NHTSA's knowledge of the issue and assists in NHTSA's assessment of the adequacy of the manufacturer's campaign and corrective actions. A description of the risk is critical to the agency's summary of the defect or noncompliance that is available on the agency's Web site, and to adequately inform owners of the safety risk and properly motivate them to perform the recommended recall remedy. In turn, in our view, having this information available on our Web site will assist in the agency's goal to increase completion rates.

We propose to require that manufacturers identify the consequence or risk in terms that are consistent with the present requirements found in 49 CFR 577.5(f) for identifying and describing risk in owner notification letters. By requiring the description of risk to meet the same requirements as for owner letters, we can better manage consistency between what the manufacturer reports, what NHTSA publishes, and what manufacturers communicate to owners in furtherance of the agency's mission to adequately notify owners and increase remedy completion rates. Accordingly, we propose to modify paragraph (c)(5) of 573.6—the paragraph that requires a description of the defect or noncompliance—to add a requirement that manufacturers identify and describe the risk attendant to the safety defect or noncompliance on which they are reporting.

We seek comments on our proposal.

2. As to Motor Vehicle Equipment Recalls, the Brand Name, Model Name, and Model Number of the Equipment Recalled

Pursuant to section 573.6(c)(2)(iii), manufacturers recalling motor vehicle equipment for safety defects or noncompliances are required to identify

the equipment. Many items of equipment are sold to owners and identifiable under a brand (or trade) name that is different from identifying information submitted to NHTSA under 573.6(c)(2)(iii). This makes real-world identification of the recalled equipment difficult for both the agency and consumers. And where owners cannot or are limited in their ability to identify recalled equipment, their removal of that equipment from use and obtaining the manufacturer's free remedy is effectively undermined, thereby allowing unsafe equipment to remain in use and continue to pose a safety risk.

In order to address this shortcoming, we propose to require the brand (or trade) name, model name, and model number information, where that information applies to the recalled equipment, from manufacturers in their Part 573 reports. This information would include the commercial name of the recalled equipment item so NHTSA and consumers can easily identify the product.

We request comments on this proposal.

3. Prohibited Disclaimers in Part 573 Defect and Noncompliance Information Report

Under the Safety Act, manufacturers are required to notify NHTSA and then conduct an owner notification campaign and provide a free remedy when they decide a vehicle or item of motor vehicle equipment they manufactured contains either a safety defect or fails to comply with a FMVSS. Manufacturers are further required to affirmatively state in their owner notifications that they have decided a safety defect (or noncompliance, as the case may be) exists in the product. See 49 CFR 577.5(c). There is no correlating requirement, however, for manufacturers to make a similar statement in the notifications and Part 573 reports they are required to supply NHTSA.

Although many Part 573 reports are filed each year in which the manufacturer states plainly that it has made a safety defect or noncompliance decision, there are many that do not. And, on occasion, there are Part 573 reports filed where the manufacturer disavows that it has made any such decision and that it is conducting a recall campaign nevertheless in order to avoid a difficulty that it has decided will be alleviated or reduced if it conducts the campaign. On most occasions the difficulty avoided is further investment of resources in responding to an agency investigation into the product, or litigation with the

agency over whether the product contains a safety defect or is noncompliant.

These attempts to disavow defect or noncompliance decisions, which amount to disclaimers, are inconsistent with the Safety Act and introduce confusion into the public record for those safety recalls. See 49 U.S.C. §§ 30118—30120. Notification to NHTSA through the filing of the requisite Part 573 information report is only prescribed and intended when the manufacturer has made a defect or noncompliance decision or where NHTSA has made such a decision after its investigation and an opportunity for a hearing. The decision is the necessary precedent to those filings, all of which are a matter of public record and shared with the public via NHTSA's Web site www.safercar.gov. Further, as noted above, the manufacturer is required to notify owners and purchasers that it has made a defect or noncompliance decision in its notifications to those owners and purchasers. See 49 CFR 577.5(c). For a manufacturer to make this statement, but then to have a record reflecting the direct opposite, is confusing and misleading.

Accordingly, we propose to amend Part 573 to add a new paragraph instructing manufacturers that Part 573 reports must not contain a statement or implication that there is no safety defect.

We welcome comments on this proposal.

J. Online Submission of Recalls-Related Reports, Information, and Associated Documents and Recalls Reporting Templates

Under present requirements, manufacturers have the option under section 573.9 to submit recall-related information as a portable document format (.pdf) attachment to an email message to the agency. See 72 FR 32014 (June 11, 2007). That option has proven very useful and effective for both manufacturers and the agency as both seek to maximize the efficiency with which important recall information is sent to and received by the agency so that it can then be processed and distributed from the agency to the public via our Web site www.safercar.gov as well as through our recall notification service. The recall-related information that is routinely submitted by many manufacturers in this manner ranges from Part 573 reports, to amendments and updates to those reports, to representative copies of recall communications such as owner and dealer notifications and technical instructions, to quarterly reports

reflecting the progress of a recall campaign.

Nevertheless, even where a manufacturer exercises this option it still requires significant allocation of agency resources toward processing the information received via email and in a PDF format into the agency's systems such that it can be effectively reviewed, managed, stored, and then delivered to the Web site. The agency resources required to perform the same tasks and provide the same services in relation to recalls information where the manufacturer chose not to file using this option, but rather to submit only a hard copy via certified mail or other means such as expedited mail delivery or facsimile, are even greater.

We seek to maximize the use of technology to lessen the agency's costs, reduce errors in data entry and improve the public recall notification process. We believe technology has reached the point where manufacturers all have access to the Internet and are performing many, if not most, business communications and tasks using it. For example, many manufacturers submit EWR information electronically through a Web portal developed for that purpose. We believe that the time has come to require manufacturers to submit Part 573 information through an online application that would be hosted and managed by the agency. Web-based submissions deliver maximum efficiency and reduce the agency's burden to translate and enter information into its database. No longer would the agency devote resources to identifying and correcting errors in translation that occur whenever agency personnel review and then reenter the information reviewed into the NHTSA database. A Web-based submission is faster and provides better delivery of recall information to the public encouraging quicker remediation of defective products and freeing up resources that are better allocated to managing and analyzing recall information as part of recall oversight.

We are proposing to amend section 573.9 to require manufacturers to securely submit all Part 573 report information and recall notification materials electronically through the use of forms or direct upload functions that will be housed on an agency owned and controlled Web site. We envision this process and its functionality to be very similar to what many manufacturers are already doing pursuant to EWR requirements. As with that program, and to ensure security, we plan to issue passwords before allowing submissions to be made to the agency. Manufacturers that are currently meeting EWR

requirements through the www.safercar.gov Web site will be able to use their EWR passwords for purposes of filing information and documents associated with safety recalls. Manufacturers will be able to track their submissions on the secure Web portal and we also plan to send the submitter a confirmation message to an email account registered with the agency confirming our receipt of the submission.

As to Part 573 defect and noncompliance information reports specifically, we are proposing that manufacturers use one of five forms that we will make available on the agency Web site; one for vehicles, one for equipment, one for tires, one for child restraints, and one for vehicle alterers.²⁰ The manufacturer will complete online one form depending on the type of product for which it made a safety defect or noncompliance decision, and submit it online to the agency. The fields of each form will pertain to each of the requirements in the regulations for the defect and noncompliance information reports (49 CFR 573.6), as well as those proposed requirements in today's notice that are adopted in a final rule. There are also a handful of fields for which information is not required to be supplied by the manufacturer, either currently or under any of our proposals in today's notice, but nevertheless provide information that is useful to us and that we would like to have if a manufacturer is willing to supply it. With the exception of information that must be submitted in an initial report, see 49 CFR 573.6(b), the manufacturer will be able to leave blank those fields for which it does not have information at the time of filing and later resubmit the unavailable information to update or amend its report, as the case may be.

For VIN data, and recall remedy status as to each vehicle on a VIN list, we propose to provide a VIN submission template, in the form of a standard table that manufacturers can use or follow to develop their own tables. This was discussed above in our discussion related to our proposal to require submission of VIN lists and daily updates on recall remedy status. The

²⁰ A vehicle alterer means a person who alters by addition, substitution, or removal of components (other than readily attachable components) a certified vehicle before the first purchaser of the vehicle other than for resale. See 49 CFR 567.4. Vehicle alterers may also be referred to as vehicle up-fitters. A separate form for vehicle alterers would be beneficial as these, usually, very small companies are often unfamiliar with safety recall reporting and a form that does not confuse "new vehicle alterer" for "vehicle manufacturer" would help to clarify their role in conducting safety recalls.

template we propose to use is in Appendix C, Form C1, attached to this notice.

For vehicle recalls conducted by smaller volume vehicle manufacturers that are not subject to the new VIN reporting requirements proposed in this notice, and equipment recalls, we will have an online form for those manufacturers to complete and submit through the Web site. The fields on that form will coordinate with the current requirements of section 573.7, *Quarterly reports*. The form we propose to use is shown in Figure D6, Quarterly Report Form Management, and which is available in this rulemaking's docket.

In addition, we propose to include direct upload functions for the uploading of all representative copies of communications on recalls that are presently required to be submitted to the agency under 573.6(c)(10). This would include materials such as copies of owner notifications and dealer notifications and technical instructions. We also propose this function for the draft owner notification letters and the envelopes that manufacturers are obligated to submit to the agency for approval pursuant to section 577.5(a). We also propose to allow for an "other" or miscellaneous direct upload function so that a manufacturer can submit to us any other materials for either our review (such as dealer notices that manufacturers are not obligated to submit for our approval, but nevertheless may want to solicit the agency's input for any number of reasons), or for submission to its recalls file.

We recognize that 49 U.S.C. 30118(c) requires that manufacturers notify NHTSA by certified mail when they learn a motor vehicle or equipment they manufactured contains a defect and decide in good faith that the defect is safety-related, or decide that such a product does not comply with an applicable FMVSS. In order to meet the statutory requirement, we envision manufacturers submitting a printed copy of the completed online form after the form has been submitted and accepted by the agency. The agency will design the system to allow manufacturers to download and print a copy of this material.

In order to meet our proposal today to require electronic filing and submission of all recalls-related information and materials, we propose to change the heading and the regulatory text of 573.9.

Examples of each of the forms we are proposing manufacturers be required to complete are available for review in this rulemaking's docket. Figure D1 is the form for vehicle recalls, other than

vehicle recalls conducted by vehicle alterers. Figure D2 is the form for equipment recalls, other than tires and child restraints. Figure D3 is the form for tire recalls, Figure D4 is the form for child restraint recalls, and Figure D5 is the form for vehicle recalls conducted by vehicle alterers. Figure D6 is the proposed quarterly report form. Figure D7 is the proposed recalls portal dashboard, where manufacturers can see a summary of their Part 573 reports, as well as an example of a confirmation message a manufacturer will see after submitting a Part 573 report.

We seek comments on our proposal to amend section 573.9 to require online submission of the reports and information required by 573.6, as well as on the forms, templates and direct upload functions we have proposed.

K. Amendments to Defect and Noncompliance Notification Requirements Under Part 577

Pursuant to 49 U.S.C. 30118 and 30119, manufacturers must provide notification to owners, purchasers, and dealers if the manufacturer decides or the agency determines that a noncompliance or safety-related defect exists in a motor vehicle or item of motor vehicle equipment. NHTSA has significant discretion as to requirements related to recall notifications, including the contents of these notifications. 49 U.S.C. 30119(a)(7). At a minimum, manufacturers must provide these notifications within a reasonable time after first deciding that a product has a safety defect or noncompliance. 49 U.S.C. 30119 and 49 CFR 577.7(a)(1). For agency-ordered notifications associated with ordered recalls, the agency has defined reasonable time to mean within 60 days of the manufacturer's receipt of the order, unless the Administrator orders a different timeframe. 49 CFR 577.7(b). NHTSA's regulations specifying the contents and timing of owner and dealer notifications are found in 49 CFR Part 577, *Defect and Noncompliance Notifications*. Among other things, Part 577 specifies the information and, in some cases, the required order of that information. It also dictates the formatting of the envelopes containing the owner notifications. For owner notifications, these requirements are found in section 577.5, and for dealer notifications, in section 577.13.

As indicated above, both the statute and Part 577 require that owners and purchasers be notified by the manufacturer within a reasonable time after the manufacturer first decides that either a safety defect or noncompliance exists. 49 U.S.C. 30119(c) and 49 CFR

577.5(a), 577.7(a). Consistent with its interpretation of "reasonable time" for agency-order notifications that is currently found in Part 577, see 49 CFR 577.7(b), NHTSA has recently started informing manufacturers conducting recalls that it expects them to conduct owner notifications within 60 days of their Part 573 filing. There have been occasions where manufacturers have expressed concerns about NHTSA's expectations due to difficulties the manufacturer may have faced in the execution of a particular recall. For example, manufacturers have raised concerns about providing notice within 60 days when they are faced with delays in obtaining recall remedy parts that will extend the time period by which they can feasibly offer a free remedy well beyond 60 days after they have notified NHTSA of a safety defect or failure to comply with minimum safety standards. In these circumstances, manufacturers have contended that sending letters to owners creates owner confusion and frustration, as the remedy is unavailable.

The intent of the notification requirement is to ensure that owners and dealers are informed of unreasonable safety risks due to defects or failures to meet minimum safety requirements. The requirement that this notification be performed within a reasonable time balances the need for prompt notice to owners to warn of the safety risks with the need to provide manufacturers limited flexibility to develop and provide the remedy. Even where the remedy is not ready at the time of notification, the manufacturer often can instruct an owner to take precautionary steps while the remedy is being prepared or procured in order to avoid or at least mitigate the occurrence of the defect or its consequence. Mitigation may include inspections conducted by the owner or the manufacturer (or its representative), observation of certain warnings that can be reported to the manufacturer, such as illumination of a malfunction indicator light, or application of an interim remedy. For example, if a "check engine" light appearing at highway speeds might indicate an engine defect that may lead to a fire, a simple notification letter before the remedy is available can alert the owner that, if one encounters this situation, the driver should pull over and shut down the vehicle immediately in order to avoid a possible vehicle fire.

We do not believe the flexibility that is extended through a reasonableness standard could fairly be construed to mean that critical safety information be withheld from those that are most likely

to suffer the consequence of a safety defect or noncompliance until such time as the manufacturer is ready to perform the remedy aspect of a recall campaign. Subordinating an owner's awareness and ability to make an informed judgment, and to take measures to protect one from the risks and consequences associated with a safety defect or noncompliance, to the manufacturer's commercial interest in providing a more smoothly executed and administered campaign, is inconsistent with the Act.

Accordingly, we propose to add language to section 577.7(a)(1) to require that manufacturers notify owners and purchasers no later than 60 days of when they notify NHTSA that a defect or noncompliance with a FMVSS exists, and, should the free remedy not be available at the time of notification, that manufacturers issue a second notification to owners and purchasers once that remedy is available. As indicated above, this 60 day time frame parallels the requirement for agency-ordered notifications. See 49 CFR 577.7(b). We propose to add language to make clear that both notifications—the first or “interim” notification to inform of the defect or noncompliance, and then the second notification to again inform of the defect or noncompliance and inform of the availability of the free remedy—will need to meet the requirements of Part 577.5. This added language avoids any potential issues or confusion over whether the notifications need to meet the current requirements for owner notifications of a safety recall.

As for the requirements associated with the content of owner and purchaser notifications, we are proposing three measures to amplify the importance of the notifications and the urgency with which an owner should act in obtaining the remedy. First, we propose to require that all notification letters include “URGENT SAFETY RECALL” in all capitals letters and in an enlarged font at the top of the notification letter to owners and purchasers. Second, for vehicle recalls, we propose that the manufacturer place the VIN of the owner's vehicle affected by the safety defect or noncompliance within the letter. Third, in order to further emphasize the importance of the communication, and to distinguish it from other commercial communications, such as advertising and marketing communications, we

propose that the envelopes in which the letters are mailed be stamped with logos of the U.S. Department of Transportation and NHTSA, in blue or black, along with a statement in red that the letter is an important safety recall notice issued in accordance with federal law.

Our first two proposals were items of specific recommendation in the GAO's June 2011 report concerning its audit of NHTSA's safety recalls program and its review of mechanisms for improving that program. See U.S. General Accountability Office, NHTSA Has Options to Improve the Safety Defect Recall Process, GAO-11-603 (2011). As part of its audit, GAO conducted focus groups to ascertain what content in owner letters did or did not, or would or would not, motivate owners to have important recall remedies applied to their vehicles in the event of a recall. The focus group participants reviewed sample owner notification letters and their envelopes and provided feedback. A number of themes resonated from this research, one of which was that the seriousness or severity of the defect may not have been communicated as clearly as it could have been and that could impact an owner's motivation to react positively to a recall notification. GAO Audit at p. 31. Another theme was the importance of indicating to the owner that their specific vehicle was affected by the defect and subject to the recall. *Id.* Accordingly, the GAO in its report recommended NHTSA require owner letters to include the word “urgent” in large type in the owner letters in order to obtain owners' attention to the letter, and that the owner's VIN be included so that it is clear to the owner that their vehicle is affected by the defect and the subject of the letter. *Id.* at 37.

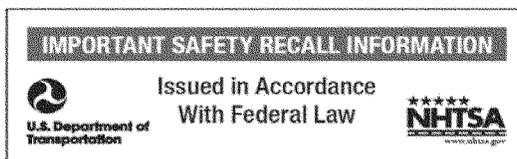
We believe there is merit to the GAO's recommendations as to how we can adjust the content or format of owner notification letters to better inform and motivate owners to react positively to important recall notifications from manufacturers. These recommendations are specific and, in our view, easy to accommodate.

Therefore, we propose to modify the language of paragraph (b) of section 577.5—the section that specifies the content and structure of owner notification letters, and the paragraph that directs that each letter open with a statement that the letter is being sent in accordance with the Safety Act.

As to the third proposal, we are concerned that due to the sheer volume of materials consumers receive in their regular mail, safety recall notifications are being inadvertently overlooked and ignored. Many materials consumers now receive in their mailboxes are stamped with terminology designed to incite a level of urgency or immediacy and so terminology like “important,” or “urgent,” has become commonplace. We are also concerned that other business interests, such as interests selling extended vehicle warranties, are enclosing marketing, advertising, and other non-safety related materials, in envelopes that replicate or closely mirror safety recall notifications in efforts to call attention to their materials and induce the recipient to open them. These serve ultimately to discourage owners from opening safety recall notifications because the owner has grown accustomed to envelopes that appear to be official but simply are marketing something related to his/her motor vehicle or equipment, and will assume the materials inside do not relate to a serious safety concern.

In an effort to better emphasize the importance of a recall notification, and to distinguish it from other mailed materials, we propose to require all envelopes containing safety recall owner notifications to have imprinted on them an identical one inch by three inch label found in the bottom left corner of the envelope. This is so that, over time, owners and consumers will recognize this label and immediately make the connection that the communication is a safety recall notification. This label is to contain the logos for the NHTSA as well as the U.S. Department of Transportation, in blue or black, with the message that the notification is an “Important Safety Recall Notice Issued In Accordance With Federal Law.” The phrase “Important Safety Recall Notice” is to be in white lettering within a solid red box. An example of a recall notification envelope with this new label can be found in *Appendix D* with this notice. We are hopeful that including our logo, the Department's logo, this message, in conjunction with the other present requirements for these envelopes, will accomplish our objectives of motivating increased owner compliance when they learn of a safety recall on their vehicles.

The following is a visual image of the proposed label:



Accordingly, we propose to modify section 577.5(a), "Notification pursuant to a manufacturer's decision," to incorporate this proposal.

In addition, we propose to include direct upload functions for the uploading of all representative copies of communications on recalls that are presently required to be submitted to the agency under 577.5(a). This change allows the agency to verify consistency with the above proposed changes to 573.6(c)(10) and 573.9 by requiring manufacturers to submit their proposed owner notification letters and envelopes through our online recalls portal.

We seek comments on these proposals.

L. Regulatory Changes To Add or Make More Specific Current Requirements for Manufacturers To Keep NHTSA Informed of Changes and Updates in Defect and Noncompliance Information Reports

Manufacturers are required to provide their defect and noncompliance information reports not more than five working days after making a safety defect or noncompliance decision. They are required to supply certain information in those reports at the outset—basic information like their name, identification of the products being recalled, and a description of the defect or noncompliance occasioning the recall. Manufacturers have the flexibility to provide other required information as it becomes available when and if that information is not available at the time of first filing. These timeframes and minimal requirements for the reports as initially filed with NHTSA are found in 49 CFR 573.6(b).

We propose to amend section 573.6(b) in three respects. First, we propose to require that information not available at submission of the initial report be provided within five working days of when it becomes available and in place of the current requirement which specifies only that the information be provided as it becomes available. Next, to require manufacturers to submit to NHTSA an amended Part 573 Report within five working days if and when the manufacturer has new information that updates or corrects the information that was previously reported, as required by paragraphs (2), (3), (4), (8)(i) or (ii) of paragraph (c). These paragraphs

relate to, among other things, the identification of the vehicles or vehicle equipment covered by a safety recall campaign, the total number of vehicles or items of equipment covered by a campaign and the associated VINs, the percentage of the vehicles or items of equipment covered by the campaign estimated to actually contain the safety defect or noncompliance, the description of the manufacturer's program for remedying the safety defect or noncompliance, and the estimated date(s) for sending notifications to owners and dealers about the safety recall. Further, we propose to add a requirement that within 90 days of a recall's available remedy, the manufacturer review its Part 573 Report for completeness and accuracy and supplement or amend it as necessary to comply with Part 573.

We have tentatively concluded that these changes are needed for several reasons. First, inaccurate or incomplete 573 reports impede the agency's ability to effectively monitor safety recalls, or evaluate a safety recall's effectiveness. NHTSA cannot properly perform its oversight role or respond properly to the public regarding a recall when the agency has incomplete or inaccurate information about the recall. Although often NHTSA is notified of updated information or changes to a safety recall campaign, there continue to be many instances in which it is not, or the information is not provided promptly, or is only provided once NHTSA identifies an inaccuracy or inconsistency and requests the manufacturer provide an explanation. The agency, therefore, believes it necessary to revise the regulations to more clearly specify that manufacturers must promptly provide information not previously provided and submit updated or corrected information. These proposals provide a specific timeframe to submit the supplemental and amended information.

The current requirement in 49 CFR 573.6(b) that the manufacturer submit information "as it becomes available" lacks precision. Since the agency adopted this requirement, there have been instances when, in our view, information has become available but the manufacturer has not submitted the information to the agency. To obtain the information in a timely manner, we

propose to tighten the regulation, instead of leaving the language as is and engaging in unnecessary interactions with slow-to-report manufacturers. Similarly, the agency believes that requiring manufacturers to amend information required by paragraphs (2), (3), (4), (8)(i) or (ii) of paragraph (c) within 5 working days after it has new information that updates or corrects information that was previously reported will assist in the agency's effort to monitor recalls, because the agency will then have correct information on critical matters such as the recall population, the total number of vehicles or items of equipment potentially containing the defect or noncompliance, the percentage of vehicles or items of equipment estimated to actually contain the defect, and the manufacturer's program for remedying the defect or noncompliance.

The proposed affirmative obligation to review a Part 573 within 90 days of an available recall remedy in order to identify any changes or additions needed to that report stems from our concern that employees who do the reporting on behalf of the manufacturer may not always have the updated or corrected information as soon as it is known or decided, and that there may be some delay within the manufacturer's organization in getting that information to those employees. Even if the employees who report have access to or receive new information immediately, those employees may not report the new information. The purpose of the affirmative review requirement is to ensure that manufacturers report additions and changes to previous reports. We envision our new online recalls portal to automatically notify the manufacturer after a recall remedy campaign begins so the manufacturer can be reminded to review its report and certify its completeness and accuracy, or submit revised or supplemental information and then certify the overall submission through the same online system. Accordingly, we propose to amend paragraph 573.6(b) to include this affirmative review requirement.

We seek comments on these proposals.

M. Requirement To Notify NHTSA In the Event of Filing of Bankruptcy of a Recalling Manufacturer

We propose to amend Part 573 to add a requirement that a manufacturer must notify NHTSA if it files a bankruptcy petition or is the subject of an involuntary bankruptcy petition for which relief has been ordered in a United States Bankruptcy Court. Based upon our experience, it is necessary to learn of any bankruptcy proceedings when the petition is filed, so that we may act to enforce the provisions of the Safety Act. This, in turn, would protect the interests of owners and consumers of recalled vehicles and equipment. Often, NHTSA learns of bankruptcies well after the petition filing date, which limits the ability of the agency to address issues including performance of outstanding recalls. Notice of bankruptcy proceedings will provide the agency with vital information in order for it to take appropriate steps to ensure the completion of the manufacturer's recall remedy campaign.

NHTSA has authority to collect information that is vital to carrying out its functions under the Safety Act. The National Traffic and Motor Vehicle Safety Act of 1966, Public Law 89-563 (1966), 80 Stat. 728, authorizes NHTSA to issue regulations as necessary to carry out the Act. *Id.* at § 118, 80 Stat 728; *See* 15 U.S.C. 1407 (1990), repealed and recodified without substantive change, PL 103-272, July 5, 1994, 108 Stat 745 (1994), and Section 30119(a) authorizes NHTSA to collect information to adequately inform the agency of a defect or noncompliance. NHTSA believes that this information will assist its efforts to carry out the recall remedy provisions of the Safety Act. Secondarily, receiving notice of a manufacturer's bankruptcy in a timely manner will help NHTSA to effectuate the new statutory requirement of section 31312 of the MAP-21 Act. Section 31312 of MAP-21 adds a new section 30120A to Chapter 301 of Title 49, United States Code. That section specifies that a manufacturer's filing of a petition in bankruptcy under Chapter 11 of Title 11 does not negate the manufacturer's safety recall responsibilities under the Safety Act.

Accordingly, we propose to amend Part 573 to add section 573.16, to require the reporting of a bankruptcy petition to NHTSA. We seek comments on these proposals.

N. Lead Time

We understand that manufacturers need lead time to modify their existing EWR databases and software if today's proposed amendments to the EWR

regulation, or logical outgrowths of them, are adopted in a final rule. The proposed amendments requiring some lead time include the requirement for light vehicle manufacturers to provide the vehicle type and fuel and/or propulsion system type in their quarterly EWR submissions and adding Stability Control systems, FCA, LDP, and Backover Prevention components to EWR reporting. Because manufacturers will need time to modify existing EWR databases and software to conform their systems to meet the amendments proposed today, we propose a lead time of one year from the date the final rule is published. We believe this lead time is an adequate amount of time for manufacturers to comply with the proposed amendments. Accordingly, the proposed effective date for the amendments to light vehicle type, light vehicle fuel and/or propulsion system reporting and components will be the first reporting quarter that is one year from the date the final rule is published.

For the proposal to amend the manner in which substantially similar lists are submitted, we do not believe a long lead time is necessary. We propose that the effective date for this amendment be 60 days after the date the final rule is published.

We understand that adopting today's proposals to require larger vehicle manufacturers to supply VIN information electronically and in the manner specified will require those manufacturers to modify or adjust their existing databases and software in order to arrange for the submission of this information and the daily updates of it. We further understand that the requirements to file online Part 573 Reports and quarterly reports (where applicable) using the forms prescribed will also require some lead time, including time for manufacturers to register and be provided passwords and to conduct training of staff. We propose the effective date for these proposals be 180 days after the date the final rule is published.

For the remaining proposals affecting requirements under Parts 573 and 577, we do not believe as long a lead time is necessary. Those proposals do not require changes to technology or investment of additional resources. Accordingly, we propose the effective date for all remaining proposals that are adopted be 60 days after the date the final rule is published.

We seek comments on our proposed lead time and effective dates.

V. 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.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 your comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, M-30, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12-140, Washington, DC 20590.
- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE., West Building, Room W12-140, between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493-2251.

If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.²²

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at <http://www.whitehouse.gov/omb/fedreg/reproducible.html>. DOT's guidelines may be accessed at <http://dmses.dot.gov/submit/DataQualityGuidelines.pdf>.

How can I be sure that my comments were received?

If you submit your comments by mail and 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

²¹ *See* 49 CFR § 553.21.

²² Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

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 three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation.²³

In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the Docket by one of the methods set forth above.

Will the Agency consider late comments?

We will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments received after that date. Therefore, if interested persons believe that any new information the agency places in the docket affects their comments, they may submit comments after the closing date concerning how the agency should consider that information for the final rule.

If a comment is received too late for us to consider in developing a final rule (assuming that one is issued), 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 materials placed in the docket for this document (e.g., the comments submitted in response to this document by other interested persons) at any time by going to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets. You may also read the materials at the Docket Management Facility by going to the street address given above under **ADDRESSES**. The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

VI. 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>.

VII. 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 reviewed under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking action is not considered "significant" under Department of Transportation policies and procedures. The effects of these proposed changes have been analyzed in a Preliminary Regulatory Evaluation. The proposals being made within this document that relate to adding reporting fields for light vehicle and medium-heavy vehicle manufacturers would place only a minimal burden on EWR manufacturers through a one-time adjustment to their EWR databases and software. The agency estimates that the proposal will result in a one-time burden of \$62,208 per light vehicle manufacturer and \$10,368 per bus, emergency vehicle, and medium-heavy vehicle manufacturer. In addition, the proposals being made within this document that relate to new VIN submission requirements will result in a

one-time burden of \$51,200 per manufacturer. The agency also estimates an annual cost burden of \$133,930 per manufacturer for the proposed amendments to Part 577 to notify owners and purchaser of recalled motor vehicles and motor vehicle equipment.

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 motor vehicle and motor vehicle equipment manufacturers. The proposed changes to the EWR regulations, the foreign defect reporting regulation, defect and noncompliance information reports, and defect and noncompliance notifications would affect manufacturers of light vehicles, buses, emergency vehicles, medium-heavy vehicles, motorcycles and trailers, tires and motor vehicle equipment.

In order to determine if any of these manufacturers are small entities under the RFA, NHTSA reviewed the North American Industry Classification System (NAICS) codes. Business entities are defined as small businesses using the North American Industry Classification System (NAICS) code, for the purposes of receiving Small Business Administration (SBA) assistance. One of the criteria for determining size, as stated in 13 CFR 121.201, is the number of employees in the firm. For establishments primarily engaged in manufacturing or assembling automobiles and light and medium-heavy duty trucks, buses, new tires, or motor vehicle body manufacturing, the firm must have less than 1,000 employees to be classified as a small business. For establishments manufacturing the safety systems for which reporting will be required, the firm must have less than 750 employees to be classified as a small business. For establishments manufacturing truck trailers, motorcycles, child restraints, re-tread tires, other vehicles equipment and alterers, and second-stage manufacturers, the firm must have less than 500 employees to be classified as a small business. In determining the number of employees, all employees from the parent company and its subsidiaries are considered and compared to the 1,000 employee

²³ See 49 CFR § 512.

threshold. Many of the bus companies are owned by other larger companies.

The agency separately published a Preliminary Regulatory Evaluation that includes a regulatory flexibility analysis. That document sets forth in detail the agency's analysis and is located in the docket.

The agency believes that there are a substantial number of small businesses that will be affected by the proposed amendments to the Early Warning Rule, the Foreign Defect Reporting Rule, the Defect and Noncompliance Information Reports, and Defect and Noncompliance Notification; however, we do not believe that the requirements, which involve reporting and recordkeeping, will amount to a substantial economic burden, as discussed in the Cost section of the Preliminary Regulatory Evaluation.

In summary, as stated in the agency's Preliminary Regulatory Evaluation, this proposal will not have a significant economic impact on a substantial number of small businesses. For the reasons stated in the Preliminary Regulatory Evaluation, the agency believes that the proposed amendments to Part 573, Part 577 and 579 will not have a significant economic impact on vehicle manufacturers, and motor vehicle equipment manufacturers including tire manufacturers affected by the proposed rule. 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 submission of information 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). Adjusting this amount by the implicit gross domestic product price deflator for the year 2007 results in \$130 million ($119.682 \div 92.106 = 1.30$). This proposal would not result in expenditures by State, local or tribal governments. This proposal only applies to motor vehicle and equipment manufacturers. The proposal would result in one-time cost of about \$4.75 million for proposed EWR and Part 573 VIN changes and about \$7.5 million annually recurring costs to manufacturers for notifying owners and purchasers of recalls under the proposed changes to Part 577. This proposal would not result in expenditures by motor vehicles and equipment manufacturers of more than \$130 million annually and, therefore, would not require an assessment per the Unfunded Mandates Reform Act of 1995.

E. Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988, "Civil Justice Reform"²⁴ 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.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid Office of Management and Budget (OMB) control number. The Information Collection Request (ICR) for the proposed revisions to the existing information collections described below has been forwarded to

the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden.

The collection of information associated with Part 579 is titled "Reporting of Information and Documents About Potential Defects" and has been assigned OMB Control Number 2127-0616. This collection is approved by OMB. The collection of information associated with Part 573 and portions of Part 577 is titled, "Defect and Noncompliance Reporting and Notification." This collection is approved by OMB and has been assigned OMB Control Number 2127-0004.

1. Part 579 Collections

When NHTSA most recently requested renewal of the information collection associated with Part 579, the agency estimated that the collection of information would result in 2,355 responses, with a total of 82,391 burden hours on affected manufacturers. These estimates were based on 2006 EWR data. The agency has published two amendments to the EWR regulation since then which will affect the reporting burden on manufacturers. On May 29, 2007, the agency eliminated the requirement to produce hard copies of a subset of field reports known as "product evaluation reports." 72 FR 29435. On September 17, 2009, NHTSA issued a final rule that modified the reporting thresholds for quarterly EWR reports. 74 FR 47740. The reporting threshold for light vehicle, medium-heavy vehicle (excluding buses and emergency vehicles), motorcycle, and trailer manufacturers was changed from an annual production of 500 vehicles to an annual production of 5,000 vehicles. The reporting threshold for emergency vehicles stayed the same, but the reporting threshold for bus manufacturers was changed from an annual production of 500 vehicles to an annual production of 100 vehicles. These changes have reduced the number of manufacturers required to report certain information and the amount of information those manufacturers are required to report. Because these changes will affect the burden on manufacturers, our burden hour estimates need to be adjusted.

a. Adjusted Estimates for Current Information Collections

In the EWR final regulatory Evaluation (July 2002, NHTSA docket # 8677), it was assumed that reviewing and/or processing would be required for death and injury claims/notices,

²⁴ See 61 FR 4729 (February 7, 1996).

property damage claims, non-dealer field reports, and foreign death claims. It was also assumed that customer complaints, warranty claims, and dealer

field reports would not impose incremental burden hours since computer systems were set up to automatically count these aggregate data

points. Table 1 below shows the number of documents submitted in 2011 by reporting type.

Table 1

Number of Documents Submitted by Manufacturer in 2011

Category of Claims	Light Vehicles	Heavy, Med Vehicles	Trailers	Motorcycles	Emergency Vehicles	Buses	Tires	Child Restraints	Equipment Mfr.	Mfrs. Below Threshold	Totals
Injury Fatality	5,341	75	10	99	1	6	84	413	7	5	6,041
Property Damage*	9,162	354	3	16	0	43	1,824	NA	NA	NA	11,402
Warranty Claims	Aggregate Data										
Consumer Complaints	Aggregate Data										
Mfr. Field Reports	57,856	5,987	28	1,390	5	390	NA	2,918	NA	NA	68,574
Dealer Field Reports	Aggregate Data										
Foreign Death Claims	38	0	1	1	0	0	1	0	0	0	41
Totals:	72,397	6,416	42	1,506	6	439	1,909	3,331	7	5	86,058

* Property damage claims are aggregate data but are counted differently because they require more time to manually review.

The agency assumed that a total of 5 minutes would be required to process each report with the exception of

foreign death claims. For these, it would require 15 minutes. Multiplying this average number of minutes times the

number of documents NHTSA receives in each reporting category will yield burden hours (see Table 2).

Table 2

Estimated Annual Burden Hours Using 2011 EWR Data

Category of Claims	Light Vehicles	Heavy, Med vehicles	Trailers	Motorcycles	Emergency Vehicles	Buses	Tires	Child Restraints	Equipment Mfr.	Mfrs. Below Threshold	Totals
Injury Fatality	445	6	1	8	0	1	7	34	1	0	503
Property Damage*	764	30	0	1	0	4	152	NA	NA	NA	950
Warranty Claims	Aggregate Data										
Consumer Complaints	Aggregate Data										
Mfr. Field Reports	4,821	499	2	116	0	33	NA	243	NA	NA	5,715
Dealer Field Reports	Aggregate Data										
Foreign Death Claims	10	0	0	0	0	0	0	0	0	0	10
Totals:	6,039	535	4	126	1	37	159	278	1	0	7,178

* Property damage claims are aggregate data but are counted differently because they require more time to manually review.

The burden hours associated with aggregate data submissions for customer complaints, warranty claims, and dealer field reports are included in reporting and computer maintenance hours. The burden hours for computer maintenance are calculated, based on industry input,

by multiplying the hours of computer use (for a given category) by the number of manufacturers reporting in a category. Similarly, reporting burden hours are calculated based on industry input, by multiplying hours used to report for a given category by the number of

manufacturers for the category. Using these methods and the number of manufacturers who reported in 2011, we have estimated the burden hours for reporting cost and computer maintenance (see Table 3).

TABLE 3—ESTIMATED ANNUAL BURDEN HOURS FOR REPORTING AND COMPUTER MAINTENANCE

Vehicle/Equipment category	Number of manufacturer reporting in 2011	Quarterly hours to report per manufacturer	Annual burden hours for reporting	Hours for computer maintenance per manufacturer	Annual burden hours for computer maintenance
Light Vehicles	40	8	1,280	347	13,880
Medium-Heavy Vehicles	30	5	600	86.5	2,595
Trailers	68	1	272	86.5	5,882
Motorcycles	21	2	168	86.5	1,817
Emergency Vehicles	8	5	160	86.5	692
Buses	29	5	580	86.5	2,509
Tires	38	5	760	86.5	3,287
Child Restraint	29	1	116	86.5	2,509
Vehicle Equipment	5	1	20	.....	.....
Total .....	.....	.....	3,956	.....	33,170

Thus, the total burden hours for EWR death and injury data, aggregate data and non-dealer field reports is 7,178 (Table 2) + 3,956 (Table 3) + 33,170 (Table 3) = 44,304 burden hours.

In order to provide the information required for foreign safety campaigns, manufacturers must (1) determine whether vehicles or equipment that are covered by a foreign safety recall or

other safety campaign are identical or substantially similar to vehicles or equipment sold in the United States, (2) prepare and submit reports of these campaigns to the agency, and (3) where a determination or notice has been made in a language other than English, translate the determination or notice into English before transmitting it to the

agency. NHTSA estimated that preparing and submitting each foreign defect report (foreign recall campaign) would require 1 hour of clerical staff and that translation of determinations into English would require 2 hours of technical staff (note: this assumes that all foreign campaign reports would require translation, which is unlikely).

NHTSA received 104 foreign recall reports in 2011 which results in 104 hours for preparation and submission of the reports (104 defect reports \times 1 hour clerical = 104 hours) and 208 hours for technical time (104 foreign recall reports \times 2 hours technical = 208 hours.)

With respect to the burden of determining identical or substantially similar vehicles or equipment to those sold in the United States, manufacturers of motor vehicles are required to submit not later than November 1 of each year, a document that identifies foreign products and their domestic counterparts. NHTSA continues to estimate that the annual list could be developed with 8 hours of professional staff time. NHTSA has received lists from 85 manufacturers for 2011, resulting in 680 burden hours (85 vehicle manufacturers \times 8 hours = 680 hours).

Therefore, the total annual hour burden on manufacturers for reporting foreign safety campaigns and substantially similar vehicles/equipment is 992 hours (680 hours professional time + 104 hours clerical time + 208 hours technical time).

Section 579.5 also requires manufacturers to submit notices, bulletins, customer satisfaction campaigns, consumer advisories and other communications that are sent to more than one dealer or owner. Manufacturers are required to submit this information monthly. However, the burden hours associated with this information were inadvertently not included in the overall burden hours calculated and submitted with the previous information collection request. Therefore, we have estimated the burden hours necessary for manufacturers to comply with this requirement.

Section 579.5 does not require manufacturer to create these documents. Manufacturers are only required to send copies to NHTSA. Therefore, the burden hours are only those associated with collecting the documents, preparing them for mailing, and sending them to NHTSA. Manufacturers are required to submit the documents within 5 working days after the end of the month in which they were issued. Manufacturers are allowed to submit them by mail, by facsimile or by email. Most manufacturers submit them by email (about 75 percent), some manufacturers send in paper copies by mail and others send in electronic copies on disk by mail.

NHTSA receives about 7,000 notices a year. We estimate that it takes about 5 minutes to collect, prepare and send a notice to NHTSA. Therefore, we

estimate that it takes 7,000 documents \times 5 minutes = 35,000 minutes or 584 hours for manufacturers to submit notices as required under Part 579.5.

Based on the foregoing, we estimate the burden hours for manufacturer to comply with the current EWR requirements, the foreign campaign requirements and the Part 579.5 requirements are 45,880 burden hours (44,304 hours for EWR requirements + 992 hours for foreign campaign requirements + 584 hours for Part 579.5).

b. New Collections

NHTSA believes that if this NPRM is made final, there will be a one-time increase of 27,160 burden hours on those reporting under Part 579, Subpart C. Adding vehicle type, fuel and/or propulsion system type, and four new components (stability control, FCA, LDP, and backover prevention) to the vehicle EWR reporting is likely to create a one-time cost for manufacturers to amend their reporting template and revise their software system to appropriately categorize the data. We estimate that one-time cost to revise EWR databases and software proposed in the NPRM would involve 2 weeks of a computer programmer's time and 8 hours of a manager's time per one component or fuel/propulsion element. Thus, an increase in burden hours for light vehicle manufacturers will be 80 hours \times 6 (vehicle type, 4 components and fuel/propulsion) = 480 hours for a computer programmer and 8 hours \times 6 (vehicle type, 4 components and fuel/propulsion) = 48 hours for a computer manager or 528 burden hours. For bus, emergency vehicle and medium/heavy vehicle manufacturers, we estimate 80 hours for computer programmers and 8 hours for computer manager to add the stability control and/or RSC component. There are currently 40 light vehicle manufacturers and 67 bus (29), emergency vehicle (8) and medium-heavy vehicle (30) manufacturers which would be affected by the proposed changes. The additional burden hours for light vehicle manufacturers would be 528 \times 40 = 21,120 more burden hours. For bus, emergency vehicle and medium/heavy vehicle manufacturers, we estimate an additional 88 \times 67 = 5,896 burden hours. For these reasons, if this NPRM is made final, NHTSA believes industry will incur a one-time increase in 21,120 + 5,896 = 27,016 more burden hours to implement the proposed requirements to NHTSA.

Today's proposal also proposes changes to Part 579, Subpart B. We believe the burden associated with adding a requirement that

manufacturers supply the list of substantially similar vehicles electronically will be minimal. The agency believes the electronic submission of annual substantially similar vehicle information will take an additional hour for an IT technician to submit their lists to NHTSA. There are about 85 substantially similar vehicle list submissions per year and about 80 percent are already submitted electronically. Thus, we estimate that manufacturers will incur about 17 additional burden hours per year to submit substantially similar vehicle lists electronically. NHTSA believes that if this NPRM is made final, there will be increase of 17 burden hours on those reporting under Part 579, Subpart B.

We estimate that the total burden hours associated with the Part 579 requirements would be 45,880 hours for current reporting requirements + 27,016 hours for proposed new requirements + 17 hours for proposed electronic submission of substantially similar list = 72,913 burden hours pursuant to the regulatory changes made pursuant to Part 579, which represents a reduction in the burden hours estimated for the current collection (82,391 burden hours).

2. Parts 573 and 577 Collections

The approved information collection associated with Part 573 and portions of Part 577 is associated with an estimated annual burden of 21,370 hours associated with an estimated 175 respondents per year. The control number for these collections is OMB Control Number 2127-0004. For information concerning how we calculated these estimates please see the **Federal Register** Notices 76 FR 17186 (March 28, 2011) and 76 FR 34803 (June 14, 2011).

These estimates require revision. For several of the current collections, we have more current information on which to base estimates, and so we are making adjustments to those estimates to provide more accurate assessments of burden. Also, our proposals in today's notice will result in a number of new collections which require burden calculations.

a. Adjusted Estimates for Current Information Collections

Our prior estimates of the number of manufacturers each year that would be required to provide information under Part 573, the number of recalls for which Part 573 information collection requirements would need to be met, and the number of burden hours associated with the requirements currently covered

by this information collection require adjustment as explained below.

Previously, we calculated an average of 650 Part 573 information reports were filed with NHTSA each year by approximately 175 distinct manufacturers (MFRs). After reviewing more recent records which reflect higher recall volumes, we are adjusting this estimate to 280 distinct manufacturers filing an average of 680 Part 573 information reports each year.

We continue to estimate that it takes a manufacturer an average of 4 hours to complete each notification report to NHTSA and that maintenance of the required owner, purchaser, dealer and distributors lists requires 8 hours a year per manufacturer. Accordingly, the subtotal estimate of annual burden hours related to the reporting to NHTSA of a safety defect or noncompliance and maintenance of owner and purchaser lists is 4,960 hours annually ((680 notices \times 4 hours/report) + (280 MFRs \times 8 hours)).

In addition, we continue to estimate an additional 2 hours will be needed to add to a manufacturer's information report details relating to the manufacturer's intended schedule for notifying its dealers and distributors, and tailoring its notifications to dealers and distributors in accordance with the requirements of 49 CFR § 577.13. This would total to an estimated 1,360 hours annually (680 notices \times 2 hours/report).

In the event a manufacturer supplied the defect or noncompliant product to independent dealers through independent distributors, that manufacturer is required to include in its notifications to those distributors an instruction that the distributors are to then provide copies of the manufacturer's notification of the defect or noncompliance to all known distributors or retail outlets further down the distribution chain within five working days. See 49 CFR § 577.8(c)(2)(iv). As a practical matter, this requirement would only apply to equipment manufacturers since vehicle manufacturers generally sell and lease vehicles through a dealer network, and not through independent distributors. We believe our previous estimate of roughly 90 equipment recalls per year needs to be adjusted to 80 equipment recalls per year to better reflect recent recall figures. Although the distributors are not technically under any regulatory requirement to follow that instruction, we expect that they will, and have estimated the burden associated with these notifications (identifying retail outlets, making copies of the manufacturer's notice, and mailing) to be 5 hours per recall campaign.

Assuming an average of 3 distributors per equipment item, (which is a liberal estimate given that many equipment manufacturers do not use independent distributors) the total number of burden hours associated with this third party notification burden is approximately 1,200 hours per year (80 recalls \times 3 distributors \times 5 hours).

As for the burden linked with a manufacturer's preparation of and notification concerning its reimbursement for pre-notification remedies, consistent with previous estimates (see 69 Fed. Reg. 11477 (March 10, 2004)), we continue to estimate that preparing a plan for reimbursement takes approximately 8 hours annually, and that an additional 2 hours per year is spent tailoring the plan to particular defect and noncompliance notifications to NHTSA and adding tailored language about the plan to a particular safety recall's owner notification letters. In sum, these required activities add an additional 3,600 annual burden hours ((280 manufacturers \times 8 hours) + (680 recalls \times 2 hours)).

The Act and Part 573 also contain numerous information collection requirements specific to tire recall and remedy campaigns, as well as a statutory and regulatory reporting requirement that anyone that knowingly and intentionally sells or leases a defective or noncompliant tire notify NHTSA of that activity.

Manufacturers are required to include specific information relative to tire disposal in the notifications they provide NHTSA concerning identification of a safety defect or noncompliance with FMVSS in their tires, as well as in the notifications they issue to their dealers or other tire outlets participating in the recall campaign. See 49 CFR § 573.6(c)(9). We previously estimated about 10 tire recall campaigns per year; however, we are adjusting this figure to 15 tire campaigns per year to better reflect recent figures. We estimate that the inclusion of this additional information will require an additional two hours of effort beyond the subtotal above associated with non-tire recall campaigns. This additional effort consists of one hour for the NHTSA notification and one hour for the dealer notification for a total of 30 burden hours (15 tire recalls a year \times 2 hours per recall).

Manufacturer owned or controlled dealers are required to notify the manufacturer and provide certain information should they deviate from the manufacturer's disposal plan. Consistent with our previous analysis, we continue to ascribe zero burden

hours to this requirement since to date no such reports have been provided and our original expectation that dealers would comply with manufacturers' plans has proven true.

Accordingly, we estimate 30 burden hours a year will be spent complying with the tire recall campaign requirements found in 49 CFR 573.6(c)(9).

Additionally, because the agency has yet to receive a single report of a defective or noncompliant tire being intentionally sold or leased in the fourteen years since this rule was proposed, our previous estimate of zero burden hours remains unchanged with this notice.

NHTSA's supporting information for the current Part 577 information collection did not include estimates of the burden linked with the requirement to notify owners and purchasers of a safety recall. Today, we estimate that burden. We estimate that it takes manufacturers an average of 8 hours to draft their notification letters, submit them to NHTSA for review, and then finalize them for mailing to their affected owners and purchasers. We calculate that the Part 577 requirements result in 5,440 burden hours annually (8 hours per recall \times 680 recalls per year).

b. New Collections

We recognize that our proposal to require owner notifications within 60 days of filing a Part 573 report will increase the burden hours associated with the requirement to notify owners and purchasers of a safety recall. We calculated that about 25% of past recalls did not include an owner notification mailing within 60 days of the filing of the Part 573 report. Under the proposed requirements, manufacturers would have to send two letters in these cases: an interim notification of the defect or noncompliance within 60 days and a supplemental letter notifying owners and purchasers of the available remedy. Accordingly, we estimate that 1,360 burden hours will be added by this 60-day interim notification requirement (680 recalls \times .25 = 170 recalls; 170 recalls times 8 hours per recall = 1,360 hours). Therefore we calculate the total burden created by Part 577 to notify owners and purchasers of defective vehicles or motor vehicle equipment at 6,800 hours (5,440 + 1,360).

We believe the burden associated with the added requirement that manufacturers supply the list of VINs associated with the vehicles covered by their recall campaigns will be minimal. As discussed earlier, manufacturers are already required to have ready at the agency's request a list of VINs for

vehicles covered by each recall. They must also have the status of the remedy of each vehicle on that list at the end of each quarterly reporting period, and so they will know the vehicles (and associated VINs) that have not been remedied and be able to provide updated information. They must, as a practical matter, and in order to meet the requirement that they identify current owners based on State registration data (which is accessed using VINs), be able to provide the States with a list of VINs, and, more than likely, that list would be in an electronic format that can be transferred readily to each State for its use in compiling its list of owner names and addresses associated with each VIN. Any added burden, therefore, is reduced to time and costs associated with the manufacturer's transfer of that information to NHTSA through a secure server using SFTP.

We anticipate that the initial electronic submission of a VIN list to NHTSA's database will require one hour to compile per recall and that the recurring daily updates will add no additional hourly burden as it will be an automated process handled by the manufacturer's electronic servers. We calculate that 10 affected motorcycle manufacturers will now submit VINs for an average of 2 recalls each year and 19 affected light vehicle manufacturers will submit VINs for an average of 8 recalls each year. We estimate this will add an additional 172 burden hours (1 hour \times 2 recalls \times 10 MFRs + 1 hour \times 8 recalls \times 19 MFRs).

While we believe the automated process to submit VINs and daily VIN remedy updates will be minimally burdensome, we do believe the affected 29 manufacturers will incur a more complex burden during the initial setup and configuration of their computer systems. We estimate that each of the 29 manufacturers will spend a total of 60 hours creating a standardized VIN list template they will use in their VIN submissions to NHTSA. This estimate of 60 hours includes the time needed for software development (24 hours), data preparation (24 hours), and file naming (12 hours). We estimate the configuration of the manufacturers' databases to supply the needed VIN information in a format suitable to be received by NHTSA's computer servers will require a total of 300 hours. This estimate of 300 hours includes the time needed for software development (180 hours), data preparation (60 hours), and database management including the purchase of any needed new hardware (60 hours). Also, we estimate that the one-time VIN submissions related to the

recall campaigns from the past 24 months will require 60 burden hours. This estimate of 60 hours includes the time needed for software development (24 hours), data preparation (24 hours), and file naming (12 hours). We calculate that these one-time burdens will only be incurred in the first year and include 1,740 hours for VIN list template creation (29 MFRs \times 60 hours), 8,700 hours for the daily VIN update system configuration (29 MFRs \times 300 hours), and 1,740 hours for the historical VIN submissions (29 MFRs \times 60 hours) for a combined total of 12,180 hours (1,740 + 8,700 + 1,740).

Due to our proposed changes to quarterly reporting, specifically, lifting the requirement to calculate and submit recall quarterly reports for the largest manufacturers of light vehicles or motorcycles, this burden will decrease. We now estimate an average 515 quarterly reports will be filed per quarter (or 2,060 reports per year) by the manufacturers not required to submit VINs under our proposed changes to Part 573. Accordingly, we revise our previous calculation of 12,000 burden hours (3,000 quarterly reports \times 4 hours/report) to a new calculation of 8,240 burden hours for quarterly reporting (2,060 quarterly reports \times 4 hours/report). This will result in a reduction of 3,760 hours annually.

As to the new requirement that manufacturers utilize NHTSA's new online recalls portal for the submission of all recall documents, we believe there will be minimal burden. Manufacturers typically produce their Part 573 reports by entering the needed data into a computer word processor, emailing and/or printing and mailing their report. NHTSA's new online recalls portal will simply replace the manufacturer's data entry method and delivery with a standardized online form. We do believe there will be some unmeasured burden reduction by having a centralized Web site where manufacturers can find assistance in conducting their recall and upload all of their recall documents. However, we do estimate a small burden of 2 hours annually in order to set up their recalls portal account with the pertinent contact information and maintaining/updating their account information as needed. We estimate this will require a total of 560 hours annually (2 hours \times 280 MFRs).

We recognize that manufacturers will incur additional burden in meeting the new requirement to submit changes or additions to the information supplied in an earlier Part 573 report, as well as in conducting the active review of Part 573 report information within 90 days of a recall's available remedy. In our

experience, roughly 10 percent of safety recalls involve a change or addition to the information supplied in a 573 Report. The vast majority of these changes or additions are to only a single, discrete, informational component, such as a change in the number of products to be campaigned or a change in the manufacturer's estimation of when it will begin its owner and dealer notifications. As such, these amended reports are relatively simple and straightforward and will require little time to submit through NHTSA's new online recalls portal.

As for the active review of the Part 573 information report conducted within 90 days of the recall's available remedy, we estimate this review will take no more than 30 minutes per recall, as the informational components to be provided in a Part 573 report that will now require an update or correction to NHTSA are very discrete and straightforward. Accordingly, we estimate that there will be an additional burden of 340 hours a year (680 recalls at 30 minutes each).

In view of the fact that the requirement to inform NHTSA of a change or update in these recall components is new, we will liberally assume that the number of amended reports will double. Therefore, we assume that 20 percent of Part 573 reports will involve a change or addition. At 30 minutes per amended report, this will add an additional 68 burden hours per year (680 recalls \times .20 = 136 recalls; 136/2 = 68 hours).

As to the proposal to require manufacturers to notify NHTSA in the event of a bankruptcy, we expect this notification to take an estimated 2 hours to draft and submit to NHTSA. We estimate that only 10 manufacturers might submit such a notice to NHTSA each year, so we calculate the total burden at 20 hours (10 MFRs \times 2 hours).

Due to the initial costs associated with the Part 573 VIN submission proposal, our burden estimate is higher for the first year of this rule. The Part 573 and Part 577 requirements found in this proposal will require 39,530 burden hours in the first year of this rule and then 27,350 hours each subsequent year. Due to this range of estimates, we will request the maximum estimate of 39,530 burden hours. Accordingly, we plan to request approval from OMB to add an additional 18,160 burden hours a year, for a total of 39,530 burden hours for the regulatory changes proposed to Part 573 and Part 577.

We request comment on our burden hour estimate.

Apart from the burden hours estimated above, several of our

proposals in today's notice involve investment as well as recurring costs. We estimate these costs as follows:

We estimate that the IT staff and database professionals that will be paid to assist the manufacturers in creating their VIN list templates, configuring their daily VIN update systems, and gathering historical recall VIN information, average an hourly rate of \$110 per hour. At this hourly rate, the VIN list template creation cost would total \$191,400 ($\$110 \times 60 \text{ hours} \times 29 \text{ MFRs}$). The cost to configure the manufacturer's system to automatically submit VIN updates would total \$957,000 ($\$110 \times 300 \text{ hours} \times 29 \text{ MFRs}$). The cost to provide the VINs for the last 24 months of safety recalls would total \$191,400 ($\$110 \times 60 \text{ hours} \times 29 \text{ MFRs}$). Also, the required hardware that will need to be purchased we estimate will average \$5,000 for a total of \$145,000 ($\$5,000 \times 29 \text{ MFRs}$). We estimate that these one year costs will total \$1,484,800 ($\$191,400 + \$957,000 + \$191,400 + \$145,000$).

As explained above, we estimate that each manufacturer will spend 3 hours compiling and submitting these VIN lists. The subsequent daily updates on the changes in recall remedy status for any of the vehicles involved in the recall, however, will be conducted through an automated process performed by the manufacturers' computer servers. Accordingly, we ascribe zero costs to this automated function.

As for costs associated with notifying owners and purchasers of recalls, we estimate this costs \$1.50 per notification on average. This cost estimate includes the costs of printing, mailing, as well as the costs vehicle manufacturers may pay to third-party vendors to acquire the names and addresses of the current registered owners from state and territory departments of motor vehicles. In reviewing recent recall figures, we determined that an estimated 20 million letters are mailed yearly totaling \$30,000,000 ($\$1.50 \text{ per letter} \times 20,000,000 \text{ letters}$). The changes to Part 577 requiring a manufacturer to notify their affected customers within 60 days would add an additional \$7,500,000 ($20,000,000 \text{ letters} \times .25 \text{ requiring interim owner notifications} = 5,000,000 \text{ letters}; 5,000,000 \times \$1.50 = \$7,500,000$). In total we estimate that the Part 577 requirements along with the new proposal to require notifications within 60 days will cost manufacturers a total \$37,500,000 annually ($\$30,000,000 \text{ owner notification letters} + \$7,500,000 \text{ interim notification letters} = \$37,500,000$).

We estimate the incremental costs associated with the proposed amendments total \$12.25 million (3.27 million for EWR + \$1.48 million for Part 573 VIN changes + \$7.5 million in recall notification letters) in the first year and \$7.5 million recurring costs annually in the second and subsequent years for recall notification letters.

Comments are invited on:

- Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility.
- Whether the Department's estimate for the burden of the information collection is accurate.
- Ways to enhance the quality, utility, and clarity of the information to be collected and to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Please submit any comments, identified by the docket number in the heading of this document, by the methods described in the **ADDRESSES** section of this document to NHTSA and OMB.

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 (Public Law 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. Where the proposed rule change is requiring additional reporting by manufacturers, the new requirements will serve to improve the quality of the data NHTSA receives under the EWR rule, enabling the agency to be more efficient and productive in proactively searching for potential safety concerns as mandated through the TREAD Act.

K. Executive Order 13609: Promoting International Regulatory Cooperation

The policy statement in section 1 of Executive Order 13609 provides, in part:

The regulatory approaches taken by foreign governments may differ from those taken by U.S. regulatory agencies to address similar issues. In some cases, the differences between the regulatory approaches of U.S. agencies and those of their foreign counterparts might not be necessary and might impair the ability of American businesses to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation.

International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

NHTSA requests public comment on whether (a) "regulatory approaches taken by foreign governments" concerning the subject matter of this rulemaking and (b) the above policy statement, have any implications for this rulemaking.

VIII. Proposed Regulatory Text

List of Subjects in 49 CFR parts 573, 577, and 579

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA proposes that parts 573, 577, and 579 be amended as set forth below:

PART 573—DEFECT AND NONCOMPLIANCE RESPONSIBILITY AND REPORTS

1. Revise the authority citation for part 573 to read as follows:

Authority: 49 U.S.C. 30102, 30103, 30116–30121, 30166; delegation of authority at 49 CFR 1.95 and 49 CFR 501.8.

2. Amend § 573.4 by adding the definitions of "Light vehicle" and "Motorcycle" in alphabetical order to read as follows:

§ 573.4 Definitions.

* * * * *

Light vehicle means any motor vehicle, except a bus, motorcycle, or trailer, with a GVWR of 10,000 lbs or less.

Motorcycle means a motor vehicle with motive power having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

* * * * *

3. Amend § 573.6 by revising paragraphs (b), (c)(2)(iii), (c)(3), and (c)(5) to read as follows:

§ 573.6 Defect and noncompliance information report.

* * * * *

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

addition, each manufacturer shall amend information required by paragraphs (2), (3), (4), (8)(i) or (ii) of paragraph (c) within 5 working days after it has new information that updates or corrects information that was previously reported. Within 90 days of the date the recall remedy becomes available, the manufacturer shall review its defect and noncompliance information report and certify its completeness and accuracy or supplement or amend it as necessary to comply with this section. Each manufacturer submitting new information relative to a previously submitted report shall refer to the notification campaign number when a number has been assigned by the NHTSA.

* * * * *

(c) * * *
(2) * * *

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

* * * * *

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

(i) If the manufacturer has manufactured for sale, sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported into the United States 25,000 or more light vehicles or 5,000 or more motorcycles in the current calendar year or the calendar year prior, the reporting vehicle manufacturer shall provide the vehicle identification number (VIN) of each vehicle potentially containing the defect or noncompliance and, as to each VIN listed, the recall remedy status of the vehicle associated with that VIN identified by one of the following categories: Unremedied; inspected and repaired; inspected and determined not to require repair; exported; stolen; scrapped; the owner was unable to be notified; other (reason remedy could not be performed is specified); recall remedy not yet available; or deleted (vehicle removed from recall). For vehicles with a recall remedy status of

inspected and repaired or inspected and determined not to require repair, the manufacturer shall provide the date those actions were completed. A manufacturer shall provide this information in accordance with the table "VIN Table for Safety Recall," provided at Web page <http://www.safercar.gov/Vehicle+Manufacturers> and follow the instructions there for submitting this information and must, once daily at a time designated by the agency, for 10 years from the date it first provides its VIN list, provide any changes to this information using application programming interface via Hypertext Transfer Protocol (HTTP).

(ii) Each manufacturer of vehicles covered by (i) above, on a one-time basis only and no later than 180 days after [the effective date of final rule] (i), shall submit the same information as in (i) for each defect or noncompliance notification campaign filed within 24 months prior to [the effective date of final rule]. A manufacturer must provide this information in the same manner as in (i) above and must, once daily at a time designated by the agency, for 10 years from the date it first provided notification of the defect or noncompliance pursuant to this section, provide any changes to this information using application programming interface via Hypertext Transfer Protocol (HTTP). Manufacturers that did not manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States 25,000 or more light vehicles or 5,000 or more motorcycles in the current calendar year or the calendar year prior to [the effective date of the final rule] are not subject to this requirement.

(iii) A manufacturer of motor vehicles not required to submit information under (i) above may voluntarily submit the Vehicle Identification Number (VIN) of each vehicle potentially containing the defect or noncompliance. A manufacturer that voluntarily submits information under this paragraph must submit VIN information in accordance with (i) and comply with the requirements of (ii) above.

* * * * *

(5) A description of the defect or noncompliance, including both a brief summary and a detailed description, with graphic aids as necessary, of the nature and physical location (if applicable) of the defect or noncompliance. In addition, the manufacturer shall identify and describe the risk to motor vehicle safety reasonably related to the defect or noncompliance consistent with its

evaluation of risk required by 49 CFR 577.5(f).

* * * * *

4. Revise the first sentence of paragraph (a) of § 573.7 to read as follows:

§ 573.7 Quarterly reports.

(a) With the exception of vehicle manufacturers that are required to supply information pursuant to § 573.6(c)(3)(i), each manufacturer who is conducting a defect or noncompliance notification campaign to manufacturers, distributors, dealers, or owners shall submit to NHTSA a report in accordance with paragraphs (b), (c), and (d) of this section.

* * * * *

5. Revise § 573.9 to read as follows:

§ 573.9 Address for submitting required reports and other information.

All submissions, except as otherwise required by this part, shall be submitted through the forms and links provided on the Web page <http://www.safercar.gov/Vehicle+Manufacturers>. Defect and noncompliance information reports required by section 573.6 of this part shall be submitted using one of the following forms, depending upon the type of product that is the subject of the report: “Defect and/or Noncompliance Information Report Form—Vehicles;” “Defect and/or Noncompliance Information Report Form—Equipment;” “Defect and/or Noncompliance Information Report Form—Tires;” “Defect and/or Noncompliance Information Report Form—Child Restraints;” “Defect and/or Noncompliance Information Report—Vehicle Alterers.” In addition, a printed copy of the information report as filed must be submitted by certified mail in accordance with 49 U.S.C. § 30118(c) and addressed to the Associate Administrator for Enforcement, National Highway Traffic Safety Administration, Attention: Recall Management Division (NVS–215), 1200 New Jersey Avenue SE., Washington, DC 20590. The information required by paragraphs 573.6(c)(3)(i) and (ii) of this part shall be submitted using the form, “VIN Table for Safety Recall” located at <http://www.safercar.gov/Vehicle+Manufacturers>. Reports required under section 573.7 of this part shall be submitted using the form, “Quarterly Report Form” also located at this Web page.

* * * * *

6. Add § 573.15 as follows:

§ 573.15 Disclaimers.

(a) A report submitted to NHTSA pursuant to § 573.6 regarding a defect

which relates to motor vehicle safety shall not contain any statement or implication that there is no defect, or that the defect does not relate to motor vehicle safety.

(b) A report submitted to NHTSA pursuant to § 573.6 regarding a noncompliance with an applicable motor vehicle safety standard shall not contain any statement or implication that there is not a noncompliance.

* * * * *

7. Add § 573.16 as follows:

§ 573.16 Reporting bankruptcy petition.

Each manufacturer that files a bankruptcy petition, or is the subject of an involuntary petition for which relief has been ordered, pursuant to Title 11 of the United States Code, 11 U.S.C. 101 et seq., shall provide NHTSA a report as specified below.

(a) The name of the court, the docket number, and the name, address and telephone number of the manufacturer’s legal representative;

(b) a copy of the bankruptcy petition;

(c) a list of the recalls for which the manufacturer filed a “Defect and noncompliance information report” with NHTSA pursuant to 49 CFR 573.6; and

(d) the information specified in 49 CFR 573.7(b) for each recall listed pursuant to section (c) above.

Each report pursuant to this section must be received by NHTSA not more than 5 working days after the date the petition is filed in the United States Bankruptcy Court. Reports shall be addressed to the Associate Administrator for Enforcement, National Highway Traffic Safety Administration, Attention: Recall Management Division (NVS–215), 1200 New Jersey Ave. SE., Washington, DC 20590, or submitted as an attachment to an email message to RMD.ODI@dot.gov in a portable document format (pdf.).

* * * * *

PART 577—DEFECT AND NONCOMPLIANCE NOTIFICATION

1. Revise the authority citation for part 577 to read as follows:

Authority: 49 U.S.C. 30102, 30103, 30116–121, 30166; delegation of authority at 49 CFR 1.95 and 49 CFR 501.8.

2. Amend § 577.5 by revising paragraphs (a) and (b) to read as follows:

§ 577.5 Notification pursuant to a manufacturer’s decision.

(a) When a manufacturer of motor vehicles or replacement equipment determines that any motor vehicle or item of replacement equipment produced by the manufacturer contains

a defect that relates to motor vehicle safety, or fails to conform to an applicable Federal motor vehicle safety standard, the manufacturer shall provide notification in accordance with paragraph (a) of § 577.7, unless the manufacturer is exempted by the Administrator (pursuant to 49 U.S.C. 30118(d) or 30120(h)) from giving such notification. The notification shall contain the information specified in this section. The information required by paragraphs (b) and (c) of this section shall be presented in the form and order specified. The information required by paragraphs (d) through (h) of this section may be presented in any order. Except as authorized by the Administrator, the manufacturer shall submit a copy of its proposed owner notification letter, including any provisions or attachments related to reimbursement, to NHTSA’s Recall Management Division (NVS–215) no fewer than five Federal Government business days before it intends to begin mailing it to owners. The manufacturer shall mark the outside of each envelope in which it sends an owner notification letter with a notation that includes the words “SAFETY,” “RECALL,” and “NOTICE,” all in capital letters and in a type that is larger than that used in the address section, and is also distinguishable from the other type in a manner other than size. It shall also imprint on the outside of this envelope a label, one inch by three inches in size and located in the bottom left corner of the envelope. The label to be used is located at <http://www.safercar.gov/Vehicle+Manufacturers/RecallsPortal/SafetyRecallLabel>. This label shall not be used for any purpose other than compliance with this paragraph by any entity outside of the Department of Transportation. Except where the format of the envelope has been previously approved by NHTSA’s Recall Management Division (NVS–215), each manufacturer must submit the envelope format it intends to use to that division at least five Federal Government business days before mailing the notification to owners. Submission of envelopes and proposed owner notification letters shall be made by the means identified in 49 CFR 573.9. Notification sent to an owner whose address is in the Commonwealth of Puerto Rico shall be written in both English and Spanish.

(b) At the top of the notification, the statement “URGENT SAFETY RECALL,” in all capital letters and in a type size that is larger than that used in the remainder of the letter. Then followed beneath by, for vehicle recalls,

the statement “This notice applies to your vehicle, (manufacturer to insert VIN for the particular vehicle).” Then followed beneath by an opening statement: “This notice is sent to you in accordance with the National Traffic and Motor Vehicle Safety Act.”

* * * * *

3. Amend § 577.7 by revising the first sentence of (a)(1) and adding a second sentence to read as follows:

§ 577.7 Time and manner of notification.

(a) * * *

(1) Be furnished no later than 60 days from the date the manufacturer files its defect or noncompliance information report in accordance with 49 CFR 573.6(a). In the event that the remedy for the defect or noncompliance is not available at the time of notification, the manufacturer shall issue a second notification in accordance with the requirements of this part once that remedy is available. * * *

* * * * *

PART 579—REPORTING OF INFORMATION AND COMMUNICATIONS ABOUT POTENTIAL DEFECTS

1. Revise the authority citation for part 579 to read as follows:

Authority: 49 U.S.C. 30102–103, 30112, 30117–121, 30166–167; delegation of authority at 49 CFR 1.95 and 49 CFR 501.8.

Subpart A—General

2. In § 579.4 amend paragraph (c) by revising the definition of “Service brake system” and adding the definitions of “Backover prevention system,” “Compressed natural gas (CNG),” “Compression ignition fuel (CIF),” “Electric battery power (EBP),” “Electronic stability control,” “Forward collision avoidance system,” “Fuel and/or propulsion system type,” “Fuel-cell power (FCP),” “Hybrid electric vehicle (HEV),” “Hydrogen based power (HBP),” “Lane departure prevention system,” “Plug-in hybrid (PHV),” “Roll stability control,” “Spark ignition fuel (SIF),” and “Visibility” in alphabetical order to read as follows:

§ 579.4 Terminology.

* * * * *

(c) *Other terms.* * * *

* * * * *

Backover prevention system means a system that has:

- A visual image of the area directly behind a vehicle that is provided in a single location to the vehicle operator and by means of indirect vision.

* * * * *

Compressed natural gas (CNG) means, in the context of reporting fuel and/or propulsion system type, a system that uses compressed natural gas to propel a motor vehicle.

* * * * *

Compression ignition fuel (CIF) means, in the context of reporting fuel and/or propulsion system type, a system that uses diesel or any diesel-based fuels to propel a motor vehicle. This includes biodiesel.

* * * * *

Electric battery power (EBP) means, in the context of reporting fuel and/or propulsion system type, a system that uses only batteries to power an electric motor to propel a motor vehicle.

* * * * *

Electronic stability control system for light vehicles is used as defined in S4. of § 571.126 of this chapter.

For buses, emergency vehicles, and medium/heavy vehicles it means a system:

- That augments vehicle directional stability by applying and adjusting the vehicle brake torques individually at each wheel position on at least one front and at least one rear axle of the vehicle to induce correcting yaw moment to limit vehicle oversteer and to limit vehicle understeer;

- That enhances rollover stability by applying and adjusting the vehicle brake torques individually at each wheel position on at least one front and at least one rear axle of the vehicle to reduce lateral acceleration of a vehicle;

- That is computer-controlled with the computer using a closed-loop algorithm to induce correcting yaw moment and enhance rollover stability;

- That has a means to determine the vehicle’s lateral acceleration;

- That has the means to determine the vehicle’s yaw rate and to estimate its side slip or side slip derivative with respect to time;

- That has the means to estimate vehicle mass or, if applicable, combination vehicle mass;

- That has the means to monitor driver steering input;

- That has a means to modify engine torque, as necessary, to assist the driver in maintaining control of the vehicle and/or combination vehicle; and

- That, when installed on a truck tractor, has the means to provide brake pressure to automatically apply and modulate the brake torques of a towed semi-trailer.

* * * * *

Forward collision avoidance system means a system:

- That has an algorithm or software to determine distance and relative speed of

an object or another vehicle directly in the forward lane of travel; and

- That provides an audible, visible, and/or haptic warning to the driver of a potential collision with an object in the vehicle’s forward travel lane.

The system may also include a feature:

- That pre-charges the brakes prior to, or immediately after, a warning is issued to the driver;

- That closes all windows, retracts the seat belts, and/or moves forward any memory seats in order to protect the vehicle’s occupants during or immediately after a warning is issued; or

- That applies any type of braking assist or input during or immediately after a warning is issued.

* * * * *

Fuel and/or propulsion system type means the variety of fuel and/or propulsion systems used in a motor vehicle, as follows: compressed natural gas (CNG); compression ignition fuel (CIF); electric battery power (EBP); fuel-cell power (FCP); hybrid electric vehicle (HEV); hydrogen based power (HBP); plug-in hybrid (PHV); spark ignition fuel (SIF); and other (OTH).

* * * * *

Fuel-cell power (FCP) means, in the context of reporting fuel and/or propulsion system type, a system that uses fuel cells to generate electricity to power an electric motor to propel a motor vehicle.

* * * * *

Hybrid electric vehicle (HEV) means, in the context of reporting fuel and/or propulsion system type, a system that uses a combination of an electric motor and internal combustion engine to propel a motor vehicle.

* * * * *

Hydrogen based power (HBP) means, in the context of reporting fuel and/or propulsion system type, a system that uses hydrogen to propel a vehicle through means other than a fuel cell.

* * * * *

Lane departure prevention system means a system:

- That has an algorithm or software to determine the vehicle’s position relative to the lane markers and the vehicle’s projected direction; and

- That provides an audible, visible, and/or haptic warning to the driver of unintended departure from a travel lane.

The system may also include a feature:

- That applies the vehicle’s stability control system to assist the driver to maintain lane position during or immediately after the warning is issued;

- That applies any type of steering input to assist the driver to maintain lane position during or immediately after the warning is issued; or
- That applies any type of braking pressure or input to assist the driver to maintain lane position during or immediately after the warning is issued.

Plug-in hybrid (PHV) means, in the context of reporting fuel and/or propulsion system type, a system that combines an electric motor and an internal combustion engine to propel a motor vehicle and is capable of recharging its batteries by plugging in to an external electric current.

Roll stability control system means a system:

- That enhances rollover stability by applying and adjusting the vehicle brake torques to reduce lateral acceleration of a vehicle;
- That is computer-controlled with the computer using a closed-loop algorithm to enhance rollover stability;
- That has a means to determine the vehicle's lateral acceleration;
- That has the means to determine the vehicle mass or, if applicable, combination vehicle mass;
- That has a means to modify engine torque, as necessary, to assist the driver in maintaining rollover stability of the vehicle and/or combination vehicle; and
- That, when installed on a truck tractor, has the means to provide brake pressure to automatically apply and modulate the brake torques of a towed semi-trailer.

Service brake system means all components of the service braking system of a motor vehicle intended for the transfer of braking application force from the operator to the wheels of a vehicle, including the foundation braking system, such as the brake pedal, master cylinder, fluid lines and hoses, braking assist components, brake calipers, wheel cylinders, brake discs, brake drums, brake pads, brake shoes, and other related equipment installed in a motor vehicle in order to comply with FMVSS Nos. 105, 121, 122, or 135 (except equipment relating specifically to a parking brake). This term also includes systems and devices for automatic control of the brake system such as antilock braking, traction control, and enhanced braking, but does not include systems or devices necessary for electronic stability control, forward collision avoidance, lane departure prevention, or backover prevention. The term includes all associated switches, control units,

connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

Spark ignition fuel (SIF) means, in the context of reporting fuel and/or propulsion system type, a system that uses gasoline, ethanol, or methanol based fuels to propel a motor vehicle.

Visibility means the systems and components of a motor vehicle through which a driver views the surroundings of the vehicle including windshield, side windows, back window, and rear view mirrors, and systems and components used to wash and wipe windshields and back windows. This term includes those vehicular systems and components that can affect the ability of the driver to clearly see the roadway and surrounding area, such as the systems and components identified in FMVSS Nos. 103, 104, and 111. This term also includes the defogger, defroster system, the heater core, blower fan, windshield wiper systems, mirrors, windows and glazing material, heads-up display (HUD) systems, and exterior view-based television systems for medium-heavy vehicles, but does not include exterior view-based television systems for light vehicles which are defined under "Backover prevention system" and exterior lighting systems which are defined under "Lighting." This term includes all associated switches, control units, connective elements (such as wiring harnesses, hoses, piping, etc.), and mounting elements (such as brackets, fasteners, etc.).

- Amend § 579.6 by:
 - Redesignating paragraph (b) as paragraph (b)(1); and
 - Add paragraph (b)(2) to read as follows

(b)(1) Information, documents and reports that are submitted to NHTSA's early warning data repository must be submitted in accordance with § 579.29 of this part. Submissions must be made by a means that permits the sender to verify that the report was in fact received by NHTSA and the day it was received by NHTSA.

(2) The annual list of substantially similar vehicles submitted pursuant to § 579.11(e) of this part shall be submitted to NHTSA's early warning data repository identified on NHTSA's Web page <http://www-odi.nhtsa.dot.gov/ewr/ewr.cfm>. A manufacturer shall use the template provided at the early warning Web site, also identified on

NHTSA's Web page <http://www-odi.nhtsa.dot.gov/ewr/xls.cfm>, for submitting the list.

Subpart C—Reporting of Early Warning Information

- Amend § 579.21 by:
 - Revising the first sentence of paragraph (a);
 - Revising the first sentence of paragraph (b)(2);
 - Revising the first sentence of paragraph (c); and
 - Adding a fifth sentence to paragraph (c) to read as follows:

§ 579.21 Reporting requirements for manufacturers of 5,000 or more light vehicles annually.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the type, the platform, the fuel/propulsion system type coded as follows: CNG (compressed natural gas), CIF (compression ignition fuel), EBP (electric battery power), FCP (fuel-cell power), HEV (hybrid electric vehicle), HBP (hydrogen based power), PHV (plug-in hybrid), SIF (spark ignition fuel) and OTH (Other), and production.

- (b)
 - For each incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model, model year, the type, the fuel/propulsion system type (as specified in paragraph (a)), and VIN of the vehicle, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the vehicle that allegedly contributed to the incident, and whether the incident involved a fire or rollover, coded as follows: 01 steering system, 02 suspension system, 03 service brake system, 05 parking brake, 06 engine and engine cooling system, 07 fuel system, 10 power train, 11 electrical system, 12 exterior lighting, 13 visibility, 14 air bags, 15 seat belts, 16 structure, 17 latch, 18 vehicle speed control, 19 tires, 20 wheels, 22 seats, 23 fire, 24 rollover, 25 electronic stability control system, 26 forward collision avoidance system, 27 lane departure prevention system, 28 backover prevention system, 98 where a system or component not covered by categories 01 through 22 or 25 through 28, is specified in the claim or notice,

and 99 where no system or component of the vehicle is specified in the claim or notice. * * *

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* Separate reports on the numbers of those property damage claims, consumer complaints, warranty claims, and field reports which involve the systems and components that are specified in codes 01 through 22, or 25 through 28 in paragraph (b)(2) of this section, or a fire (code 23), or rollover (code 24). * * * For each report, the manufacturer shall separately state the vehicle type and fuel/propulsion type if the manufacturer stated more than one vehicle type or fuel/propulsion type for a particular make, model, model year in paragraph (a) of this section.

* * * * *

5. Amend § 579.22 by:

- a. Revising the first sentence of paragraph (b)(2);
- b. Revising the first sentence of paragraph (c); and
- c. Revising the first sentence of paragraph (d) as follows:

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

(b) * * *

* * * * *

(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 bus, emergency vehicle or medium-heavy vehicle, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the vehicle that allegedly contributed to the incident, and whether the incident involved a fire or rollover, coded as follows: 01 Steering system, 02 suspension system, 03 service brake system, hydraulic, 04 service brake system, air, 05 parking brake, 06 engine and engine cooling system, 07 fuel system, gasoline, 08 fuel system, diesel, 09 fuel system, other, 10 power train, 11 electrical, 12 exterior lighting, 13 visibility, 14 air bags, 15 seat belts, 16 structure, 17 latch, 18 vehicle speed control, 19 tires, 20 wheels, 21 trailer hitch, 22 seats, 23 fire, 24 rollover, 25 electronic stability control system/roll stability control system, 98 where a system or component not covered by categories 01 through 22 or 25 is specified in the claim or notice, and 99 where no system or component of the vehicle is specified in the claim or notice. * * *

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* Separate reports on the numbers of those property damage claims, consumer complaints, warranty claims, and field reports which involve the systems and components that are specified in codes 01 through 22, or 25 in paragraph (b)(2) of this section, or a fire (code 23), or rollover (code 24). * * *

(d) *Copies of field reports.* For all buses, emergency vehicles and medium-heavy vehicles manufactured during a model year covered by the reporting period and the nine model years prior to the earliest model year in the reporting period, 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.

* * * * *

BILLING CODE 4910-59-P

Appendix B

Figure 1 Amended Heavy Vehicle Aggregate Template showing new column AB.

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z	AA	AB
1	Make	Model	ModelYear	Steering-01	Suspension-02	ServiceBrake-03	ServiceBrakeAir-04	ParkingBrake-05	EngAndEngCooling-06	FuelSys-07	FuelSysDiesel-08	FuelSysOther-09	PowerTrain-10	Electrical-11	ExtLighting-12	Visibility-13	AirBags-14	SeatBelts-15	Structure-16	Latch-17	SpeedControl-18	TiresRelated-19	Wheels-20	TrailerHitch-21	Seats-22	FireRelated-23	Rollover-24	ESC/RSC-25
2																												
3																												

Appendix C

FORM C1—EXAMPLE VIN TABLE SUBMISSION

VIN	Recall	Date added	Recall disposition	Remedy date	Comment 30
1JN4B76Y2XB645813	09V165	03/07/09	R	07/23/09	
1JN4B76Y2XB645814	09V165	03/07/09	I	03/07/11	
1JN4B76Y2XB645815	09V165	03/07/09	U	.....
1JN4B76Y2XB645816	09V165	03/07/09	Z	.....
1JN4B76Y2XB645817	09V165	03/07/09	U	.....
1JN4B76Y2XB645818	09V165	03/07/09	U	.....
1JN4B76Y2XB645819	09V165	03/07/09	Z	.....
1JN4B76Y2XB645820	09V165	03/07/09	R	11/04/10	
1JN4B77Y2XB645816	09V165	03/07/09	R	07/05/09	
1JN4B76Y2XB6445814	09V165	03/07/09	U	.....
1JN4B76Y2XB645821	09V165	03/07/09	R	03/07/11	
1JN4B76Y2XB645822	09V165	03/07/09	X	.....
1JN4B77Y2XB645817	09V165	03/07/09	Z	.....
1JN4B76Y2XB6445815	09V165	03/07/09	I	08/09/11	
1JN4B76Y2XB645823	09V165	03/07/09	Z	.....
1JN4B76Y2XB645824	09V165	03/07/09	R	11/02/11	
1JN4B77Y2XB645818	09V165	03/07/09	U	.....
1JN4B76Y2XB645874	09V165	03/07/09	D	.....	NOT RECALLED.
1JN4B76Y2XB645864	09V165	03/07/09	D	.....	NOT RECALLED.
1JN4B76Y2XB6445816	09V165	03/07/09	U	.....
1JN4B76Y2XB645825	09V165	03/07/09	U	.....
1JN4B76Y2XB645758	09V165	04/11/09	U	.....	LATE ADDITION.
1JN4B76Y2XB645826	09V165	03/07/09	Z	.....
1JN4B77Y2XB645819	09V165	03/07/09	I	04/08/09	
1JN4B76Y2XB6445817	09V165	03/07/09	I	11/02/11	
1JN4B76Y2XB645827	09V165	03/07/09	R	03/07/11	
1JN4B76Y2XB645813	09V165	03/07/09	R	01/23/10	
1JN4B76Y2XB645814	09V165	03/07/09	S	.....
1JN4B76Y2XB635815	09V165	03/07/09	X	.....
1JN4B76Y2XB945816	09V165	03/07/09	S	.....

RECALL DISPOSITION KEY

RECALL DISPOSITION KEY—Continued

X	Recall Remedy Not Yet Available.
R	Inspected and Repaired.
U	Unremedied.
I	Inspected and Determined Not to Require Repair.
Z	The Owner was Unable to be Notified.

E	Exported.
T	Stolen.
S	Scrapped.
D	Deleted.

Appendix D

Acme Motor Company
1 Chestnut Lane
Detroit, Michigan 54698

Stamp

Safety Recall Notice

Tom Bennett
358 Maple Lane
Wichita, KS 68954

IMPORTANT SAFETY RECALL INFORMATION

Issued in Accordance
With Federal Law

Appendix E

	Vehicle manufacturers to submit daily VIN updates		Vehicle manufacturers to submit daily VIN updates		Vehicle manufacturers to submit daily VIN updates
1	American Suzuki Motor Corp.	13	Kia Motors Corporation.	25	Toyota Motor Corporation.
2	BMW Of North America, LLC.	14	Land Rover.	26	Triumph Motorcycles America LTD.
3	Bombardier Recreational Products Inc.	15	Leggett & Pratt, Incorporated-Masterack.	27	Volkswagen Of America, Inc.
4	Chrysler Group LLC.	16	Mazda Motor Corp.	28	Volvo Cars Of N.A. LLC.
5	Ducati North America.	17	Mercedes-Benz USA, LLC.	29	Yamaha Motor Corporation, USA.
6	Ford Motor Company.	18	Mitsubishi Motors North America, Inc.		
7	General Motors LLC.	19	Nissan North America, Inc.		
8	Genuine Scooters, LLC.	20	Piaggio USA, Inc.		
9	Harley-Davidson Motor Company.	21	Polaris Industries, Inc.		
10	Honda (American Honda Motor Co.)	22	Porsche Cars North America, Inc.		
11	Hyundai Motor Company.	23	STR Motorsports Inc. DBA Kymco USA.		
12	Kawasaki Motors Corp., U.S.A.	24	Subaru Of America, Inc.		

Issued on: August 27, 2012.

Daniel C. Smith,
Senior Associate Administrator, Vehicle Safety.

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