guidance applies to the EIP as a whole. States are primarily responsible for implementing these provisions. Source-level guidance applies to specific sources participating in the EIP. While the State is responsible for establishing the appropriate requirements for sources in the rule, the sources themselves are responsible for implementing these other provisions. Program-level and source-level guidance will apply to the majority of EIPs, but there are some exceptions where source-level guidance is not applicable. The EPA intended the guidance to be a ''living document,'' and plans to update the guidance periodically as the EPA establishes new policies and standards.

How Will EPA Act on an EIP SIP Submittal?

Once an EIP SIP revision is submitted, EPA will take action through notice-and-comment rule making to determine if the statutory requirements have been met. Only action taken after the conclusion of that rulemaking would constitute final Agency action. The EPA would take steps to expedite its proposed approval in the case of SIP revisions containing programs that contain the elements of the EPA EIP guidance.

If a program that does not contain the elements of the EPA EIP guidance for that type of program is submitted, EPA would still seek to determine whether the applicable CAA requirements were met, and, if so, EPA would approve the submission. The EPA would make the determination through notice-and-comment rule making.

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Nonattainment, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 16, 2001.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 01–18318 Filed 7–20–01; 8:45 am]

BILLING CODE 6560–15–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 573

[Docket No. NHTSA–2001–9599]

RIN 2127–AI30

Motor Vehicle Safety; Limitations on Sale and Lease of Noncompliant and Defective Motor Vehicles and Items of Motor Vehicle Equipment

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: NHTSA proposes to add regulations limiting the sale or lease of noncompliant and defective motor vehicles and items of motor vehicle equipment. The Intermodal Surface Transportation Efficiency Act (ISTEA) and the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act amended federal motor vehicle safety laws by limiting the sale or lease of defective and noncompliant vehicles and equipment. The proposed rules would codify the limitations set forth in ISTEA and the TREAD Act and reduce questions relating to the meaning of those limitations.

DATES: *Comment Closing:* Comments must be received by September 21, 2001. The effective date of a final rule based on this proposal would be 30 days after publication of the final rule.

ADDRESSES: You should mention the docket number of this document in your comments, and submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, D.C. 20590. Comments may also be submitted to the docket electronically by logging onto the Dockets Management System website at

http://dms.dot.gov. Click on ''Help and Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

You may call Docket Management at 202–366–9324. You may visit the Docket from 9:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lloyd S. Guerci, Office of Chief Counsel, NCC–10, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone 202–366–5263.

SUPPLEMENTARY INFORMATION:

Background

Since the enactment of the National Traffic and Motor Vehicle Safety Act in 1966, now codified as 49 U.S.C. Chapter 301 (Safety Act), Federal law has prohibited the sale of new motor vehicles and motor vehicle equipment that fail to comply with an applicable Federal motor vehicle safety standard (FMVSS). See section 108(a) of Pub. L. 89–563, 80 Stat. 722, codified as 49 U.S.C. 30112(a). However, until 1991, the Safety Act did not contain specific provisions limiting the sale or lease of defective vehicles and equipment. On December 18, 1991, the Intermodal Surface Transportation Efficiency Act (''ISTEA''), Pub. L. 102–240, 105 Stat. 2083, was enacted. Section 2504 of ISTEA amended Section 154 of the Safety Act, by adding a new subsection, (d), which is codified at 49 U.S.C. 30120(i).

Section 30120(i) states:

> [i]f notification is required by an order under section 30118(b) of this title or is required under section 30118(c) of this title and the manufacturer has provided to a dealer (including retailers of motor vehicle equipment) notification about a new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification that contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter, the dealer may sell or lease the motor vehicle or item of replacement equipment only if—(A) the defect or noncompliance is remedied as required by this section before delivery under the sale or lease; or (B) when the notification is required by an order under section 30118(b) of this title, enforcement of the order is restrained or the order is set aside in a civil action to which section 30121(d) of this title applies.[1]

Section 30120(i) does not prohibit a dealer from offering the vehicle or equipment for sale or lease. Thus, the dealer can offer the vehicle in the showroom but cannot sell or lease it. In the 1990s, NHTSA did not engage in rulemaking with regard to this statutory prohibition.

On November 1, 2000, the TREAD Act, Pub. L. 106–414, was enacted. The statute was, in part, a response to congressional concerns regarding the manner in which various entities dealt with defective motor vehicles and motor vehicle equipment, including tires. During congressional consideration of the bill that eventually was adopted as the TREAD Act, there had been media reports that some persons were selling defective Firestone ATX or Wilderness tires that had been returned to dealers for replacement tires under an ongoing safety recall. The Safety Act did not expressly prohibit such actions, since section 30120(i) does not apply to the sale or lease of used vehicles or equipment. The TREAD Act added various provisions related to safety-related defects and noncompliances with applicable Federal motor vehicle safety standards to the Safety Act.

Section 8 of the TREAD Act added a new subsection (j), ''Prohibition on sales of replaced equipment,'' to 49 U.S.C. 30120, effective November 1, 2000. This subsection provides that no person may sell or lease any motor vehicle equipment (including a tire), for installation on a motor vehicle, that is the subject of a decision under 49 U.S.C. 30118(b) or a notice required under 49 U.S.C. 30118(c) in a condition that it may be reasonably used for its original purpose. Under section 30120(j)(1) and (2), the foregoing prohibition does not apply if the defect or noncompliance is remedied as required by 49 U.S.C. 30120, including implementing regulations, before delivery under the sale or lease; or notification of the defect or noncompliance is required under section 30118(b) but enforcement of the order is set aside in a civil action to which 49 U.S.C. 30121(d) applies.

While sections 30120(i) and (j) do not require rulemaking for their effectuation, NHTSA believes that there will be two benefits to rulemaking. First, rules will largely reduce, if not eliminate, questions relating to the meaning of the prohibitions. Second, there are benefits to codifying the prohibitions, which complement other rules, in the Code of the Federal Regulations.

In view of the TREAD Act, we are proposing to reorganize and amend 49 CFR Part 573 to include the limitations established by sections 30120 (i) and (j).

Section 30120(i): Limitation on Sale or Lease

Who Would Be Covered?

Section 30120(i) applies to dealers, including retailers of motor vehicle equipment. Dealer is defined in 49 U.S.C. 30102(a)(1) as ''a person selling and distributing new motor vehicles or motor vehicle equipment primarily to purchasers that in good faith purchase the vehicles or equipment other than for resale.''

What Motor Vehicles and Equipment Would Be Covered?

The section covers the sale and lease of new motor vehicles and motor vehicle equipment. It provides that a dealer may not sell or lease noncompliant or defective new motor vehicles or new items of replacement equipment. Section 30102(a)(6) defines the term, ''motor vehicle,'' as ''a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads and highways, but does not include a vehicle operated only on a rail line.'' Section 30102(b)(1)(D) defines replacement equipment as ''motor vehicle equipment (including a tire) that is not original equipment.'' By its terms, section 30120(i) applies to new motor vehicles and new items of replacement equipment. Thus, the proposed requirements relating to section 30120(i) would not apply to used motor vehicles and used replacement equipment.

Under What Circumstances Would the Limitation on the Sale or Lease of Motor Vehicles or Equipment Apply?

In order for the limitation on the sale or lease of motor vehicles and equipment under section 30120(i) to apply, several things must occur. First, notification of a defect or noncompliance must have been required by an order under section 30118(b) or under section 30118(c). Second, a dealer must have been notified of the defect or noncompliance under section 30120(d)(4). Finally, the dealer must be in possession of the vehicle or equipment. This could include, for example, items in inventory and subsequently received items covered by the notification.

Section 30120(i) also provides for two situations where the dealer may sell or

[1] Section 30118(c) requires manufacturers of motor vehicles or equipment to provide notification of safety-related defects or noncompliances with motor vehicle safety standards to NHTSA, as well as to the owners, purchasers and dealers of the vehicle or equipment.

Section 30118(b) authorizes the Secretary to make a final decision that motor vehicles or equipment contain a safety-related defect and/or do not comply with an applicable motor vehicle safety standard and, in that event, order the manufacturer to give notification of the defect or noncompliance to owners, purchasers, and dealers of the vehicles or equipment, and order the manufacturer to remedy the defect or noncompliance without charge.

lease motor vehicles or equipment that have been determined to be defective or noncompliant. First, the dealer may sell or lease the motor vehicle or item of replacement equipment if the defect or noncompliance is remedied as required by section 30120 before delivery under the sale or lease. Second, the sale or lease is permissible when notification is required by an order under section 30118(b) but enforcement of the order is restrained or the order is set aside in a civil action to which section 30121(d) applies. Thus, if the order is set aside by a court, as stated above, the prohibition would not apply and the sale would be permissible. Finally, section 30120(i) states that it does not prohibit a dealer from simply offering the vehicle or equipment for sale or lease.

Section 30120(j): Limitation on Sale or Lease of Equipment [2]

Who Would Be Covered?

Section 30120(j) provides that ''*no person* may sell or lease any motor vehicle equipment (including a tire) for installation on a motor vehicle, that is the subject of a decision under section 30118(b) or a notice required under section 30118(c) in a condition that it may be reasonably used for its original purpose.'' (Emphasis added). In this section, Congress chose to use the general terms ''no person'' as opposed to the more restricted categories of ''manufacturer'' and ''dealer'' used elsewhere within section 30120 and Chapter 301. In view of the breadth of the term ''no person,'' the section is not limited to persons in particular classes or categories. Thus, the proposed rule's prohibition would apply to the actions of all persons, including individuals and entities such as corporations.

What Activities Would Be Covered?

The activities that are covered by section 30120(j) and the proposed rule are selling or leasing, ''*for installation on a motor vehicle,*'' any motor vehicle equipment (including a tire), that is the subject of a decision under section 30118(b) or a notice required under section 30118(c) (emphasis added). Accordingly, the rule would apply to businesses and individuals that sell used automobile parts, including tires. While this proposed rule would prohibit the sale or lease of equipment including tires for *installation* on a motor vehicle, it would not prohibit a person from selling or leasing a new or used vehicle with defective or noncompliant equipment or tires.[3] For example, a motor vehicle dealer is not subject to the prohibition of this proposed rule except with respect to equipment and tires that the dealer sells or leases separately from a vehicle. Similarly, motor vehicle lessors and motor vehicle rental companies would not be subject to the rule because these groups are selling and leasing vehicles, not equipment or tires for use on motor vehicles. Thus, the rule would generally apply to equipment and tire retailers, including individuals.

What Motor Vehicle Equipment Would Be Covered?

Section 30120(j) prohibits the selling or leasing of any motor vehicle equipment (including a tire), for installation on a motor vehicle, that is the subject of a decision under section 30118(b) or a notice required under section 30118(c). Section 30102(a)(7) defines ''motor vehicle equipment'' as:

> (A) any system, part, or component of a motor vehicle as originally manufactured; (B) any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle; or (C) any device or an article or apparel (except medicine or eyeglasses prescribed by a licensed practitioner) that is not a system, part, or component of a motor vehicle and is manufactured, sold, delivered, offered, or intended to be used only to safeguard motor vehicles and highway users against risk of accident, injury, or death.

In section 30120(j), Congress chose to restrict the sale of equipment, without limitation. Thus, the prohibition includes all equipment, including used equipment as well as new equipment.[4]

Section 30120(j) prohibits the sale of equipment *in a condition that it may be reasonably used for its original purpose* (emphasis added). Accordingly, the rule would only prohibit the sale of equipment and tires that are still in a condition in which they can be used for the purpose for which they were originally intended. Thus, the rule would not apply to equipment and tires that have been altered in a way that they can no longer be reasonably used for their original purpose. For example, a tire that is drilled with holes for eye-bolts may be sold for use as part of a playground swing.

Section 30120(j)(1) provides that the prohibition on the sale of equipment applies unless ''the defect or noncompliance is remedied as required by this section before delivery under the sale or lease.'' Therefore, the equipment could be sold if it has been repaired so that it is no longer defective or noncompliant.

The sale of the equipment would also be allowed if ''notification of the defect or noncompliance is required under section 30118(b) but enforcement of the order is set aside in a civil action to which section 30121(d) applies.'' Under 30118(b), if it is determined that a motor vehicle or replacement equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard, the manufacturer is ordered to give notification of the defect or noncompliance under section 30119 to owners, purchasers and dealers of the vehicle or equipment.[5] However, if this order is set aside by a court, the prohibition in section 30120(j) would not apply, and, therefore, the sale would be permissible during the period when the order was not effective.

Regulatory Analyses and Notices

1. E.O. 12866 and DOT Regulatory Policies and Procedures

This notice has not been reviewed under E.O. 12866, ''Regulatory Planning and Review.'' After considering the impacts of this proposed rulemaking action, we have determined that the action is not ''significant'' within the meaning of the Department of the Transportation regulatory policies and procedures. There are statutory provisions in place and these proposed rules would not increase the burdens on those covered by the prohibitions. The impact of this proposed rule would be so minimal as not to warrant preparation of a full regulatory evaluation because these provisions only involve prohibitions on sales of defective and noncompliant vehicles and equipment, which are rare even absent the rule. In light of the statutory provisions, this action does not involve a substantial public interest or controversy. The rulemaking action would not have a substantial impact on any transportation safety program or on state and local governments.

2. Regulatory Flexibility Act

We have also considered the effects of this action in relation to the Regulatory

[2] We recognize that the title of section 30120(j) refers to a ''prohibition'' on the sale of equipment. However, we have used the word ''limitation'' consistently throughout this document.

[3] As discussed above, the sale or lease of a new vehicle with defective or noncompliant equipment or tires is already prohibited by 49 U.S.C. 30120(i).

[4] We recognize that the title of section 30120(j) refers to ''replaced equipment.'' The U.S. Supreme Court has long held that a subtitle of an act cannot overcome the plain and unambiguous meaning of the words used in the text of the statute. *See Knowlton* v. *Moore,* 178 U.S. 41 (1900). Thus, since the language of section 30120(j) is not limited, its reach extends to all equipment that has been found to be defective or noncompliant.

[5] Section 30119 sets out the notification procedures the manufacturer must follow.

Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that this proposed rule would have no significant economic impact on a substantial number of small entities. The impact of this proposed rule would be expected to be so minimal as not to warrant preparation of a full regulatory flexibility analysis because this provision only involves the prohibition on sales or leases of vehicles or equipment that have been determined to be defective or noncompliant, and the incidence of covered sales and leases would have been small even absent this rule. Governmental jurisdictions will not be affected.

3. E.O. 13132 (Federalism)

E.O. 13132 (64 FR 43255, August 10, 1999), revokes and replaces E.O.s 12612 ''Federalism'' and 12875 ''Enhancing the Intergovernmental partnership.'' E.O. 13132 requires NHTSA 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.'' E.O. 13132 defines the term ''policies that have federalism implications'' 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.'' Under E.O. 13132, NHTSA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

The proposed rule would not 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 as specified in E.O. 13132. Thus, the requirements of section 6 of the E.O. do not apply to this proposed rule.

4. National Environmental Policy Act

We have analyzed this proposed action for purposes of the National Environmental Policy Act. The action would not have a significant effect upon the environment.

5. Civil Justice Reform

This proposed rule does not have a retroactive or preemptive effect. Judicial review of a rule based on this proposal 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.

6. Paperwork Reduction Act

NHTSA has determined that this notice will not impose a new collection of information burden within the meaning of the Paperwork Reduction Act of 1995 (PRA).

7. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector, of more that $100 million annually. Because a final rule based on this proposal would not have an effect of $100 million, no Unfunded Mandates assessment has been prepared.

8. Plain Language

E.O. 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language include consideration of the following questions:

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

—Are the requirement in the proposed rule clearly stated?

—Does the proposed rule contain technical language or jargon that is unclear?

—Would a different format (grouping and order of sections, use of heading, 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 document.

Request for Comments

How Can I Influence NHTSA's Thinking on This Rule?

In developing this notice of proposed rulemaking, we tried to address the anticipated concerns of all our stakeholders. Your comments will help us improve this rule. We invite you to provide different views, new approaches we have not considered, new data, how this rule may affect you, or other relevant information. Your comments will be most effective if you follow the suggestions below:

Explain your views and reasoning as clearly as possible.

Provide solid information to support your views.

If you estimate potential numbers or reports or costs, explain how you arrived at the estimate.

Tell us which parts of the rule you support, as well as those with which you disagree.

Provide specific examples to illustrate your concerns.

Offer specific alternatives.

Refer your comments to specific sections of the rule, such as the units or page numbers of the preamble, or the regulatory sections.

Be sure to include the name, date, and docket number with your comments.

How Do I Prepare and Submit Comments?

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

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

Please submit two copies of your comments, including the attachment, to Docket Management at the beginning of this document, under **ADDRESSES.**

How Can I Be Sure That My Comments Were Received?

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

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit 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 at the beginning of this document under **FOR FURTHER INFORMATION CONTACT.** In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at

the address given at the beginning of this document under **ADDRESSES.** 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, 49 CFR part 512.

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated at the beginning of this notice under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment 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 comments received by Docket management at the address and times given near the beginning of this document under **ADDRESSES.**

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

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

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

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the heading of this document. Example: if the docket number were NHTSA–2000–1234, ''you would type A1234.''

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

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

You may download the comments. Although the comments are imaged documents, instead of the word processing documents, the ''pdf'' versions of the documents are word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

List of Subjects in 49 CFR Part 573

Defects, Motor vehicle safety, Noncompliance, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR Part 573 as set forth below.

PART 573—REQUIREMENTS AND PROHIBITIONS APPLICABLE TO SAFETY DEFECT AND NONCOMPLIANCE RECALLS

1. The authority citation for Part 573 continues to read as follows:

Authority: 49 U.S.C. 30102–103, 30112, 30117–121, 30166–167; delegation of authority at 49 CFR 1.50.

2. Revise the heading of part 573 to read as set forth above.

3. In § 573.3, revise paragraph (a) and add paragraphs (h) and (i) to read as follows:

§ 573.3 Application.

(a) Except as provided in §§ 573.3(g), 573.3(h) and 573.3(i), this part applies to manufacturers of complete motor vehicles, incomplete motor vehicles, and motor vehicle original and replacement equipment, with respect to all vehicles and equipment that have been transported beyond the direct control of the manufacturer.

* * * * *

(h) The provisions of § 573.11 apply to dealers.

(i) The provisions of § 573.12 apply to all persons.

* * * * *

4. Add § 573.11 to read as follows:

§ 573.11 Limitation on sale or lease of new motor vehicles and new items of replacement equipment.

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

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

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

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

5. Add § 573.12 to read as follows:

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

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

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

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

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

Issued on: July 17, 2001.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 01–18249 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–59–P