DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 573 and 577

[Docket No. NHTSA–2001–11107]

RIN 2127–AI28

Motor Vehicle Safety; Reimbursement Prior To Recall

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to implement Section 6(b) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. Section 6(b) provides that a manufacturer's program to remedy a safety-related defect or a noncompliance with a Federal motor vehicle safety standard shall include a plan for reimbursing an owner for the cost of a remedy incurred within a reasonable time before the manufacturer's notification of the defect or noncompliance and authorizes the agency to establish what constitutes a reasonable time and other conditions for the reimbursement plan.

DATES: *Comments:* You should submit your comments early enough to ensure that Docket Management receives them not later than February 11, 2002.

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, DC 20590. You may also submit your comments electronically by logging onto the Dockets Management System website at *http://dms.dot.gov*. Click on ''Help & Information'' or ''Help/info'' to obtain instructions for filing the document electronically.

Regardless of how you submit your comments, you should mention the docket number of this document in your comments.

You may call Docket Management at 202–366–9324. You may visit Docket Management from 10:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, contact Jonathan White, Office of Defects Investigation, NHTSA, (202) 366–5226. For legal issues, contact Andrew J. DiMarsico, Office of Chief Counsel, NHTSA, (202) 366–5263.

SUPPLEMENTARY INFORMATION:

I. Background

On November 1, 2000, the TREAD Act, Pub. L. 106–414, was enacted. The statute was, in part, a response to congressional concerns related to manufacturers' inadequate responses to defects and noncompliances in motor vehicles and motor vehicle equipment. The TREAD Act authorizes the Secretary of Transportation (''the Secretary'') to issue various rules relating to a manufacturer's notification and remedy program. The authority to carry out Chapter 301 of Title 49 of the United States Code (''Safety Act''), under which rules directed by the TREAD Act are to be issued, has been delegated to NHTSA's Administrator pursuant to 49 CFR 1.50.

Under 49 U.S.C. 30118(b), the agency may make a final decision that a motor vehicle or replacement equipment contains a defect related to motor vehicle safety or does not comply with an applicable Federal motor vehicle safety standard. In addition, under 49 U.S.C. 30118(c), a manufacturer of a motor vehicle or replacement equipment is required to notify the agency if it determines, or in good faith should determine, that its vehicles or equipment contain a defect that is related to motor vehicle safety or do not comply with an applicable Federal motor vehicle safety standard.

49 U.S.C. 30120(a) provides that when notification of a defect or noncompliance is required under section 30118 (b) or (c), the manufacturer is required to remedy the defect or noncompliance without charge when the vehicle or equipment is presented for remedy. That section further specifies that the remedy, at the option of the manufacturer, can be either to repair the vehicle or equipment or replace it with an identical or reasonably equivalent item or, in the case of a vehicle, refund the purchase price less depreciation. The Safety Act contains separate remedy provisions applicable to tires. 49 U.S.C. 30120(b).

49 U.S.C. 30120(d) requires a manufacturer to file with the Secretary a copy of the manufacturer's program for remedying a defect or noncompliance. Pursuant to 49 CFR part 577, manufacturers are required to notify owners of the remedy program. In order to obtain the manufacturer's remedy at no cost, an owner has to act in accordance with the provisions in the notice from the manufacturer. Any other way of remedying the defect or noncompliance would not be free of charge.

Before the TREAD Act, section 30120(d) did not require the manufacturer to reimburse owners for any costs incurred in remedying the defect or noncompliance prior to the notification required under sections 30118 and 30119. Manufacturers often reimbursed owners for these costs, but not in a uniform way. To the extent that the costs were not covered under a warranty program, manufacturers addressed these matters under extended warranty programs, ''good will'' programs, or in resolution of claims, including lawsuits.

Section 6(b) of the TREAD Act amends 49 U.S.C. 30120(d) to require a manufacturer's remedy program to include a plan for reimbursing an owner who incurred the cost of the remedy within a reasonable time in advance of the manufacturer's notification under subsection (b) or (c) of section 30118. Section 6(b) further authorizes the Secretary to prescribe regulations establishing what constitutes a reasonable time for purposes of the preceding sentence and other reasonable conditions for the reimbursement plan.

Below is a summary and explanation of the provisions of today's proposed rule implementing section 6(b).

II. Discussion

A. Introduction

Today's proposed rule would require manufacturers to submit reimbursement plans to the agency that satisfy specific requirements and to comply with the terms of those plans. The proposed rule would specify a minimum time period for which a manufacturer must provide reimbursement to an owner who incurred costs to obtain a remedy before the manufacturer provided notification to NHTSA of a noncompliance with a Federal motor vehicle safety standard or of a safety-related defect. In addition, this proposed rule would specify other requirements of the reimbursement plan and identify permissible conditions and limitations.

B. Who Will Be Required to Comply With the Provisions for a Reimbursement Plan?

The TREAD Act amendments to subsection 30120(d) provide that ''A *manufacturer's* remedy program shall include a plan for reimbursing an owner * * * (emphasis added).'' In these amendments, Congress added requirements to the pre-existing 30120(d) requirement that a manufacturer file with the Secretary a copy of the manufacturer's program for remedying a defect or noncompliance. In this context, the use of the term

manufacturer in the amendments indicates that they apply to the same manufacturers already regulated by section 30120(d). These manufacturers are identified by regulation in the applicability sections of 49 CFR parts 573 and 577, 49 CFR 573.3 and 577.3. Thus, we are proposing that the rule's requirements apply to manufacturers as delineated in sections 573.3 and 577.3.

C. What Constitutes a ''Reasonable Time'' in Advance of the Manufacturer's Notice of Noncompliance or of a Safety-Related Defect?

Under section 6(b) of the TREAD Act, manufacturers need only provide reimbursement for costs incurred within a ''reasonable time'' in advance of notification. Thus, not all pre-notification remedies are covered under this provision. The legislative history does not provide further direction. An earlier version of this provision would have required reimbursement for ''parts replaced immediately prior to recall.'' See H.R. Rep. No. 106–954 at 6 (2000). However, this language was not adopted. Instead, Congress used the term ''reasonable time,'' which is more extensive than ''immediately prior to recall,'' and authorized the agency to delineate what constitutes a reasonable time.

The agency believes that there should be objective, bright-line rules for determining reasonable times that apply across the board, as opposed to provisions that would require case-by-case factual determinations. Bright-line rules can be applied by manufacturers, without determinations by NHTSA and with relative certainty and ease. They will likely result in fewer disputes and complaints—which the agency does not have the resources to address. In contrast, case-by-case determinations of what is ''reasonable'' under particular circumstances are likely to involve knotty questions of what the manufacturer knew at various times and what a ''reasonable'' consumer would have done at various times. These can be difficult to resolve, and their resolution would be likely to delay the reimbursement program—a result which is not supported by the legislation.

We believe that bright-line rules for determining reasonable times will ordinarily allow manufacturers to administer the pre-notification remedy reimbursement program without NHTSA's involvement. Under today's proposal, there would be no agency involvement in the resolution of disputes between manufacturers and owners. Except for review of the manufacturer's remedy program, NHTSA will remain outside of the process because the agency simply does not have the resources to address individual reimbursement disputes. We seek comments on ways to minimize disputes.

We further believe that the determination of a reasonable time should be related to the statutory concerns underlying the remedy of noncompliances with Federal motor vehicle safety standards and safety-related defects and, where applicable, to the agency's investigative activities with respect to alleged noncompliances and defects.

NHTSA's Office of Vehicle Safety Compliance (OVSC) conducts investigations to determine if motor vehicles or motor vehicle equipment meet the Federal motor vehicle safety standards codified in 49 CFR part 571. An important element of this program is examination or testing of a vehicle or item of motor vehicle equipment. If the agency's examination or testing indicates a possible noncompliance, the agency advises the manufacturer. The testing or examination is a critical event. If the manufacturer does not rebut the *prima facie* noncompliance shown in NHTSA observations or testing, it will ordinarily determine that a noncompliance exists, file a report under 49 CFR part 573, and then conduct a recall. If the manufacturer does not do so, the agency will conduct an investigation and proceed, if appropriate, to a determination of noncompliance. Alternatively, a noncompliance determination may be based on a manufacturer's testing or observation.

NHTSA's Office of Defects Investigations (ODI) conducts investigations to determine if a motor vehicle or item of motor vehicle equipment contains a safety-related defect. A safety defect investigation may involve several major phases. First, information is gathered from consumer reports, complaints and letters that are received by NHTSA through its Auto Safety Hotline (a telephone hotline), website, or written communications. Pursuant to section 3(b) of the TREAD Act, ODI will be able to consider other forms of early warning information. Based upon the available information, ODI may open a defect investigation.

In most cases, the initial phase of such an investigation is known as a Preliminary Evaluation (PE). During a PE, the manufacturer is contacted and required to provide information and other materials to ODI that are then reviewed and analyzed. PEs are generally resolved within four months, either by a manufacturer recall, an ODI decision to close the investigation, or by upgrading the investigation to an engineering analysis (EA). Engineering analyses may also be opened on the basis of recall queries (RQ) or service queries (SQ). During an EA, ODI obtains additional information from the manufacturer pertaining to the alleged problem. ODI may also undertake engineering studies and surveys, and it often performs tests on the vehicle or equipment at issue. The goal is to complete an engineering analysis within one year. If a potential safety-related defect is identified by ODI at the conclusion of the EA, and the manufacturer does not agree to conduct a recall to address it, the agency may proceed to a formal defect determination, which is accompanied by a recall order.

Some defect and noncompliance recalls are initiated by manufacturers under 49 U.S.C. 30118(c) after NHTSA has opened an investigation or other inquiry (we refer to these as influenced recalls). Others are initiated by manufacturers on their own, in the absence of any NHTSA involvement (we refer to these as uninfluenced recalls). Relatively few recalls are ordered by NHTSA under 49 U.S.C. 30118(b).

We are proposing to base our definition of ''reasonable time'' for purposes of section 6(b) of the TREAD Act on the above-described processes. With respect to a noncompliance with a Federal motor vehicle safety standard, we propose that the period that is reasonable for reimbursement purposes begins on the date of the initial test failure or the initial observation of a possible noncompliance. For noncompliance recalls that are influenced by OVSC, the date of the initial test failure will be apparent. With respect to noncompliance recalls that are not influenced by OVSC, 49 CFR 573.5(c)(7) requires manufacturers to identify ''the test results or other data'' that led to the manufacturer's determination. We are proposing an amendment to this language to require the manufacturer to specify the date when it first identified the possibility that a noncompliance existed.

With respect to influenced defect recalls, we believe that the opening of an EA by ODI is a relevant stage for the beginning of the reimbursement period. At this stage, there is sufficient concern about the matter within ODI that the investigation has been upgraded from a preliminary stage. NHTSA seeks to resolve the investigation within one year of the opening of the EA, by either a determination that a safety-related defect exists or the closure of the investigation. Some investigations will take less time, while some

investigations will take longer than one year after the opening of an EA.

Circumstances surrounding uninfluenced defect recalls are different from influenced recalls. There is no readily identifiable event comparable to the opening of an EA that may be used for the beginning of the period for reimbursement. Nonetheless, on the whole, we believe that the pre-notification time period for uninfluenced recalls should be comparable to that for influenced recalls. Based on NHTSA's goal of one year for resolving EAs, we are proposing that the time period for uninfluenced recalls should begin one year before the date of the manufacturer's Part 573 notice.

On this basis, we are proposing that the ''reasonable time'' for purposes of section 6(b) in regard to safety-related defects runs from the date an EA was opened or, if an EA was not opened, one year before the date of the manufacturer's submission a notification to NHTSA pursuant to 49 U.S.C. 30118 and 49 CFR 573.5.

The final question is when does the period of ''reasonable time'' end. The Act refers to costs incurred in advance of the manufacturer's notification under subsection (b) or (c) of section 30118. Those subsections refer to notices to owners, purchasers and dealers, as well as to NHTSA. In concept, the period should end when the owner receives notice from the manufacturer under 49 CFR part 577. After the owner receives notice, the owner should act in accordance with the provisions in the notice from the manufacturer, and if he or she acts otherwise, he or she should not be reimbursed under a reimbursement rule. However, there are several practical difficulties with this conceptual approach. First, the date on which an owner actually receives notice of the recall is not known by the manufacturer. Thus, an actual notice rule could result in a potentially open-ended reimbursement period if the owner alleged that he or she did not receive a notice. In view of these concerns, we propose the following end dates for the period of reimbursement, regardless of whether the notice is predicated upon a safety-related defect or a noncompliance with a Federal motor vehicle safety standard. For motor vehicles, the end date would be ten days after the manufacturer mailed the last of its initial Part 577 notices (to allow for mail delivery). This is based on the general effectiveness of mailings of Part 577 notices regarding vehicles and the recognition that in large recalls the notices are not all mailed at the same time.

Our approach to replacement equipment would be different from that for motor vehicles because of the difficulties inherent in notifying owners of replacement equipment. In contrast to motor vehicles, which are registered by the states, replacement equipment is not registered by a governmental entity. Even in the case of child restraints, for which NHTSA requires manufacturers to maintain a database of consumers who choose to register their seats, only approximately 30 percent of purchasers return the registration cards to the manufacturer, and many restraints are transferred from the original owner to subsequent owners who do not register the seats. For these reasons, we usually require manufacturers of replacement equipment to publicize the existence of safety defects and noncompliances through press releases, advertisements, website notices, notices in stores that sell the items, etc. Accordingly, for replacement equipment, we are proposing that the end date of the reimbursement period would be the 30 days after the conclusion of the manufacturer's initial efforts to publicize the existence of the defect or noncompliance.

We seek comments on whether other triggers or time periods would be more appropriate.

D. What ''Reasonable Conditions'' May Be Established by a Reimbursement Plan?

Section 6(b) of the TREAD Act does not specify in detail what must be included in a manufacturer's reimbursement plan. Rather, the section states, ''The Secretary may prescribe regulations establishing * * * reasonable conditions for the reimbursement plan.'' We are proposing regulations that would allow manufacturers to include certain provisions limiting reimbursement in the plan. However, manufacturers may impose less stringent restrictions on reimbursement if they choose to. To assure that manufacturers do not unduly restrict reimbursement, we are proposing to preclude other conditions.

As discussed below, we are proposing several permissible conditions which, generally stated, relate to: (1) the availability of free warranty coverage, (2) the nature of the pre-notice repair or replacement and its relationship to the defect or noncompliance; (3) the amount of the reimbursement, and (4) the provision of suitable documentation for reimbursement. The plan could not include other conditions, except, based on comments, possibly some relating to fraud. These conditions are discussed in detail below.

1. Remedies Performed Outside the Period of Free Remedy Warranty Coverage

One condition that a manufacturer may include in its reimbursement program under today's proposal is that the pre-notification remedy must have been performed or obtained after the conclusion of any warranty that would have covered the repair at no cost to the consumer. Many repairs to address conditions that are subsequently determined to constitute a safety defect are within the coverage provided by the manufacturer's warranty program. The purpose of the reimbursement plan is not to create a duplicate of the manufacturer's warranty program. The purpose is to provide a system, that includes reasonable conditions, to reimburse an owner who has incurred costs to obtain a repair or replacement of the product before notification that a defect or noncompliance exits.

Under a typical warranty program, the manufacturer (through its dealers) will perform the necessary repairs or take other appropriate action at no cost to the owner. This creates an incentive for an owner to return his or her vehicle or equipment promptly to a franchised dealer or other authorized establishment to remedy any problems, including potential safety-related problems, while covered under the warranty program. The warranty program also provides information to the manufacturer that it can consider regarding the performance of its product and that might be reported to NHTSA under the ''early warning'' regulation to be adopted under section 3(b) of the TREAD Act, 49 U.S.C. 30166(m). Under today's proposal, manufacturers could provide in their remedy program that consumers who could have obtained a free remedy from a franchised dealer or other authorized entity through the manufacturer's warranty program, but had repairs performed elsewhere, would not be eligible for reimbursement.

This exclusion from the reimbursement program would not be absolute. In particular, if an owner presented the vehicle or equipment to a person authorized to perform warranty work and that person concluded that the problem or repair was not covered under the warranty, or the repair did not remedy the problem, an owner would have to be reimbursed for the reasonable costs of a remedy that was subsequently obtained at a facility that is not an authorized warranty service provider.

We seek comments on whether other exclusions related to warranty coverage are warranted.

2. The Nature of the Pre-notification Remedy

We are proposing conditions that a manufacturer may impose in the reimbursement plan on those pre-notification remedies that would be eligible for reimbursement under the manufacturer's plan. We are using the term eligible as a shorthand characterization that the pre-notification remedy would satisfy the technical conditions for reimbursement, which are addressed below.

First, a manufacturer would be permitted to limit reimbursement to remedies that addressed the noncompliance or defect. The defect or noncompliance is described in part 573 information reports and in notifications to owners. See 49 CFR 573.5(c)(5), (c)(8)(i); 49 CFR 577.5(e). The rationale for this condition is straightforward: manufacturers should not be required to pay for repairs that did not address the problems addressed by the recall.

As a second condition, a manufacturer could limit the extent of repairs that are eligible to those that were reasonably necessary to correct the underlying problem. For example, if the defect was a failing ignition switch, under today's proposal the manufacturer would not have to pay for a replacement of a steering column unit that included the switch, unless that was the only pre-notification repair available to the owner.

However, a manufacturer could not provide that to be eligible a repair would have to be *identical* to the recall remedy. In many instances, the part used in the recall would not have been available before the recall. In these circumstances, the pre-recall repair would necessarily have involved the installation of a part that was different from the remedy part. In fact, prior to a recall, repair facilities often replace inadequate original equipment parts with replacement parts that are identical to the original parts. If those parts were defective or otherwise contributed to defective performance, they would be redesigned for purposes of the recall. Another alternative remedy sometimes employed by manufacturers is a specially designed repair kit. These, too, are not available before the recall.

Additionally, the reimbursement program could not preclude a vehicle owner from obtaining both the recall remedy free of charge and reimbursement for past expenses, where otherwise allowed. For example, assume that an owner replaced an item of original equipment with the same part. If the recall remedy is to install a new part made of a material with better properties than the original part, the owner would be entitled to the free recall remedy and to be reimbursed for the cost of pre-recall repair.

Third, the manufacturer of a vehicle could limit reimbursement to costs incurred for the same *type* of remedy as selected by the manufacturer. The general categories of remedies are set forth in 49 U.S.C. 30120(a)(1). For vehicles, this includes repair, replacement of the vehicle with an identical or reasonably equivalent vehicle, or refunding the purchase price less depreciation. Under 49 U.S.C. 30120(a)(1)(A), manufacturers are permitted to choose the remedy. (If the remedy is found to be inadequate, NHTSA may order an alternate remedy. 49 U.S.C. 30120(e)).

For vehicles, if the manufacturer's remedy was a repair, the manufacturer could limit the scope of reimbursement to pre-notification repairs, and not provide reimbursement for the cost of replacement of the vehicle. Since almost all vehicle recalls involve some form of repair, typically the costs to be covered under the reimbursement plan would be for repairs that addressed the defect or noncompliance. Ordinarily this involves parts, associated labor, miscellaneous fees (*e.g.*, disposal of waste) and taxes.

Today's proposal treats replacement equipment differently from motor vehicles with regard to the relationship between the recall remedy and the pre-notice remedy. To begin, problems with vehicles and equipment are addressed differently by owners and businesses. Almost without exception, both recall remedies for defects and noncompliance in vehicles and pre-recall actions taken by consumers to address vehicle problems involve repair. That is not the case for replacement equipment. Although many equipment recalls involve replacement of the defective or noncompliant item, some do not. Yet owners who experience pre-recall problems with replacement equipment will ordinarily replace the equipment rather than have it repaired. In part, this stems from the cost of the items and the availability, effectiveness, and acceptability of repair. Vehicles are very expensive, and repair is the ordinary solution to a problem. On the other hand, many items of replacement equipment are not expensive, and repairs may not be available.

For example, noncompliant and defective tires, lighting equipment, motorcycle helmets, and brake hoses generally are replaced, not repaired. For child seats, sometimes repair kits are developed for recalls. However, these repair kits ordinarily are not available during most or all of the pre-recall period that is relevant under today's proposal. Even if a repair kit were available, an owner who experienced a problem might reasonably elect not to have the seat repaired. For example, assume that the handle locking mechanism on an infant restraint failed, creating a potential for the infant to fall out of the restraint. Ordinarily, the owner would not be able to repair it, but instead would purchase a different child seat. In light of circumstances such as these, we believe it reasonable to require the manufacturer to reimburse an owner for the cost of a replacement that he or she had obtained prior to the defect determination, regardless of the recall remedy (*e.g.*, in the above example, a handle locking mechanism repair kit). However, the owner would not also be entitled to the recall remedy, since the owner would have been made whole by reimbursement for the new seat.

We believe that additional conditions may be warranted for child seats. Consider the following example. An owner of an infant child seat covered by a defect recall may have previously purchased a convertible seat because his or her child outgrew the infant seat, rather than replacing the seat because of a problem with the handle. We believe that the manufacturer should not be required to reimburse such an owner for the cost of the second seat. However, we are not sure of the best way to allow manufacturers to identify situations like this in which reimbursement would not be appropriate, yet to assure that manufacturers do not deny reimbursement where it is warranted. Thus, we seek comment on possible conditions on pre-notification reimbursement in connection with child seats. These include, but are not limited to, whether to allow reimbursement to be conditioned on whether an owner registered the seat with the child seat manufacturer, whether the receipt indicating the purchase of a replacement seat must indicate that it is a model comparable to the original seat, and whether to require the owner of a defective seat to return it to the manufacturer or otherwise prove it has been destroyed in order to obtain reimbursement. We also seek comments on the practical applications of this proposal.

E. Amount of Reimbursement

Beyond the general considerations addressed above regarding remedies for which reimbursement must be provided, we are proposing requirements related to the amount of reimbursement to be provided.

For vehicles, almost without exception, the reimbursement will be

for the costs incurred by the owner to repair or replace the component or system implicated in the defect or noncompliance determination. While there are two other statutorily-authorized types of remedy for defects and noncompliances in motor vehicles—replacement and refund—in practice these types of remedies are extremely rare. Ordinarily, the amount of reimbursement for a repair could not be less than the lesser of (a) the amount actually paid by the owner for an eligible remedy, or (b) the cost of parts for an eligible remedy, labor at local labor rates, miscellaneous fees such as disposal of wastes, and taxes. Costs for parts may be limited to the manufacturer's list retail price for authorized parts. Any associated costs, such as taxes or disposal of wastes may not be limited. This proposed rule does not address, and under this proposed rule manufacturers would not have to provide, reimbursement for consequential injuries and damages such as personal injuries, property damages, rental vehicles, or missed employment. However, the proposed rule would not affect an aggrieved party's right to bring a civil action for any consequential damages that may arise as a result of the problem that was remedied by the owner.

Not all costs of repairs of vehicles would have to be reimbursed. For example, if a custom-designed replacement part was machined and installed, the cost of the custom-designed replacement part would not be reasonable and therefore would not have to be reimbursed. In instances where there are multiple repairs in one service visit, only those repairs that addressed the problem that was ultimately determined to constitute a safety-related defect or noncompliance would be reimbursable.

Even if a vehicle repurchase or replacement remedy is offered by the manufacturer, the owner would only be eligible for reimbursement of the costs associated with the pre-notification repairs. Of course, if the owner continues to own the vehicle, he or she would also be entitled to repurchase or replacement. We note that even if an individual had sold the vehicle prior to being notified of the recall, he or she would be eligible to be reimbursed for any repair costs related to the defect or noncompliance.

With regard to replacement equipment, as noted above, replacement is a very common remedy prior to notice. The amount of reimbursement ordinarily would be based upon the amount paid by the owner for the replacement item, as indicated on a receipt, up to the total of the retail price of the item, plus taxes. In some instances, labor would also be included. In cases in which the owner purchased a brand or model different from the equipment that was the subject of the recall, the manufacturer would be permitted to limit the amount of reimbursement to the ordinary retail price of the defective or noncompliant model that was replaced, plus taxes.

F. How To Obtain Reimbursement

1. What Documentation Must the Owner Submit in Order To Obtain Reimbursement?

We are proposing to allow manufacturers to establish certain requirements with respect to requests for reimbursement for pre-notification remediation of a defect or noncompliance in motor vehicles or motor vehicle equipment. Manufacturers may require an owner to present documentation that shows: (1) The name and mailing address of the owner; (2) product identification information, which means (a) for vehicles, the vehicle make, model year (MY) and model as well as the vehicle identification number (VIN), (b) for replacement equipment other than tires, a description of the equipment, including model and size as appropriate, and, (c) for tires, the model, size, and DOT number of the replaced tire(s); (3) identification of the recall (either the NHTSA recall number or the manufacturer's recall number); (4) a receipt (an original or a copy) that provides the amount of reimbursement sought; for repairs, this would include a breakdown of the amounts for parts, labor, other costs and taxes; for replacements, this would include the cost of the replacement item and associated taxes (where the receipt covers work other than to address the defect or noncompliance, the manufacturer may require the owner to separately identify the costs that are eligible for reimbursement); and (5) if the owner seeks reimbursement for costs within the warranty period, documentation to support either the denial of a repair under warranty or of the failure of a warranty repair followed by a repair at a non-franchised or unauthorized facility.

The manufacturer could provide that, to receive reimbursement, costs must be itemized by parts and labor on a proper receipt. We have selected these documentation provisions to ensure, reasonably effectively, that the vehicle or equipment is covered by a recall, that the reimbursement sought is related to the defect or noncompliance and not to other expenses, that multiple claims for the same work are not presented, and that the reimbursable costs are identified. Ordinarily, further requirements, such as requiring the owner to preserve or present the defective or noncompliant parts to the manufacturer, would be impracticable and unduly burdensome on the owner. We request comments on appropriate reimbursement provisions, including any reasonable provisions related to prevention of fraud. Additionally, we request comments on whether a receipt will provide sufficient information to a manufacturer to determine if the owner's remedy addressed the defect and whether it was reasonable. If not, what other information would be appropriate?

2. To Whom Must the Documentation Be Submitted?

The manufacturer must identify the office, including its address, to which the documentation is to be submitted.

3. May the Manufacturer Establish a Cut-Off Date for Reimbursement Claims?

We believe that there should be some limit on the ability of a manufacturer to establish a cut-off date for submission of claims for reimbursement. One approach is to base the minimum time frame on the period during which the recall campaign is subject to quarterly reporting pursuant to 49 CFR 573.6. That section requires each manufacturer that conducts a defect or noncompliance campaign to provide a quarterly report to NHTSA for six consecutive calendar quarters beginning with the quarter in which the campaign was initiated. Another approach is to set a fixed period applicable to all recalls; e.g., 90 days after the end of the reimbursement period, as defined above. This approach would require manufacturers to identify the outside end date for the submission of claims for reimbursement in the part 577 letter to owners. This outside end date would not be based upon 90 days from the date the letter is sent to each individual owner, rather the outside end date would be based upon the date the manufacturer reasonably believes the notification campaign would be completed. Thus, the outside end date for the submission of claims for reimbursement would be 90 days from the date of the last notification letter sent to owners under part 577. We are proposing the latter approach, but would like to receive comments on whether a different period would be more appropriate.

4. When and How Must an Owner Receive Reimbursement?

We are proposing to require manufacturers to act upon reimbursement claims within a reasonable time from the date a complete claim is received. We have tentatively decided that this period should be 60 days. The action may either be a grant or a denial of the claim for reimbursement.

In the event that a manufacturer receives a claim for reimbursement for a pre-notification remedy that contains deficient documentation, the manufacturer would be required to advise the claimant within 30 days that his or her claim is deficient and provide an explanation of the documents that are needed to make the claim complete and that such supplemental documents must be submitted within an additional 30 days. If the owner does not provide the required information within that 30 day period, the manufacturer may deny the claim.

If the manufacturer determines that a claim for reimbursement will not be paid in full, it must clearly advise the owner, in plain language, the reasons for the denial. NHTSA will not mediate, adjudicate, or otherwise review any disputes between manufacturers and consumers regarding eligibility for, or the amount of, reimbursement.

G. How Is the Owner Notified of the Reimbursement Plan?

The inclusion of a reimbursement plan in a manufacturer's remedy program would have little effect unless owners were aware of their right to obtain such reimbursement. Therefore, we believe that manufacturers must include certain information about the availability of reimbursement for the costs of pre-notification remedies in the notification to owners required under 49 CFR part 577.

There are several possible approaches to this issue. We could require manufacturers to include a copy of the plan in each notification sent to owners. Alternatively, we could amend part 577 to require manufacturers to describe their reimbursement plans in some detail or we could actually mandate particular language that manufacturers would have to use in their owner notifications. In view of the detail needed to fully describe the circumstances under which reimbursement would or would not be allowed, the amount of information included under each of these alternatives could exceed the safety-critical information about the defect or noncompliance itself. We are concerned that a lengthy description of the reimbursement program would run the risk of detracting from an owner's awareness of the need to have the remedy work performed. This imbalance in individual notices would be exacerbated by the inapplicability of the reimbursement provisions to the vast majority of owners, who ordinarily would not have incurred reimbursement expenditures. Therefore, we are proposing that the part 577 owner notification letter would need to identify the possibility of reimbursement for costs incurred to remedy problems related to the recall between certain dates, specify the date by which the owner must submit a claim for reimbursement, and identify ways that owners who may be eligible can review or timely obtain a copy of the manufacturer's reimbursement plan. (Although, as stated above, the actual end date of the period for reimbursement would not be tied to any given owner's receipt of a part 577 letter, to avoid confusion, we are proposing that the manufacturer would provide the date of receipt of the part 577 letter to identify the period in question.) To assure that those plans are available to owners, we are proposing that the part 577 letter would have to identify an Internet Website address maintained by the manufacturer where the plan applicable to the recall in question can be found, and would have to state that the plan could also be obtained by calling the manufacturer at a specified (toll-free) telephone number or by writing to the manufacturer at a specified address, and specify the date by which the owner would have to request the plan in order to receive it in time to complete the request for reimbursement. We request comment on whether this approach will provide owners with adequate information about the possibility of reimbursement for the cost of pre-recall remedies, and whether the specific language that we have proposed can be improved. Additionally, we seek comment whether this approach is a reasonable way to advise vehicle owners of the possible availability of and requirements for reimbursement; i.e., will the owner understand how to obtain reimbursement if this approach is chosen and be able to timely submit a complete reimbursement claim. We also ask for comments concerning alternatives that might be preferable to the proposal with the reasons for, and information relating to, any alternatives. We also seek comments on whether a Website and a toll-free telephone number will provide owners with sufficient, clear information.

H. Nonapplication

To be consistent with the statutory limitation found in 49 U.S.C. 30120(g), the requirement that reimbursement for a pre-notification remedy be provided to an owner does not apply if, in the case of a motor vehicle or replacement equipment, it was bought by the first purchaser more than 10 calendar years, or in the case of a tire, including an original equipment tire, it was bought by the first purchaser more than 5 calendar years, before notice is given under 49 U.S.C. 30118(c) or an order is issued under section 49 U.S.C. 30118(b).

I. General Plans for Reimbursement

We are proposing to allow manufacturers to submit to the agency one or more general reimbursement plans that could be incorporated by reference into any recalls associated with their products, rather than submitting a separate reimbursement plan for each recall. The reimbursement plan would remain on file with the agency and be available to consumers for their review. Under this proposal, the manufacturer would have to update such plans at least every two years to provide consumers with current information. If this proposal were adopted, manufacturers would not have to submit a separate reimbursement plan to NHTSA for each recall. We seek comments on whether this proposal is workable.

III. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

We have considered the impact of this proposed rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This rulemaking is not considered ''significant'' under the Department of Transportation's regulatory policies and procedures. The impacts of this rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation because this provision only involves reimbursement of eligible expenses to owners who paid to remedy a defect or noncompliance prior to the recall notification.

We estimate that the additional economic impact of this rule upon manufacturers will be small. First, although we cannot precisely estimate the number of owners who have made related repairs prior to a manufacturer's

defect or noncompliance determination, we believe the number is relatively small. One indicator would be the number of complaints received by the manufacturer. Our review of a sample of part 573 reports from the past year indicates that manufacturers often have not received many complaints from owners about the problem prior to making a defect or noncompliance determination. Second, most manufacturers already provide reimbursement for pre-recall repairs under warranty programs and some other circumstances. Finally, one of the conditions that manufacturers may establish under today's proposed rule is that the pre-notification purchase or repair must be outside of the warranty period. Generally, manufacturers offer a warranty program that covers a period of 36 months or 36,000 miles. History indicates that most recalls occur within the period of coverage under warranty programs. In 2000, there were 672 recalls conducted by vehicle and equipment manufacturers. Of these, only 41 (approximately 6%) occurred after the expiration of the period of coverage offered by the manufacturer under its warranty program. Conversely, the remaining 94% occurred within 36 months which is the most common warranty period.

B. Regulatory Flexibility Act

We have also considered the impacts of this notice under the Regulatory Flexibility Act. For the reasons discussed above under E.O. 12866 and the DOT Policies and Procedures, I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. The impacts of this rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation because this provision only involves motor vehicle and equipment manufacturers that have submitted defect or noncompliance reports. The majority of recalls are not initiated by small entities. The primary impact of this rule will be felt by the major vehicle manufacturers. Even this impact will be minor since it only involves owners of vehicles and motor vehicle equipment who have paid to remedy a defect or noncompliance prior to recall in a manner that warrants reimbursement under the rule. This number is expected to be small for the reasons stated in the prior section of this notice.

C. National Environmental Policy Act

We have analyzed this proposal under the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

D. Paperwork Reduction Act

NHTSA has determined that this proposed rule will impose new collection of information burdens within meaning of the Paperwork Reduction Act of 1995 (PRA).

E. 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 E.O. 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.'' This proposed rule, which would require that manufacturers include a reimbursement plan in their remedy program for owners who have remedied a defect or noncompliance prior to a recall notification under either section 30118(b) or 30118(c) of the Safety Act, will not have a 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 E.O. 13132. This rule making does not have those implications because it applies only to manufacturers who are required to file a remedy plan under sections 30118(b) or 30118(c), and not to the States or local governments.

F. Civil Justice Reform

This proposed rule would not have a retroactive or preemptive effect. Judicial review of the rule 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.

G. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (P.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 tribunal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rule would not have a $100 million annual effect, no Unfunded Mandates assessment is necessary and one will not be prepared.

H. Plain Language

Executive Order 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 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 is not 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 rule.

IV. Submission of Comments

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

In developing this interim final rule, 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 on it, 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.

B. How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your

comments are correctly filed in the Docket, please include the docket number of this document in your comments.

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

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES.**

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 & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

C. 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.

D. 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 (NCC–30), NHTSA, at the address given above 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 above 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.)

E. 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 above 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 it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

F. How Can I Read the Comments Submitted by Other People and Other Materials Relevant to This Rulemaking?

You may view the materials in the docket for this rulemaking on the Internet. These materials include the written comments submitted by other interested persons and the preliminary regulatory evaluation prepared by this agency. You may read them at the address given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location.

You may also see the comments and materials on the Internet. To read them 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 beginning of this document. Example: If the docket number were ''NHTSA–2000–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

(4) On the next page, which contains docket summary information for the materials in the docket you selected, click on the desired comments. You may download the comments.

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 check the Docket for new material.

List of Subjects in 49 CFR Parts 573 and 577

Motor vehicle safety, Reporting and record keeping requirements, Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 573 and part 577 as set forth below.

PART 573—DEFECT AND NONCOMPLIANCE REPORTS—[AMENDED]

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. Part 573.5 would be amended by revising paragraphs (c)(7) and (c)(8)(i) to read as follows:

§ 573.5 Defect and noncompliance information report.

* * * * *

(c) * * *

(7) In the case of a noncompliance, the test results or other data on the basis of which the manufacturer determined the existence of the noncompliance. The manufacturer shall identify the date of each test and observation that indicated that a noncompliance might exist.

(8)(i) A description of the manufacturer's program for remedying the defect or noncompliance. This program shall include a plan for reimbursing an owner or purchaser who incurred costs to obtain a remedy for the problem addressed by the recall within a reasonable time in advance of the manufacturer's notification of owners, purchasers and dealers, in accordance with § 573.13. A manufacturer may incorporate by reference one or more comprehensive reimbursement plans submitted to NHTSA for its entire product line rather than submitting a complete, separate plan for each individual recall. If a manufacturer submits one or more comprehensive plans, the manufacturer shall update each plan every two years. The manufacturer's program will be available for inspection in the public docket, Room 5109 Nassif Building, 400 Seventh St., SW., Washington, DC 20590.

* * * * *

3. Part 573 would be amended by adding § 573.13 to read as follows:

* * * * *

§ 573.13 Reimbursement for pre-notification remedies.

(a) Pursuant to 49 U.S.C. 30120(d) and § 573.5(c)(8)(i), this section specifies requirements for a manufacturer's plan to reimburse owners for costs incurred for remedies in advance of the manufacturer's notification under subsections (b) or (c) of 49 U.S.C. 30118.

(b) For purposes of this section, ''pre-notification remedy'' means a remedy that is obtained by an owner of a motor vehicle or item of replacement equipment for a problem subsequently addressed by a notification under subsection (b) or (c) of 49 U.S.C. 30118 and that is obtained during the period for reimbursement specified in paragraph (c) of this section.

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

(1) The beginning date shall be no later than a date determined as follows:

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

manufacturer indicating that a noncompliance may exist.

(ii) For a safety-related defect that is determined to exist following the opening of an Engineering Analysis (EA) by NHTSA's Office of Defects Investigation (ODI), the date shall be the date the EA was opened.

(iii) For a safety-related defect that is determined to exist in the absence of the opening of an EA, the date shall be one year before the date of the manufacturer's notification to NHTSA pursuant to § 573.5.

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

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

(ii) For replacement equipment, 30 days after the conclusion of the manufacturer's initial efforts to publicize the existence of the defect or noncompliance.

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

(1) The plan may exclude reimbursement for costs incurred within the period during which the manufacturer's warranty would have provided for a free repair of the problem addressed by the recall, unless a franchised dealer or authorized representative of the manufacturer denied warranty coverage or the repair did not remedy the problem addressed by the recall.

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

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

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

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

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

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

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

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

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

(4) The plan may exclude reimbursement if the owner did not submit adequate documentation to the manufacturer at a designated address within ninety (90) days of the end of the period for reimbursement. The plan may require, at most, the following documentation:

(i) Name and mailing address of the claimant;

(ii) Identification of the product:

(A) For motor vehicles, the vehicle make, model, model year, and the vehicle identification number;

(B) For replacement equipment other than tires, a description of the equipment, including model and size as appropriate; or

(C) For tires, the model, size, and the DOT number;

(iii) Identification of the recall (either the NHTSA recall number or the manufacturer's recall number);

(iv) A receipt for the pre-notification remedy, which may be an original or copy:

(A) If the reimbursement sought is for a repair, the manufacturer may require that the receipt state the total amount paid for the repair of the problem addressed by the recall, including a breakdown of the amount for parts, labor, other costs and taxes; and

(B) If the reimbursement sought is for the replacement of a vehicle part or an item of replacement equipment, the manufacturer may require that the receipt state the total amount paid for the item that replaced the defective or noncompliant items; and

(v) If the pre-notification remedy was obtained at a time when the vehicle or equipment could have been repaired or replaced at no charge under a manufacturer's warranty program, the manufacturer may require the owner to provide documentation indicating that the manufacturer's dealer or authorized facility either refused to remedy the problem addressed by the recall under the warranty or that the warranty repair did not correct the problem addressed by the recall.

(e) The manufacturer's plan shall specify the amount of costs to be reimbursed for a pre-notification remedy.

(1)(i) For motor vehicles, the amount of reimbursement shall not be less than the lesser of:

(A) The amount paid by the owner for the remedy; or

(B) The cost of parts for the remedy, plus associated labor at local labor rates, miscellaneous fees such as disposal of waste, and taxes. Costs for parts may be limited to the manufacturer's list retail price for authorized parts.

(ii) Any associated costs, such as taxes or disposal of wastes may not be limited.

(2) For replacement equipment, the amount of reimbursement ordinarily would be the amount paid by the owner for the replacement item, including taxes. In cases in which the owner purchased a brand or model different from the equipment that was the subject of the recall, the manufacturer may limit the amount of reimbursement to the ordinary retail price of the defective or noncompliant item that was replaced, plus taxes. If the equipment was repaired, the provisions of paragraph (e)(1) of this section apply.

(f) The manufacturer's plan shall identify the office or individual to whom claims for reimbursement shall be submitted.

(g) The manufacturer shall act on requests for reimbursement as follows:

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

(2) If a claim is incomplete when originally submitted, the manufacturer shall advise the claimant within 30 days of the submission the documentation that is needed and offer an opportunity to resubmit the claim with completed documentation. If the owner does not do so within 30 days thereafter, the manufacturer may deny the claim.

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

(i) The manufacturer shall implement each plan for reimbursement under this section in accordance with its terms.

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

of a tire, this period shall be 5 calendar years.

* * * * *

PART 577—DEFECT AND NONCOMPLIANCE NOTIFICATION—[AMENDED]

1. The authority citation for Part 577 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. Part 577 would be amended by adding § 577.11 to read as follows:

§ 577.11 Reimbursement notification.

(a) When a manufacturer of motor vehicles or replacement equipment is required to provide notice in accordance with §§ 577.5 or 577.6, in addition to complying with other sections of this part, the manufacturer shall notify owners that they may be eligible to receive reimbursement for the cost of obtaining a pre-notification remedy of a problem associated with a defect or noncompliance consistent with the manufacturer's reimbursement plan submitted to NHTSA pursuant to §§ 573.5(c)(8)(i) and 573.13 of this chapter.

(b) The manufacturer's notification shall include the following language, with the information described in brackets filled in fully and appropriately: ''If you paid to obtain a remedy for the problem covered by this recall between [the beginning of the period for reimbursement identified in the plan] and the date you received this letter, you may be eligible to have some or all of those costs reimbursed. To see whether you are eligible for such reimbursement, you can review or obtain [manufacturer's] reimbursement plan at [the specific Internet address (Uniform Resource Locator) for the plan applicable to the recall], by calling [manufacturer] at [the manufacturer's toll-free telephone number], or by writing to [manufacturer] at [address]. All claims for reimbursement must be submitted no later than [90 days after the end of the period for reimbursement].''

* * * * *

Issued on: December 5, 2001.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 01–30487 Filed 12–10–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 573 and 577

[Docket No. NHTSA–2001–11108]

RIN 2127–AI23

Motor Vehicle Safety; Acceleration of Manufacturer's Remedy Program

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend regulations that pertain to manufacturers' remedies for defective or noncomplying motor vehicles and replacement equipment in order to implement Section 6(a) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. Section 6(a) provides that the Secretary of Transportation may require a manufacturer to accelerate the manufacturer's remedy program if the Secretary determines that it is not likely to be capable of completion within a reasonable time and the Secretary finds: there is a risk of serious injury or death if the remedy program is not accelerated; and that acceleration of the remedy program can be reasonably achieved by expanding the sources of replacement parts, expanding the number of authorized repair facilities, or both.

DATES: *Comments:* Comments must be received on or before February 11, 2002.

ADDRESSES: You may submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. You may also submit your comments electronically by logging onto the Dockets Management System website at *http://dms.dot.gov*. Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

Regardless of how you submit your comments, you should mention the docket number of this document in your comments.

You may call Docket Management at 202–366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: for non-legal issues, Jonathan White, Office of Defects Investigation, NSA–11, National Highway Traffic Safety Administration, telephone (202) 366–5227; for legal issues, Michael T. Goode, Office of Chief Counsel, NCC–10, National Highway Traffic Safety Administration, telephone (202) 366–5263.

SUPPLEMENTARY INFORMATION:

I. Background

On November 1, 2000, the TREAD Act, Pub. L. 106–414, was enacted. The statute was, in part, and as it relates to the specific provision discussed below, a response to congressional concerns related to manufacturers' delays in repairing or replacing motor vehicles or motor vehicle equipment that contain a safety-related defect or fail to comply with a Federal motor vehicle safety standard (FMVSS).

Under 49 U.S.C. 30118(b), the agency may make a final decision that a motor vehicle or replacement equipment contains a defect related to motor vehicle safety or does not comply with an applicable Federal motor vehicle safety standard. In addition, under section 30118(c), a manufacturer of a motor vehicle or replacement equipment is required to notify the agency when it determines, or should determine, that a vehicle or equipment contains a defect that is related to motor vehicle safety or the vehicle or equipment does not comply with an applicable safety standard.

Under both circumstances, the manufacturer is required to notify owners, purchasers and dealers of the defect or noncompliance, and to provide a remedy without charge. Section 30119 sets forth statutory requirements for owner notification and requires the manufacturer to give such notice within a reasonable time. See also 49 CFR part 577. However, if a final decision has been rendered under section 30118(b), then the Secretary prescribes the date by which the manufacturer must provide notification.

49 U.S.C. 30120 further provides that a manufacturer of a noncompliant or defective motor vehicle or replacement equipment must repair it or replace it with an identical or reasonably equivalent vehicle or equipment or, in the case of a vehicle, refund the purchase price less depreciation. Under section 30120(c), if a manufacturer decides to repair a defective or noncomplying motor vehicle or replacement equipment and the repair was not done adequately within a reasonable time, the manufacturer is required to replace the vehicle or equipment without charge or, for a vehicle, refund the purchase price. Failure to repair within 60 days after its presentation to a dealer is prima facie evidence of failure to repair or replace within a reasonable time. The agency can extend the 60-day period. This