DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 579

[Docket No. NHTSA–2006–25653; Notice 2]

RIN 2127–AJ94

Reporting of Early Warning Information

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

ACTION: Final rule.

SUMMARY: This rule amends certain provisions of the early warning reporting rule published pursuant to the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. The amendments modify and clarify some of the manufacturers' reporting requirements under the rule. The rule identifies a subclass of field reports referred to as product evaluation reports and eliminates the requirement that manufacturers submit copies of them to the agency, revises the definition of fire, and limits the time period for required updates to a few data elements in reports of deaths and injuries.

DATES: *Effective Date:* The effective date of this final rule is June 28, 2007, except for the amended definition of fire in 49 CFR 579.4(c). The effective date of the amended definition of fire in 49 CFR 579.4(c) is for the reporting period beginning on January 1, 2008.

Petitions for Reconsideration: Petitions for reconsideration of the final rule must be received not later than July 13, 2007.

ADDRESSES: Petitions for reconsideration should refer to the docket number above and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

For all issues except legal issues: Ms. Tina Morgan, Office of Defects Investigation, NHTSA (phone: 202–366–0699) (Fax: 202–366–7882).

For legal issues: Mr. Andrew J. DiMarsico, Office of the Chief Counsel (Telephone: 202–366–5263) (Fax: 202–366–3820).

SUPPLEMENTARY INFORMATION:

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I. Summary of the Final Rule

This rule completes the first phase of NHTSA's review and update of the early warning reporting (EWR) rule, as required under 49 U.S.C. 30166(m)(5). As explained below, this rule amends certain EWR reporting requirements. Some changes enhance the early warning program by eliminating provisions for submissions of information that have not been valuable to NHTSA in identifying possible defect trends in motor vehicles and motor vehicle equipment. Other changes provide for more focused reporting. Overall, this rule reduces burdens on the agency to review EWR information that has not advanced our mission in identifying potential defects and facilitates our focus on more probative information. It will also reduce the reporting burden on manufacturers. It does not change the basic structure of the early warning reporting program.

In general, the EWR rule requires certain vehicle and equipment manufacturers to submit to NHTSA numerical tallies on property damage claims, consumer complaints, warranty claims and field reports, which are collectively known as EWR aggregate data, and copies of certain field reports. 49 CFR part 579, subpart C. As originally promulgated, the EWR rule excluded a subset of reports known as dealer field reports from the requirement to submit copies of field reports. Today's rule denominates another subset of field reports known as ''product evaluation reports'' and eliminates the requirement that manufacturers submit copies of them to NHTSA. In general, product evaluation reports are evaluations by manufacturers' employees who as part of a program fill out evaluations of the vehicles provided to them for personal use.

Second, this rule amends the definition of fire that applies across the EWR program. Manufacturers are required to submit aggregate data subcategorized by specified systems and components and to report whether it involved a fire. They are also required to provide field reports involving fires. The regulatory definition of fire includes fires and precursors of fires and includes illustrative examples of phenomena within the latter category. The final rule amends the definition of a fire to eliminate two illustrative examples of precursors of fire—the terms ''sparks'' and ''smoldering''—and adds one term, ''melt'', to the definition.

Last, the EWR rule requires manufacturers to submit reports of incidents involving death or injury, and to update these reports to include missing vehicle identification numbers (VINs), tire identification numbers (TINs) and codes on systems or components that allegedly contributed to the incident and whether the incident involved a fire or rollover, if this information is later identified by the manufacturer. This final rule temporally limits the requirement to submit updates of the missing VIN/TIN or components on incidents of death or injury to a period of no more than one year after NHTSA receives the initial report.

II. Background

A. The TREAD Act and Review of the Early Warning Reporting Program

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

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

• Monthly reporting of manufacturer communications (e.g., notices to distributors or vehicle owners, customer satisfaction campaign letters, etc.) concerning defective equipment or repair or replacement of equipment;
• Reporting (within five days of a determination to take such an action) of information concerning foreign safety recalls and other safety campaigns in foreign countries; and
• Quarterly reporting of early warning information: Production information; information on incidents involving death or injury; aggregate data on property damage claims, consumer complaints, warranty claims, and field reports; and copies of field reports (other than dealer reports) involving specified vehicle components, a fire, or a rollover.

We use the term ''Early Warning Reporting'' (EWR) here to apply to the requirements in the third category above, which are found at 49 CFR part 579, subpart C. As described more fully below, the requirements vary somewhat depending on the nature of the reporting entity (motor vehicle manufacturers, child restraint system manufacturers, tire manufacturers, and other equipment manufacturers) and the annual production of the entity.

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

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

NHTSA is evaluating the EWR rule in two phases. The first phase covers the definitional issues that are addressed in this document. We were able to evaluate these issues within a short period of time based on available information and based on the comments we received in response to the September 1, 2006 Notice of Proposed Rulemaking (NPRM), 71 FR 52040.

The second phase of our evaluation will address issues that require more analysis than those addressed in the first phase. For example, in the second phase we expect to evaluate whether there is a need to adjust any of the reporting thresholds and whether any categories of aggregate data should either be enhanced or eliminated. With regard to the specific categories of aggregate data (e.g., data concerning light vehicles), we expect to address whether the information being provided has had or may reasonably have value in the future in terms of helping identify defects and, if not, how the requirement might be adjusted to provide such value. These tasks will require considerable time, but we want to ensure that any significant changes in EWR requirements, or decisions not to make such changes, are based on sound analysis. We anticipate that the agency's internal evaluation of phase two issues will be completed in the latter part of 2007 and that a **Federal Register** notice (if regulatory changes are contemplated) or a report containing the agency's conclusions will follow.

B. The Early Warning Reporting Regulation

On July 10, 2002, NHTSA published a rule implementing the early warning reporting provisions of the TREAD Act, 49 U.S.C. 30166(m). 67 FR 45822. The rule requires certain motor vehicle manufacturers and motor vehicle equipment manufacturers to report information and submit documents to NHTSA's Office of Defects Investigation (ODI) that could be used to identify potential safety-related defects. Thereafter, in response to petitions for reconsideration, NHTSA amended the EWR rule.

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

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

In general (not all of these requirements apply to manufacturers of child restraints or tires), manufacturers that provide comprehensive reports must provide information relating to:
• Production (the cumulative total of vehicles or items of equipment manufactured in the year)
• Incidents involving death or injury based on claims and notices received by the manufacturer
• Claims relating to property damage received by the manufacturer
• Consumer complaints (a communication by a consumer to the manufacturer that expresses dissatisfaction with the manufacturer's product or performance of its product or an alleged defect)
• Warranty claims paid by the manufacturer (in the tire industry these are warranty adjustment claims)
• Field reports (a communication by an employee or representative of the manufacturer concerning the failure, malfunction, lack of durability or other performance problem of a motor vehicle or item of motor vehicle equipment).

Most of the provisions summarized above (i.e., property damage claims, consumer complaints, warranty claims and field reports) require manufacturers to submit information in the form of

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

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

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

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

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

numerical tallies, by specified system and component. These data are referred to as aggregate data. Reports on deaths or injuries contain specified data elements. In addition, certain manufacturers are required to submit copies of field reports, except field reports by dealers.

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

All of the EWR information NHTSA receives is stored in a database called ARTEMIS (which stands for Advanced Retrieval, Tire, Equipment, and Motor Vehicle Information System), which also contains additional information (e.g., recall details and complaints filed directly by consumers) related to defects and investigations.

C. The Notice of Proposed Rulemaking

The September 1, 2006 NPRM proposed to create an exception to the requirement to submit copies of field reports that must be sent to NHTSA. We proposed to eliminate the requirement that manufacturers would submit a class of field reports denominated as ''product evaluation reports'' to NHTSA. We also proposed a definition for product evaluation type field reports. We did not propose to eliminate the requirement that manufacturers covered by the rule include in their quarterly submissions on field reports the numbers of product evaluation field reports received.

We also proposed to amend the regulatory definition of ''fire.'' The regulatory definition of fire includes fires and precursors of fires and illustrative examples of such precursors. We proposed to change the definition of a fire to eliminate two illustrative examples of precursors of fire—the terms ''sparks'' and ''smoldering''—and add one term, ''melt'', to the definition.

In addition, our NPRM included a proposal to amend the scope of a category of components addressed in reports the medium-heavy and bus vehicle category. We proposed to change the category ''Fuel System Other'' to ''Fuel System Other/Unknown''. We anticipated that this expanded category would include vehicles for which the type of fuel system in the vehicle is not known.

Further, for reports on incidents involving a death or an injury, the NPRM proposed to limit the time period in which manufacturers are required to update missing vehicle identification numbers (VINs), tire identification numbers (TINs) and codes indicating systems or components that allegedly contributed to an incident and whether the incident involved a fire or rollover, if this information is later identified by the manufacturer. We proposed to limit the requirement to submit updates to a period of no more than one year after NHTSA receives the initial report.

Finally, in the preamble to the NPRM, we noted that the scope of this rulemaking was limited to those issues proposed by the NPRM and any logical outgrowths of those proposals. We specifically noted that we planned to evaluate the reporting threshold issue, and other issues, in the second phase of our evaluation.

D. Overview of Public Comments to the NPRM

In response to the NPRM, we received comments from several sources. In general, the industry commenters supported the minor adjustments to the definitions in the proposal, with some exceptions. Motor vehicle manufacturers and associated trade organizations that commented were the Alliance of Automobile Manufacturers (Alliance), Association of International Automobile Manufacturers (AIAM), Harley-Davidson Motor Company (Harley-Davidson), Motorcycle Industry Council (MIC), Motor & Equipment Manufacturers Association (MEMA), National Truck Equipment Associated (NTEA) [2], Rubber Manufacturers Association (RMA), and Truck Manufacturers Association (TMA).

We also received comments from consultants Safety Research & Strategies, Inc. (SRS) and Quality Control Systems Corporation (QCS). While SRS and QCS did not oppose the proposed amendments in the NPRM, they commented that NHTSA should delay any changes to the EWR rule until EWR data is available for review by the public.

III. Discussion

A. Field Reports

The EWR regulation requires manufacturers of light vehicles, medium-heavy vehicles and buses, motorcycles, trailers and child restraint systems to submit numerical tallies of field reports and submit copies of certain field reports. 49 CFR 579.21(d), 579.22(d), 579.23(d), 579.24(d) and 579.25(d).[3] As originally promulgated, the EWR rule required more extensive reporting of field reports in aggregate data than submission of copies of field reports to NHTSA. In particular, within the aggregate data on field reports, manufacturers are required to report the number of dealer field reports received, but they are not required to submit copies of dealer field reports. *Id.* The EWR definition of dealer field report is a field report from a dealer or authorized service facility of a manufacturer of motor vehicles or motor vehicle equipment. 49 CFR 579.4. Manufacturers are not required to submit copies of dealer field reports because they are not as technically rich as field reports from a manufacturer's representative. 67 FR 45822, 45855.

The NPRM identified another subcategory of field reports referred to as ''product evaluations'' that the agency proposed to treat in the same manner as dealer field reports. We proposed to define product evaluation report as follows:

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

Under the proposed approach, manufacturers would report the numbers of product evaluation reports in the submission of aggregate data on field reports, but would not submit copies of them. This would ensure that any significant trends in product evaluation reports would be reflected in the aggregate data, but would eliminate time-consuming review of these reports by NHTSA's staff. Our proposal to eliminate product evaluations was based in large part on our experience with product evaluation reports. As explained in the NPRM, a substantial majority of the product evaluations do

[2] NTEA commented that it was concerned about the burden upon its members who are final stage manufacturers and produce more 500 or more vehicles per year. As we noted in the NPRM, the EWR reporting threshold is outside the scope of this rulemaking. NTEA recognized this in its comments. Accordingly, we do not address the reporting threshold in this rulemaking.

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

not contain sufficient information to identify a potential safety-related defect. In the rare instance where a product evaluation report has concerned a potential safety issue, NHTSA has had other available data related to the concern that in our view would have been sufficient for opening an investigation without the product evaluation reports. Thus, while these reports are valuable to manufacturers as part of their efforts to develop products that are well received by consumers they have not proven to be valuable to NHTSA in identifying potential defect trends. Moreover, the number of product evaluations submitted by manufacturers is substantial, as is the associated burden on the agency in reviewing them. About 50 to 60 percent of the approximately 40,000 field reports submitted each quarter fall within the product evaluation classification.

Comments were submitted by the AIAM, Alliance, Harley-Davidson, MIC, QCS, SRS and TMA. AIAM, Harley-Davidson, MIC and TMA supported the proposed change to the reporting requirement and the definition of product evaluation report as written. The Alliance agreed with eliminating the requirement that manufacturers submit copies of product evaluation reports to the agency, but proposed an alternate definition for product evaluation report. QCS and SRS noted the proposed changes the EWR rule regarding product evaluations and recommended that the agency delay any changes until the public had an opportunity to review the EWR data.

The Alliance focused in part on the clause ''a manufacturer's employee who is required to submit the report * * * as a condition of the employee's personal use.'' The Alliance stated that not all product evaluation reports are required by manufacturers (some are merely requested rather than formally required) and that the exclusion of them from the general requirement that copies of field reports be submitted turns on the lack of technical content in the reports, rather than the existence of a manufacturer's requirement that employees submit them to the manufacturer. In addition, the Alliance addressed the clause ''has no responsibility with respect to engineering or technical analysis of the subjects mentioned in the report.'' This language, according to the Alliance, would require manufacturers to determine whether the employee who submitted the report had duties that ''coincidentally related'' to one of the subject areas addressed in the report before determining whether to submit the product evaluation report to NHTSA. Such language, therefore, would increase the manufacturers' reporting burden. To address its concerns, the Alliance suggested that the definition of product evaluation report be changed to read:

> *Product evaluation report* means a field report prepared by, and containing the observations or comments of, a manufacturer's employee who submitted the report concerning the operation or performance of a vehicle or child restraint system as part of the employee's personal use of the vehicle or child restraint system under a manufacturer's program authorizing such use.

We agree with the Alliance's view that it is the limited technical content in product evaluations, rather than an internal corporate reporting requirement, that warrants their exclusion from the requirement that manufacturers submit copies of them to the agency. In other words, the fact that a report was merely requested from the employee but not required should not determine whether it is a product evaluation report. Thus, we are eliminating the phrases ''is required to submit'' and ''as a condition of'' from the definition we proposed and replacing them with, respectively, the word ''submitted'' and the phrase ''as a part of''.

While we agree in part with some of the Alliance's concerns regarding burdens associated with the phrase the employee ''has no responsibility with respect to engineering or technical analysis of the subjects mentioned in the report,'' we do not agree that the solution is simply to eliminate it. We remain concerned that, were we to simply drop that language, the exclusion could be misapplied such that the manufacturer would not submit reports by employees who have actually been assigned to perform technical or engineering evaluation of a known or suspected problem with the vehicle. Such reports have technical merit and should not be excluded from EWR reporting merely because such employees submit such reports while the vehicle is available for the employee's personal use.

To preclude this, we believe that the revised definition should make clear that it does not cover reports by employees who have been granted personal use of a vehicle or child restraint system for the specific purpose of performing technical or engineering evaluation of a known or suspected problem with vehicle or child restraint system (CRS), even if such employees use the vehicle or CRS as part of a broader manufacturer program authorizing personal use. The burden that would be imposed by the language contained in the proposed rule, as the Alliance persuasively explained in its comments, would be to try to determine ''whether a particular evaluation report regarding a particular vehicle was submitted by an employee whose duties might be coincidentally related to one of the subject areas addressed in the report.'' The proposed language would have required the manufacturer to look for matches between the range of an employee's duties and the range of issues covered in a product evaluation report.

At the same time, the Alliance recognizes that NHTSA has a legitimate need for ''a technical or analytical report undertaken in response to a consumer complaint or some other indication of a potential problem.'' What NHTSA is trying to ensure is that it does not lose access to such reports (which are likely to have technical value) that might be prepared in connection with the employee's personal use of the vehicle or CRS.

Accordingly, we have amended the definition to make this clear. Manufacturers could objectively apply this with a very limited additional burden, if any. While the proposed definition would have required the manufacturer to look for any commonalities between an employee's full range of duties and the issues covered in the evaluation report, the final rule definition does not impose that burden. Manufacturers certainly know what vehicles or equipment have been made available for personal use and whether the employee who has been granted that personal use has also been assigned the duty to provide a technical or engineering assessment of a known or suspected problem with that vehicle or equipment. This could occur either as part of a broad manufacturer program permitting personal use or a separate program in which technical personnel are granted personal use to assist his or her analysis of a particular problem. If a manufacturer never authorizes personal use of a vehicle or child restraint system by an employee to facilitate an employee's technical analysis of a previously known or suspected problem with that particular vehicle or system, this definition will present no burden at all. Similarly, if a manufacturer has completely separate programs involving personal use for product evaluation purposes and personal use to facilitate technical analysis of a particular issue, the manufacturer's existing distinctions between these programs mirror the new definition. If, however, a manufacturer

does permit personal use of a vehicle or child restraint system specifically to facilitate such technical analysis but such use is considered part of a broad personal use program, the reports concerning such use have a high likelihood of having technical merit and should not be excluded from submission to NHTSA as product evaluation reports.

Therefore, we are adopting the following definition:

Product evaluation report means a field report prepared by, and containing the observations or comments of, a manufacturer's employee who submitted the report concerning the operation or performance of a vehicle or child restraint system as part of the employee's personal use of the vehicle or child restraint system under a manufacturer's program authorizing such use, but does not include a report by an employee who has been granted personal use of a vehicle or child restraint system for the specific purpose of facilitating the employee's technical or engineering evaluation of a known or suspected problem with that vehicle or child restraint system.

With respect to SRS's and QCS's view that NHTSA should delay any changes to the EWR rule until EWR data is available for public review, we do not agree. The agency has an obligation to periodically review the EWR rule. 49 U.S.C. 30166(m)(5). Nothing in the statute states that this duty is contingent on EWR data becoming public. If the agency were to adopt a policy that delayed rulemakings until confidential data were available to the public, if ever, the agency would not be able to meet its statutory obligations. The public would be deprived of the benefits of our rules. Furthermore, there is no basis for assuming that the EWR data will become publicly available due to the availability of confidential treatment for confidential information and ongoing litigation concerning the EWR data.[4] SRS and QCS confined their comments to the issue of public availability of EWR data, an issue not addressed in this rulemaking. They did not provide comments on the substantive issues dealt with here.

B. Definition of Fire

The EWR regulation requires manufacturers of light vehicles, medium-heavy vehicles and buses, motorcycles and trailers to include in EWR reports incidents involving fires, as well as the underlying component or system where it originated if included in specified reporting elements. 49 CFR 579.21–24. The EWR regulation defines fire as:

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

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

The Alliance and TMA initially requested that we amend the fire definition because, in their view, it is inappropriately broad.[5] Based upon its members' experience during the past few years, the Alliance contended that due to the scope of the definition, the numbers of fires reported in the aggregate property damage, consumer complaint, warranty, and field report data are artificially high. According to the Alliance, this has created an inaccurate picture of fire-related incidents and obscures relevant data.

Following our consideration of this request, in the NPRM, we proposed to amend the fire definition to read:

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

We based this proposed revised definition of fire on a review of a substantial number of field reports in which we looked at what key words were used, and we assessed whether the field reports presented one or more potential fire-related issues of concern, such as a precursor to a fire.[6] Our review led us to propose to eliminate the terms ''sparks'' and ''smoldering'' and add the term ''melt'' to the fire definition because the preceding terms were used less often to describe a fire or precursor to fire, while the latter was used more often to describe a fire or precursor to fire.[7]

Harley-Davidson and the MIC agreed with the proposed definition. However, the Alliance, TMA and MEMA objected to the proposed definition. They commented that the proposed definition of fire would not alleviate the burden associated with the current fire definition. In their view, the terms used to describe precursors to fire in the proposed definition will increase the number of reports that manufacturers will have to review, potentially increasing the number of irrelevant reports to NHTSA. In addition, the Alliance commented that the changed definition may require some manufacturers to reprogram their text mining applications used in preparing EWR reports, thus increasing costs. However, none of the commenters that objected to the proposed definition offered an alternative definition, other than the one initially recommended by the Alliance, which we addressed in the NPRM. The Alliance, TMA and MEMA requested that NHTSA not adopt the proposed definition at this time.

We have decided to adopt the amended fire definition as proposed. Our review of fire-related field reports

[4] The EWR data is the subject of current litigation on the issue whether the provision in the TREAD Act relating to disclosure of early warning data, 49 U.S.C. 30166(m)(4)(C), is an exemption (b)(3) statute under the FOIA. 5 U.S.C. 552(b)(3). The question whether 49 U.S.C. 30166(m)(4)(C) precludes the release of early warning data is before the United States Court of Appeals for the District of Columbia Circuit. *Public Citizen, Inc.* v. *Peters,* No. 06–5304. In light of challenges, the agency has issued a stay on the release of EWR data. In addition, following a remand by the district court in the *Public Citizen* case, NHTSA has proposed amendments of its confidential business rule to include specified EWR data. See 71 FR 63738 (October 31, 2006).

[5] The Alliance suggested that NHTSA amend the fire definition to read: ''Fire means combustion or burning of material in or from a vehicle as evidenced by flame. The term also includes thermal events that are precursors to fire and fire related phenomena that precursors of fires, such as smoldering but does not include events and phenomena associated with a normally function [sic] vehicle such as combustion of fuel within an engine or exhaust from an engine.''

[6] We reviewed approximately 750 field reports under the fire category. Five words or parts thereof were used most often in these reports to describe a fire event or an incident that could be a precursor to a fire in the fire-related field report. These were: burn, flame, fire, melt and smoke. The definition of fire in the current regulation includes two terms describing precursors to fires that were seldom used when reporting fire-related events in field reports: ''sparks'' and ''smoldering''. Moreover, the word spark could relate to legitimate functions such as sparking of spark plugs, which would present a screening burden to manufacturers. Another term, ''melt'', is frequently used by manufacturers in descriptions of fire events or precursor to a fire. We also found that the terms ''flame'' and ''burn'' are used frequently, but it is unnecessary to add them to the second sentence since those terms are included in the first sentence of the definition.

[7] We note that in the preamble to the NPRM we proposed to add the term ''melt'' to the EWR fire definition, yet the proposed regulatory text included the term ''melting''. Our intent was to propose the addition of the term ''melt'', not the term ''melting''. While we believe this to be a distinction without substance because most text mining applications expand root words to include the plural or various tenses, we have corrected the regulatory text to match our intent.

indicates that the amended fire definition will clarify and improve the focus of the EWR program. We added to the definition of fire, a term—''melt'' (which would include all derivative forms of the word ''melt'')—that is used relatively frequently by manufacturers'' representatives when describing a fire-related incident and have eliminated the terms—sparks or smoldering—that are used infrequently.

There may be a small, one-time burden on manufacturers associated with this amendment. The burden would arise in the formulation of amendments to the manufacturers' text mining tools so that the search function utilized by manufacturers captures the additional term ''melt'', if not already included. After adjusting the text mining tools, however, the burden in reporting fires under the new definition should be comparable to the burden under the definition that has applied to date. This follows from the structure of the definition of fire. Both before and after the amendments being adopted today, the first sentence and opening clause of the second sentence of the definition of fire provided that it means ''combustion or burning of material in or from a vehicle as evidenced by flame. The term also includes, but is not limited to, thermal events and fire-related phenomena such as smoke * * * '' Following the words ''such as'', the words ''smoke'', ''sparks'' and ''smoldering'' under the initial definition in the EWR rule and ''smoke'' and ''melt'' under the new definition are illustrative examples of ''thermal events'' and fire-related phenomena and are not all-inclusive terms. That phrase has required and continues to require a good faith review of fire-related reports to determine if the incident is within the scope of the fire definition. Of course, there is a burden associated with such a review, but the manufacturers have not shown that it would increase beyond this potential one-time text mining change.

C. Brake and Fuel System Subcategories

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

The Alliance and TMA initially raised concerns of incorrect binning of reports in the MHB brake and fuel systems subcategories because of the inability to identify the particular brake or fuel system in documents on some vehicles. They placed claims and complaints on vehicles with unknown brake systems or fuel systems in the EWR component category with the most vehicle production, which they observed leads to comparisons that might not be accurate. They recommended that the two brake systems be combined into ''Service Brake System'' and the three fuel systems be combined into ''Fuel System''.

The NPRM explained that NHTSA is also concerned with the precise binning of the EWR data. Because of our concern, we declined to propose an amendment that combined the subcategories as requested due to the potentially less accurate reporting on MHB models with multiple brake or fuel systems. We stated that there is considerable value in knowing the nature of the underlying brake or fuel system. We pointed out that ODI's investigations related to brake and fuel systems frequently involve only one of the multiple brake or fuel systems offered on a particular model of vehicle. Combining the brake and fuel system categories would have diminished ODI's ability to identify trends because aggregating the data into a single category for brake or fuel systems could mask potential problems in one particular type of brake or fuel system. In addition, we noted that in virtually all of the EWR MHB aggregate data, the vehicle identification number (VIN) identifies the type of brake or fuel system on the vehicle.

In an attempt to improve the accuracy of the data that we are receiving, we proposed to amend the MHB fuel system subcategory. The agency proposed to amend the component category ''09 fuel system, other'' to ''09 fuel systems, other/unknown''. We also requested comment on whether the agency should add new subcategories to one or both of the brake and fuel component categories. The NPRM suggested that by segregating out the unknown fuel systems, the accuracy of the other fuel system categories could increase.

We received comments from the Alliance and TMA on the MHB vehicle brake and fuel subcategory proposals. The Alliance agreed with our view that manufacturers can identify the particular type of brake and fuel systems in vehicles in the MHB category through the VIN in almost all the EWR aggregate data. The Alliance concurred with the agency's view that there is very little chance of inaccurate reporting under the current regulatory structure and recommended that the agency retain the existing system, without change. TMA commented that there is limited potential for erroneous reporting based on the current brake and fuel categories and opposed the proposed changes to the brake and fuel subcategories due to the burden associated with such changes.

We have decided not to adopt the proposed change to the MHB fuel subcategory or to change the MHB brake category. As noted in the NPRM and as the Alliance and TMA recognize, the frequency of inaccurate reporting due to an unknown brake or fuel system on a subject vehicle is very low because the VIN identifies the type of brake or fuel system on the vehicle. Therefore, the potential for inaccurate data and erroneous comparisons within the EWR aggregate data is negligible.

D. Updating of Reports on Death and Injury Incidents

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

In the NPRM, we proposed to limit the requirement to update to four calendar quarters or less after the submission of the initial report. Based on over two years of EWR data, after one

year following the initial EWR report, the likelihood of obtaining missing information on the VINs/TINs and the systems and components that allegedly contributed to the incident diminished substantially. As indicated in the NPRM, under this approach, the EWR program would not be adversely affected by the absence of the information that would no longer be received after one year. The proposed amendment would reduce some of the burden on manufacturers to provide updates. We also stated that manufacturers that identify a missing VIN, TIN or component later than one (1) year after the submission of the initial report may submit an updated report of such incident at their option. In advancing this proposal, we declined to follow the initial recommendation of the Alliance to eliminate entirely the requirement to update after the initial report. As explained in the NPRM, updating information on deaths and injuries is important to provide complete and accurate information relating to death and injury incidents as an early indicant of a potential safety-related trend.

The Alliance, AIAM, Harley-Davidson, MIC, RMA and TMA all supported the proposed amendment limiting the requirement to update reports of incidents involving death or injury to a period of no more than one year after NHTSA receives the initial report. We did not receive any comments that opposed the proposal to limit temporally the requirement to update. NHTSA, therefore, is adopting the amendments to 49 CFR 579.28(f)(2)(i) and 49 CFR 579.28(f)(2)(ii) as proposed.

In addition to expressing support for limiting the requirement to update incidents involving death or injury, RMA recommended that manufacturers should have the ability to delete reported claims or notices of injury or death that erroneously included a tire that the manufacturer later learns from the TIN is outside the scope of EWR reporting. RMA contends that while this problem happens infrequently, a correction to the system is necessary to maintain the integrity of the EWR data.[8]

We decline to adopt RMA's recommendation to permit tire manufacturers to delete data from the ARTEMIS database. First, the magnitude of the alleged problem of errors is not significant. RMA noted that it occurs infrequently. ODI is aware of only 12 tire incidents (less than 1 percent of all tire death and injury claims and notices) where the manufacturer initially submitted a death or injury incident in a quarterly report, but later learned that the tire allegedly was outside the reporting requirements of the rule. RMA's suggestion would open the door to questionable data deletions. The EWR data base is electronic; manufacturers transmit data without concurrent review by ODI. If manufacturers were given the ability to delete death and injury incidents, a manufacturer could potentially delete an incident from ARTEMIS without NHTSA knowing why it was deleted. ODI would expend substantial resources to determine which records were deleted from prior submissions and to ascertain the rationale. In addition, RMA's proposal would require a major change to ARTEMIS. Currently, ARTEMIS permits only updates to incidents of death and injury, not the ability to delete data. To change this protocol, NHTSA would have to undergo a costly systems change. We cannot justify the cost of such a change to ARTEMIS protocol when the need to delete an out of scope tire happens so infrequently. Finally, the change that RMA suggests is not within the scope of the agency's proposal, which did not touch on possible deletions from EWR data that have been submitted.

Accordingly, as stated above, NHTSA is adopting the proposal as written. Thus, 49 CFR 579.28(f)(2)(i) will be revised to read:

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

The agency also revises 49 CFR 579.28(f)(2)(ii) to read:

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

IV. Lead Time

The Alliance correctly pointed out that we did not propose any effective date for the proposed amendments to the EWR rule. It suggested that for any changes that relax existing requirements, such as eliminating product evaluation reports, should be made effective immediately upon publication of the final rule. For changes that would require manufacturers to modify their existing EWR databases and/or IT systems, such as amending the fire definition, the Alliance recommended at least twelve (12) months of lead time. The Alliance did not explain why twelve (12) months lead time is necessary for the minor definitional changes proposed in the NPRM.

While lead time associated with changes to EWR reporting was implicitly part of our NPRM, we left it to commenters to provide information and justification. Some lead time is appropriate so manufacturers may modify their existing EWR databases and/or IT systems for the one amendment adopted by this final rule that may require such modifications. Manufacturers will have to modify their EWR databases and/or IT systems due to the amended fire definition. However, we do not believe twelve (12) months is appropriate for such a minor change. The change to the fire definition may require some manufacturers to amend their text-mining tools to include the term ''melt''. Some other minor modifications may be necessary. Moreover, manufacturers already review their field reports and aggregate date for incidents related to a fire, which include precursors to fire. Manufacturers should not have to modify their review of fire related incidents due to the adoption of the amended fire definition. Accordingly, the effective date for the amended definition of fire will be for the reporting period beginning on January 1, 2008.

V. Privacy Act Statement

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

[8] RMA also recommended that the agency should amend the definition of ''minimal specificity'' for a tire in 49 CFR 579.4(c) to address the out of scope tire issue. In the NPRM, we did not propose any amendments to the definition of minimal specificity. These comments are outside the scope of this rulemaking.

VI. Rulemaking Analyses and Notices

A. Regulatory Policies and Procedures

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

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

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

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

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

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

B. Regulatory Flexibility Act

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

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

However, NHTSA has determined that the impact on the entities affected by the final rule would not be significant. This final rule eliminates the reporting of product evaluation field reports, revises the definition of fire, and limits the time period for required updates to a few data elements in reports of deaths and injuries. The effect of these changes would be to reduce annual reporting costs to manufacturers. NHTSA expects the impact of the final rule would be a reduction in the paperwork burden for EWR manufacturers. NHTSA asserts that the economic impact of the reduction in paperwork, if any, would be minimal and entirely beneficial to small EWR manufacturers. Accordingly, I certify that this final rule would not have a significant economic impact on a substantial number of small entities.

C. Executive Order 13132 (Federalism)

NHTSA has examined today's final rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999). This action would not have ''federalism implications'' because it would not have ''substantial direct effects on 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 section 1 of the Executive Order.

D. Unfunded Mandates Reform Act

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

E. Executive Order 12988 (Civil Justice Reform)

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

NHTSA notes that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceedings before they may file suit in court.

F. Paperwork Reduction Act

Today's final rule does not create new information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. If anything, it reduces the information collection burden of reporting EWR data by manufacturers of motor vehicles and motor vehicle equipment. To the extent that this final rule implicates the Paperwork Reduction Act, we rely upon our previous clearance from OMB. To obtain a three-year clearance for information collection for the EWR rule, NHTSA published a Paperwork Reduction Act notice on April 27, 2005 pursuant to the requirements of that Act (44 U.S.C. 3501 *et seq.*). We received clearance from OMB on February 24, 2006, which will expire on February 29, 2008. The clearance number is 2127–0616.

G. Executive Order 13045

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

This rulemaking is not economically significant.

H. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in

the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in or about April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

I. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. In the NPRM, we requested comments regarding our application of the principles of plain language in the proposal. We did not receive any comments on this issue.

J. Data Quality Act

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

VII. Proposed Regulatory Text

List of Subjects in 49 CFR Part 579

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

■ In consideration of the foregoing, 49 CFR chapter V is amended as follows:

PART 579—REPORTING OF INFORMATION AND COMMUNICATIONS ABOUT POTENTIAL DEFECTS

■ 1. The authority citation for part 579 is amended to read as follows:

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

Subpart A—General

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

§ 579.4 Terminology.

* * * * *

(c) *Other terms.* * * *

* * * * *

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

* * * * *

Product evaluation report means a field report prepared by, and containing the observations or comments of, a manufacturer's employee who submitted the report concerning the operation or performance of a vehicle or child restraint system as part of the employee's personal use of the vehicle or child restraint system under a manufacturer's program authorizing such use, but does not include a report by an employee who has been granted personal use of a vehicle or child restraint system for the specific purpose of facilitating the employee's technical or engineering evaluation of a known or suspected problem with that vehicle or child restraint system.

* * * * *

Subpart C—Reporting of Early Warning Information

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

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

* * * * *

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

■ 4. Amend § 579.22 to revise the first sentence of paragraph (d) to read as follows:

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

* * * * *

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

* * *

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

§ 579.23 Reporting requirements for manufacturers of 500 or more motorcycles annually.

* * * * *

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

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

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

* * * * *

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

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

§ 579.25 Reporting requirements for manufacturers of child restraint systems.

* * * * *

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

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

§ 579.28 Due date of reports and other miscellaneous provision.

* * * * *

(f) * * *

(2) * * *

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

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

* * * * *

Issued on: May 21, 2007.

Nicole R. Nason,

Administrator.

[FR Doc. E7–10155 Filed 5–25–07; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 040205043–4043–01]

RIN 0648–XA46

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the 2007 Deep-Water Grouper Commercial Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the commercial fishery for deep-water grouper (misty grouper, snowy grouper, yellowedge grouper, warsaw grouper, and speckled hind) in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has determined that the deep-water grouper quota for the commercial fishery will have been reached by June 2, 2007. This closure is necessary to protect the deep-water grouper resource.

DATES: Closure is effective 12:01 a.m., local time, June 2, 2007, until 12:01 a.m., local time, on January 1, 2008.

FOR FURTHER INFORMATION CONTACT: Jason Rueter, telephone 727–824–5350, fax 727–824–5308, *e-mail Jason.Rueter@noaa.gov.*

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. Those regulations set the commercial quota for deep-water grouper in the Gulf of Mexico at 1.02 million lb (463,636 kg) for the current fishing year, January 1 through December 31, 2007.

Under 50 CFR 622.43(a), NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. Based on current statistics, NMFS has determined that the available commercial quota of 1.02 million lb (463,636 kg) for deep-water grouper will be reached on or before June 2, 2007. Accordingly, NMFS is closing the commercial deep-water grouper fishery in the Gulf of Mexico EEZ from 12:01 a.m., local time, on June 2, 2007, until 12:01 a.m., local time, on January 1, 2008. The operator of a vessel with a valid commercial vessel permit for Gulf reef fish having deep-water grouper aboard must have landed and bartered, traded, or sold such deep-water grouper prior to 12:01 a.m., local time, June 2, 2007.

During the closure, the sale or purchase of deep-water grouper taken from the Gulf EEZ is prohibited and the bag and possession limits specified in 50 CFR 622.39(b) apply to all harvest or possession of deep-water grouper in or from the Gulf EEZ, except that no such bag limits may be possessed aboard a vessel with commercial quantities of Gulf reef fish (*i.e.*, Gulf reef fish in excess of applicable bag/possession limits). The prohibition on sale or purchase does not apply to sale or purchase of deep-water grouper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, June 2, 2007, and were held in cold storage by a dealer or processor.

Classification

This action responds to the best available scientific information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to close the fishery constitutes good cause to waive the requirements to provide prior notice