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NHTSA-01-8677-537

November 27, 2002

VIA Federal Express

Jeffrey Runge, M.D.
Administrator
National Highway Traffic Safety Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

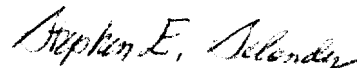
RE: Docket No. NHTSA 2001-8677, Notice 3, Regarding the Final Rule About Reporting of Information and Documents About Potential Defects and Retention of Records That Could Indicate Defects; and

Docket No. NHTSA 2001-8677, Notice 2 Regarding the Request for Public Comment on Proposed Collection of Information

Dear Dr. Runge:

Attached please find Comments on Petitions for Reconsideration in the above-referenced actions.

Sincerely,



Stephen E. Selander

SES/pw
Enclosure

cc. Docket Management, Room PL-401 ✓
Office of Management and Budget

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Comments on PETITIONS FOR RECONSIDERATION

Regarding the Final Rule About
Reporting of Information and Documents About Potential Defects
and Retention of Records That Could Indicate Defects
NHTSA Docket No. 2001 -8677, Notice 3

and Regarding the Request for Public Comment On
Proposed Collection of Information (67 Fed.Reg. 42843, June 25,2002)
NHTSA Docket No. 2001 -8677, Notice 2

The following comments on Petitions for Reconsideration address issues raised by NHTSA's Final Rule establishing Early Warning Reporting Requirements under the Transportation Recall Enhancement, Accountability and Documentation (TREAD) Act. These comments are also relevant to NHTSA's recent request for public comment on the proposed collection of information that is embedded in the requirements.

NHTSA has made major improvements in reducing unnecessary burdens on the manufacturers, while at the same time obtaining the data that will provide it with an early warning of safety defects. Nevertheless, there are a few places where I believe that NHTSA should go further to reduce burden significantly.

Burden could be reduced with no appreciable decrease in benefits by:

- Increasing the size of the small manufacturer to at least 5,000 units annually;
- Limiting component supplier reporting requirements to aftermarket and replacement equipment; and
- Limiting one time historical reporting to warranty

Change the Demarcation Point Between Larger and Smaller Manufacturers to 5,000 Units Annually

Increasing the size of smaller manufacturers from 499 to 4999 units annually would relieve these manufacturers from the significant costs of historical reporting and the costs of implementing expensive systems to report consumer complaints, warranty claims, field reports and property damage. These costs are immediate, and cannot be relieved by a change in the demarcation point in the future. A future change may decrease the annual reporting costs, but would not eliminate the significant one-time costs that these firms are beginning to undertake now.

Almost all of the light vehicles are manufactured by manufacturers who will be larger manufacturers, even if the line of demarcation is increased to 5,000 vehicles annually. Assuming that light vehicle production is approximately 16 million units, the exclusion of a manufacturer of 4,999 units from the burdens of reporting under 5579.21 would exclude only about .03% (3/100 of 1%) of the annual production of light vehicles. If this proposal relieved the burden for 100 light vehicle manufacturers (such as final stage manufacturers of vehicles manufactured in two or more stages), it still would leave more than 97% of the vehicles subject to the reporting requirements of §579.21.

With respect to trailer manufacturers, this proposal would still leave 8 trailer manufacturers, manufacturing approximately 70 percent of the trailers, covered by the more detailed reporting requirements of 9579.24, (based on 2001 data published in the February 2002 issue of *Trailer/Body Builders* magazine). It would relieve approximately 20 manufacturers from the costs associated with the 5579.24 requirements and subject them to the less burdensome reporting requirements of §579.27. These manufacturers average about 1800 trailers annually, or about 1/4% on average of the annual trailer production.

The top seven heavy duty truck manufacturers produce approximately 98.5% of the Class 8 trucks. Each of these manufacturers would be large manufacturers if the line of demarcation were 4,999 units. Although I do not have similar data for Class 3 through Class 7, I believe the vast majority of the truck production is by large manufacturers, even with the line of demarcation at 4,999 units.

Small manufacturers are subject to the requirements of the Safety Act. These manufacturers must certify that their vehicles meet the applicable Federal Motor Vehicle Safety Standards. They also have the responsibility under the Safety Act to notify NHTSA of any safety defect or noncompliance in their products and to remedy the defect or noncompliance. These responsibilities under the Safety Act are not dependent upon the size category of the manufacturer under the Early Warning Reporting Requirements.

An increase in the size of the smaller manufacturer to 4,999 would not eliminate those manufacturers from the Early Warning Reporting Requirements. Under §579.27, these small manufacturers still would have to report information on incidents involving deaths. In addition, under 5579.5 they would be required to provide to NHTSA copies of notices, bulletins, customer satisfaction campaigns, consumer advisories and other communications regarding defects.

Reporting by these small manufacturers under §579.27 on incidents involving deaths, coupled with information that NHTSA receives through its Vehicle Owner Questionnaire system generally will provide NHTSA with enough early warning information to allow it to decide if it wants to investigate a small manufacturer's vehicles or products. If NHTSA needs additional information on a product involved in a specific incident or VOQ

report before making a decision to open a defect investigation, it can obtain the information from the small manufacturer under §579.28(k), as necessary.

NHTSA's statement that if "we do not get valuable information from relatively small manufacturers, we can and will adjust the threshold in the future" fails to relieve these small manufacturers from the burdens that will occur in the first year under the present final rule. The burdens of historical reporting and setting up systems to report consumer complaints, warranty claims, field reports and property damage all occur prior to and during the first year of the reporting requirements. To meet the early warning reporting requirements, small manufacturers should be making expenditures now.

Therefore, I believe that it is desirable for NHTSA to expedite its decision on this issue and immediately decrease the first year burdens on manufacturers of fewer than 5,000 units per year. If experience shows that NHTSA needs more early warning information to determine which manufacturers of less than 5000 units annually to investigate, NHTSA can always adjust the threshold based upon the experience at that time.

Limit Component Supplier Reporting Requirements To After market And Equipment ε

Although in many areas NHTSA has limited duplicate reporting by allowing one manufacturer's report to act as compliance for all related manufacturers, it seems clear that NHTSA is requiring both the motor vehicle manufacturer and the original equipment supplier to provide information on incidents involving a death.

The early warning rules will lead to even greater communications between motor vehicle and component manufacturers regarding incidents. Suppliers will want to know about incidents involving their components or systems that motor vehicle manufacturers are reporting to NHTSA. Motor vehicle manufacturers will want to know about any incidents that might relate to their motor vehicles. Under these circumstances, it seems likely that almost all of the incidents involving deaths will be reported at least twice, once by the vehicle manufacturer and once by the component manufacturer.

As NHTSA has recognized, most of the incidents involving deaths will be reported directly to the motor vehicle manufacturer since it is obvious to a claimant what make of vehicle is involved. It seems very unlikely that somebody will report an incident involving a death to the manufacturer of the component or system in the vehicle, but not provide a notice to the manufacturer of the vehicle of the claim. Therefore, it seems reasonable to have the manufacturer of the vehicle report on incidents involving a death and not to require a component manufacturer to report on these same incidents if the component was original equipment.

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Duplicate reporting by two different manufacturers will result in NHTSA receiving a substantial amount of duplicate data. This will increase the burdens on the computer system. The duplicate data may be reported in different reporting periods, increasing the complexity of the required analysis of incidents. This may make it more difficult to get a true picture of the number of incidents.

Limit One Time Historical Reporting To Warranty Data

With the exception of warranty, data required by the historical reporting requirements can not be appropriately mapped to the reporting systems required without huge investments of manpower. Even, with that manpower, the data will be less valuable than that collected after the manufacturer has designed its systems to make sure the necessary early warning reporting information is collected in the appropriate categories.

It seems likely that the promulgation of the Early Warning Reporting requirements will not only change the information that is collected for a field report, but also may change the criteria for the collection of the data. For example, analysis of Early Warning information may cause a vehicle manufacturer to increase the number of requested field reports.

The volume of warranty repairs collected by the manufacturer and the number of complaints NHTSA collects through the Vehicle Owner Questionnaire system are both significantly larger than the volume of field reports. Correlations between historical warranty and VOQ data to present and future warranty and VOQ data will provide at least as accurate a benchmark as that provided by including the field reports. This would substantially reduce the costs to manufacturers.

Conclusions

For the above reasons, I believe that the Early Warning Reporting Requirements could be improved by:

- Increasing the size of the small manufacturer of motor vehicles to at least 5,000 vehicles annually;
- Limiting component supplier reporting requirements to aftermarket and replacement equipment; and
- Limiting one time historical reporting to warranty.