

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 579****[Docket No. NHTSA 2001–8677; Notice 5]****RIN 2127–AI92****Reporting of Information and Documents About Potential Defects****AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.**ACTION:** Final rule; response to petitions for reconsideration.

SUMMARY: This document responds to previously-unaddressed issues raised in petitions for reconsideration of the final rule published on July 10, 2002, that implemented the early warning reporting provisions of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. Under this rule, motor vehicle and motor vehicle equipment manufacturers will be required to report information and to submit documents about customer satisfaction campaigns and other activities and events that may assist NHTSA to promptly identify defects related to motor vehicle safety. NHTSA responded to some of the issues raised in the petitions in a notice published on April 15, 2003, and stated that it would respond to the remaining issues in the future.

DATES: *Effective Date:* The effective date of the amendments made by this final rule is July 11, 2003. *Petitions for Reconsideration:* Petitions for reconsideration of any amendments made by this final rule must be received not later than July 28, 2003.

ADDRESSES: Petitions for reconsideration of the amendments made by this final rule must refer to the docket or Regulatory Identification Number (RIN) for this rulemaking, and be addressed to the Administrator, National Highway Traffic Safety Administration (NHTSA). You may submit a petition by any of the following methods:

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1–202–493–2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.

- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday

through Friday, except Federal Holidays.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting petitions.

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

SUPPLEMENTARY INFORMATION:**I. Background**

On July 10, 2002, NHTSA published a final rule implementing the early warning reporting provisions of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, established by 49 U.S.C. 30166(m) (67 FR 45822). The reader is referred to that document, and the prior Notice of Proposed Rulemaking (NPRM) (66 FR 66190) for further information.

Petitions for reconsideration of the rule were filed on or before August 26, 2002, by the Alliance of Automobile Manufacturers (the Alliance), General Motors Corporation (GM), the National Association of Trailer Manufacturers (NATM), the National Truck Equipment Association (NTEA), the Recreational Vehicle Industry Association (RVIA), and the Juvenile Products Manufacturers Association (JPMA).

GM and NATM filed untimely supplemental comments on October 15, 2002, and a petition for rulemaking was filed by the National Trailer Dealers Association (NTDA) on November 1, 2002 relating to the threshold for full reporting. On November 23, 2002, NATM filed a petition for rulemaking to delay the initial reporting date under the rule, as did NTEA and RVIA jointly, on December 5, 2002. Additional comments were filed by Public Citizen on November 26, 2002, and Stephen E. Selander on November 27, 2002.

On October 10, 2002, the Alliance wrote NHTSA requesting that certain issues it had raised in its petition be treated on a prioritized basis. It separated its issues into three groups and explained that “Generally, those issues given a priority “1” rating are those that require resolution to allow Alliance members to effectively plan and efficiently execute actions needed to develop compliant reporting systems.” These issues concerned field reports, in-plant inspection records and other documents, one-time historical reports, and multiple “substantially similar” platforms. After reviewing the Alliance’s comments and letter of

October 10, the agency concluded that granting this request would aid in an orderly implementation of the final rule and, on April 15, 2003, we published a notice addressing the Alliance’s priority “1” issues as well as other issues (68 FR 18136).

This notice addresses remaining issues raised by the Alliance and other persons in timely filed petitions for reconsideration of the final rule. Issues related to thresholds for reporting will be addressed in a subsequent notice.

II. Petitions Concerning the Recordkeeping Requirements of 49 CFR Part 576

Each manufacturer of motor vehicles and motor vehicle equipment is required to retain the underlying records on which the information that it reports to NHTSA under the final early warning reporting rule is based. These records must be kept for a period of five calendar years from the date on which they were generated or acquired by the manufacturer (see 49 CFR 576.5(b)). Among the information to be reported to NHTSA under the early warning reporting final rule is the one-time submission by certain manufacturers of certain historical information for a period that begins April 1, 2000 (Section 579.28(c)). Section 576.5(b) requires manufacturers of motor vehicles to retain the underlying records for the one-time historical report, which covers the 12-quarterly period ending March 31, 2003, until the same date in 2008. The Alliance asserted that these two regulatory provisions have the effect of requiring manufacturers to retain records for periods longer than five years, “a burden that was not identified or estimated in connection with the adoption of the final rule or in the Paperwork Reduction Act clearance request submitted by the agency to OMB.” The Alliance suggested that “manufacturers [could] retain the supporting information for each historic report for a period of time equal to five years from the beginning of the reporting quarter. Thus, for example, the record used to prepare the historic report for the third quarter of 2002 would be retained until the third quarter of 2007—five years after their creation.”

The Alliance’s interpretation differs from ours. The regulatory requirement is to retain the underlying records for a period of five years “from the date on which they were generated, or acquired by the manufacturer” not five years after the date of the report to NHTSA. Under the existing regulation, as we interpret it, the records underlying the oldest data used to prepare the historical report, those for the second quarter of 2000,