

incident resulted in a reported death or injury.”

Our omission in the final rule was unintentional. However, to simplify reporting by manufacturers, we will not require such property damage claims to be included. Therefore, we are adding new subsection (h) to Section 579.28, which also includes the exclusion of derivative claims discussed above, and which reads as follows:

(h) When a report involving a claim or notice is or is not required. If a manufacturer has reported a claim or notice relating to an incident involving death or injury, the manufacturer need not:

(i) report a claim or notice arising out of the incident by a person who was not injured physically, and

(ii) include in its number of property damage claims a property damage claim arising out of the incident.

This exemption includes property damage claims that may be received during or subsequent to the quarter in which a claim or notice of death or injury is reported.

We are redesignating existing subsections (h) through (l) as (i) through (m) respectively.

VI. Petition by JPMA To Reconsider Some Requirements of Section 579.25 That Apply to Manufacturers of Child Restraint Systems

JPMA commented that the preamble to the final rule indicated that child restraint system manufacturers would have to identify the “type” of restraint (e.g., rear-facing infant seat, booster seat, or other) for which a quarterly report is being made. However, this requirement was not contained in Section 579.25. When NHTSA posted reporting templates on its Web site on August 14, 2002, only the production template specified that the “type” of child restraint be indicated. This requirement was not included in the templates for any of the substantive reporting categories such as death/injury. This led JPMA to believe that it was unclear “what value it is to NHTSA to require segregating production numbers by ‘type.’”

Our omission of the word “type” in Section 579.25(a) was inadvertent, and we are correcting that omission here (we previously included “type” in Section 579.21(a), which applies to light vehicles). With regard to JPMA’s other comment, the production template links the make, model, and production year with the “type.” The reporting templates for categories of death/injury, warranty/consumer complaints, etc., contain the make, model, and production year. The data reported on the production template provide the

information which will allow us to link the make, model, and production year data on the death/injury, warranty/consumer complaints etc. to a particular “type.”

JPMA also commented that the three reporting categories of “rear facing infant seat,” “booster seat,” and “other” do not cover the range of products available. It asked how its members should categorize a hybrid product that is both a rear-facing infant seat and a toddler seat. We believe that these three categories are sufficient; in response to the specific question, hybrids such as infant/toddler or toddler/booster should be reported under “other.”

We note here that the definitions of “rear-facing infant seat,” “booster seat,” and “other” were revised in the earlier final rule on reconsideration, published on April 15, 2003 (68 FR 18136).

Section 579.25(b)(1) requires a child restraint manufacturer to submit “a report on each incident involving one or more deaths or injuries that is identified in a claim against and received by the manufacturer * * *.” JPMA asked for clarification of how its members should report to NHTSA “when there are injuries to adults or unrestrained children in a collision that also involved an allegedly restrained child.” JPMA presented the following example: Manufacturer A receives a claim for an injury to a child allegedly restrained in a child restraint manufactured by A. The same claim is also served on child restraint manufacturer B, in whose product a second child was allegedly injured, and on vehicle manufacturer C, in whose vehicle the two restrained children, their unrestrained brother, and their two parents were allegedly injured.

In JPMA’s view, it would contaminate the data base if JPMA member reports also included the adult injuries or unrestrained child injuries that occurred in the same motor vehicle collision, or if they included the injuries that allegedly occurred to a child restrained in a competitor’s product. JPMA members will likely be on notice of these other injuries because any claim/lawsuit will list all the theories on which the claimants seek relief. JPMA sought our concurrence that only those injuries/fatalities to children purportedly restrained in child restraints manufactured by the reporting manufacturer should be reported by its members.

We do not concur with JPMA’s interpretation. The hypothetical presented by JPMA likely would result in a separate claim against two separate manufacturers of child restraints and the manufacturer of the motor vehicle in which the child restraints were

installed. Each manufacturer is required to report only the claim against it; other manufacturers receiving a multiple-party claim will report the claim as it applies to them, which would relate to their products. Also, if a restraint broke and impacted a child seated in a different manufacturer’s restraint, the manufacturer of the broken restraint would have to report a claim against it by the child in the other restraint.

Another question asked by JPMA was whether the early warning reporting rule requires manufacturers to report warranty claims/consumer complaints related to lower anchor/tether issues. The commenter observed that under NHTSA’s definitions, all complaints/claims regarding vehicle components installed in accordance with FMVSS No. 225 are reportable by the vehicle manufacturer as “seat belt” issues. We confirm JPMA’s interpretation is correct, insofar as it states that child restraint manufacturers are not required to report on claims that by their terms are based on lower anchor/tether anchorage issues involving vehicle equipment. However, if a child restraint manufacturer receives a claim or a notice of death or injury alleging, for example, that a defect in the child restraint caused it to detach from such an anchorage, that claim or notice would have to be reported under Section 579.25(b).

JPMA sought NHTSA’s guidance on “how to handle the situation in which a consumer complaint/warranty claim comes into the company but the production date is not ascertainable because the date code is not legible.”

For child restraint systems, “minimal specificity” does not include the production year. Thus, the absence of a statement specifying the year the restraint was produced does not excuse the manufacturer from reporting a claim, notice, consumer complaint, warranty claim, or field report to the agency. This issue does not create a problem in the vehicle or tire context since the model/production year is almost always known by the manufacturer through the VIN or the TIN. To address this situation in the child restraint system context, we will require manufacturers to add a separate category of “unknown” model year (designated by the number “9999”) in addition to the up-to-five production years on which they currently must report the number of consumer complaints/warranty claims. We are amending Section 579.25 appropriately. Moreover, since the production year may not be specified in a claim or notice involving other types of equipment (aside from tires) we are making a similar addition to Section 579.27(c).