

**§ 577.7**

the decision has been made by the Administrator and that his decision has been upheld in a proceeding in the Federal courts; and

(2) When a provisional notification was issued regarding the defect or non-compliance and the manufacturer is required under the Act to reimburse—

(i) The manufacturer shall state that he will reimburse the owner for any reasonable and necessary expenses that the owner incurred (not in excess of any amount specified by the Administrator) for repair of the defect or non-compliance of the vehicle or item of equipment on or after the date on which provisional notification was ordered to be issued and on or before a date not sooner than the date on which this notification is received by the owner. The manufacturer shall determine and specify both dates.

(ii) The statement required by paragraph (g)(1)(vii) of § 577.5 shall also inform the owner that he may submit a complaint to the Administrator if the owner believes that the manufacturer has failed to reimburse adequately.

(3) If the manufacturer is not required under the Act to reimburse, he shall include—

(i) A statement that he is not required to reimburse, or

(ii) When he will voluntarily reimburse, a statement of the extent to which he will do so, including any limitations and conditions on such reimbursement.

[41 FR 56816, Dec. 30, 1976, as amended at 60 FR 17271, Apr. 5, 1995]

**§ 577.7 Time and manner of notification.**

(a) The notification required by § 577.5 shall—

(1) Be furnished within a reasonable time after the manufacturer first decides that either a defect that relates to motor vehicle safety or a non-compliance exists. The Administrator may order a manufacturer to send the notification to owners on a specific date where the Administrator finds, after consideration of available information and the views of the manufacturer, that such notification is in the public interest. The factors that the Administrator may consider include, but are not limited to, the severity of

the safety risk; the likelihood of occurrence of the defect or noncompliance; whether there is something that an owner can do to reduce either the likelihood of occurrence of the defect or noncompliance or the severity of the consequences; whether there will be a delay in the availability of the remedy from the manufacturer; and the anticipated length of any such delay.

(2) Be accomplished—

(i) In the case of a notification required to be sent by a motor vehicle manufacturer, by first class mail to each person who is registered under State law as the owner of the vehicle and whose name and address are reasonably ascertainable by the manufacturer through State records or other sources available to him. If the owner cannot be reasonably ascertained, the manufacturer shall notify the most recent purchaser known to the manufacturer. The manufacturer shall also provide notification to each lessee of a leased motor vehicle that is covered by an agreement between the manufacturer and a lessor under which the manufacturer is to notify lessees directly of safety-related defects and noncompliances.

(ii) In the case of a notification required to be sent by a replacement equipment manufacturer—

(A) By first class mail to the most recent purchaser known to the manufacturer, and

(B) (Except in the case of a tire) if decided by the Administrator to be required for motor vehicle safety, by public notice in such manner as the Administrator may require after consultation with the manufacturer.

(iii) In the case of a manufacturer required to provide notification concerning any defective or noncomplying tire, by first class or certified mail.

(iv) In the case of a notification to be sent by a lessor to a lessee of a leased motor vehicle, by first-class mail to the most recent lessee known to the lessor. Such notification shall be mailed within ten days of the lessor's receipt of the notification from the vehicle manufacturer.

(b) The notification required by any paragraph of § 577.6 shall be provided:

(1) Within 60 days after the manufacturer's receipt of the Administrator's

order to provide the notification, except that the notification shall be furnished within a shorter or longer period if the Administrator incorporates in his order a finding that such period is in the public interest; and

(2) In the manner and to the recipient specified in paragraph (a) of this section.

[41 FR 56816, Dec. 30, 1976, as amended at 60 FR 17271, Apr. 5, 1995]

EFFECTIVE DATE NOTE: At 69 FR 34959, June 23, 2004, §577.7 was amended by adding paragraphs (c) and (d), effective Oct. 21, 2004. For the convenience of the user, the added text is set forth as follows:

**§ 577.7 Time and manner of notification.**

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(c) The notification required by §577.13 shall—

(1) Be furnished within a reasonable time after the manufacturer decides that a defect that relates to motor vehicle safety or a non-compliance exists. The notification shall be provided in accordance with the schedule submitted to the agency pursuant to 49 CFR 573.6(c)(8)(ii), unless that schedule is modified by the Administrator. The Administrator may direct a manufacturer to send the notification to dealers on a specific date if the Administrator finds, after consideration of available information and the views of the manufacturer, that such notification is in the public interest. The factors that the Administrator may consider include, but are not limited to, the severity of the safety risk; the likelihood of occurrence of the defect or noncompliance; the time frame in which the defect or noncompliance may manifest itself; availability of an interim remedial action by the owner; whether a dealer inspection would identify vehicles or items of equipment that contain the defect or non-compliance; and the time frame in which the manufacturer plans to provide the notification and the remedy to its dealers.

(2) Be accomplished—

(i) In the case of a notification required to be sent by a motor vehicle manufacturer, by certified mail, verifiable electronic means such as receipts or logs from electronic mail or satellite distribution system, or other more expeditious and verifiable means to all dealers and distributors of the vehicles that contain the defect or noncompliance.

(ii) In the case of a notification required to be sent by a manufacturer of replacement equipment or tires, by certified mail, verifiable electronic means such as receipts or logs from electronic mail or satellite distribution system, or other more expeditious and verifiable means to all dealers and dis-

tributors of the product that are known to the manufacturer.

(iii) In those cases where a manufacturer of motor vehicles or items of motor vehicle equipment provided the recalled product(s) to a group of dealers or distributors through a central office, notification to that central office will be deemed to be notice to all dealers and distributors within that group.

(iv) In those cases in which a manufacturer of motor vehicles or items of motor vehicle equipment has provided the recalled product to independent dealers through independent distributors, the manufacturer may satisfy its notification responsibilities by providing the information required under this section to its distributors. In such cases, the manufacturer must also instruct those distributors to transmit a copy of the manufacturer's notification to known distributors and retail outlets along the distribution chain within five working days from its receipt.

(d) Notwithstanding paragraph (c)(1) of this section, where the recall is being conducted pursuant to an order issued by the Administrator under 49 U.S.C. 30118(b), notification required by §577.13 shall be given on or before the date prescribed in the Administrator's order.

**§ 577.8 Disclaimers.**

(a) A notification sent pursuant to §§ 577.5, 577.6, 577.9 or 577.10 regarding a defect which relates to motor vehicle safety shall not, except as specifically provided in this part, contain any statement or implication that there is no defect, that the defect does not relate to motor vehicle safety, or that the defect is not present in the owner's or lessee's vehicle or item of replacement equipment. This section also applies to any notification sent to a lessor or directly to a lessee by a manufacturer.

(b) A notification sent pursuant to §§ 577.5, 577.6, 577.9 or 577.10 regarding a noncompliance with an applicable motor vehicle safety standard shall not, except as specifically provided in this part, contain any statement or implication that there is not a non-compliance, or that the noncompliance is not present in the owner's or lessee's vehicle or item of replacement equipment. This section also applies to any notification sent to a lessor or directly to a lessee by a manufacturer.

[60 FR 17272, Apr. 5, 1995]