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(b) Each manufacturer of an item of replacement equipment shall be responsible for any safety-related defect or any noncompliance determined to exist in the equipment.

[67 FR 45872, July 10, 2002]

§573.6 Defect and noncompliance information report.

(a) Each manufacturer shall furnish a report to the NHTSA for each defect in his vehicles or in his items of original or replacement equipment that he or the Administrator determines to be related to motor vehicle safety, and for each noncompliance with a motor vehicle safety standard in such vehicles or items of equipment which either he or the Administrator determines to exist.

(b) Each report shall be submitted not more than 5 working days after a defect in a vehicle or item of equipment has been determined to be safety related, or a noncompliance with a motor vehicle safety standard has been determined to exist. At a minimum, information required by paragraphs (1), (2) and (5) of paragraph (c) of this section shall be submitted in the initial report. The remainder of the information required by paragraph (c) of this section that is not available within the five-day period shall be submitted as it becomes available. Each manufacturer submitting new information relative to a previously submitted report shall refer to the notification campaign number when a number has been assigned by the NHTSA.

(c) Each manufacturer shall include in each report the information specified below.

(1) The manufacturer's name: The full corporate or individual name of the fabricating manufacturer and any brand name or trademark owner of the vehicle or item of equipment shall be spelled out, except that such abbreviations as "Co." or "Inc.", and their foreign equivalents, and the first and middle initials of individuals, may be used. In the case of a defect or noncompliance decided to exist in an imported vehicle or item of equipment, the agency designated by the fabricating manufacturer pursuant to 49 U.S.C. section 30164(a) shall be also stated. If the fabricating manufacturer is a corporation that is controlled by another corpora-

tion that assumes responsibility for compliance with all requirements of this part the name of the controlling corporation may be used.

(2) Identification of the vehicles or items of motor vehicle equipment potentially containing the defect or noncompliance, including a description of the manufacturer's basis for its determination of the recall population and a description of how the vehicles or items of equipment to be recalled differ from similar vehicles or items of equipment that the manufacturer has not included in the recall.

(i) In the case of passenger cars, the identification shall be by the make, line, model year, the inclusive dates (month and year) of manufacture, and any other information necessary to describe the vehicles.

(ii) In the case of vehicles other than passenger cars, the identification shall be by body style or type, inclusive dates (month and year) of manufacture and any other information necessary to describe the vehicles, such as GVWR or class for trucks, displacement (cc) for motorcycles, and number of passengers for buses.

(iii) In the case of items of motor vehicle equipment, the identification shall be by the generic name of the component (tires, child seating systems, axles, etc.), part number, size and function if applicable, the inclusive dates (month and year) of manufacture if available and any other information necessary to describe the items.

(iv) In the case of motor vehicles or items of motor vehicle equipment in which the component that contains the defect or noncompliance was manufactured by a different manufacturer from the reporting manufacturer, the reporting manufacturer shall identify the component and the manufacturer of the component by name, business address, and business telephone number. If the reporting manufacturer does not know the identity of the manufacturer of the component, it shall identify the entity from which it was obtained.

(v) In the case of items of motor vehicle equipment, the manufacturer of the equipment shall identify by name, business address, and business telephone number every manufacturer that

purchases the defective or noncomplying component for use or installation in new motor vehicles or new items of motor vehicle equipment.

(3) The total number of vehicles or items of equipment potentially containing the defect or noncompliance, and where available the number of vehicles or items of equipment in each group identified pursuant to paragraph (c)(2) of this section.

(4) The percentage of vehicles or items of equipment specified pursuant to paragraph (c)(2) of this section estimated to actually contain the defect or noncompliance.

(5) A description of the defect or noncompliance, including both a brief summary and a detailed description, with graphic aids as necessary, of the nature and physical location (if applicable) of the defect or noncompliance.

(6) In the case of a defect, a chronology of all principal events that were the basis for the determination that the defect related to motor vehicle safety, including a summary of all warranty claims, field or service reports, and other information, with their dates of receipt.

(7) In the case of a noncompliance, the test results and other information that the manufacturer considered in determining the existence of the noncompliance. The manufacturer shall identify the date of each test and observation that indicated that a noncompliance might or did exist.

(8)(i) A description of the manufacturer's program for remedying the defect or noncompliance. This program shall include a plan for reimbursing an owner or purchaser who incurred costs to obtain a remedy for the problem addressed by the recall within a reasonable time in advance of the manufacturer's notification of owners, purchasers and dealers, in accordance with §573.13 of this part. A manufacturer's plan may incorporate by reference a general reimbursement plan it previously submitted to NHTSA, together with information specific to the individual recall. Information required by §573.13 that is not in a general reimbursement plan shall be submitted in the manufacturer's report to NHTSA under this section. If a manufacturer submits one or more general reim-

bursement plans, the manufacturer shall update each plan every two years, in accordance with §573.13. The manufacturer's remedy program and reimbursement plans will be available for inspection by the public at NHTSA headquarters.

(ii) The estimated date(s) on which it will begin sending notifications to owners, and to dealers and distributors, that there is a safety-related defect or noncompliance and that a remedy without charge will be available to owners, and the estimated date(s) on which it will complete such notifications (if different from the beginning date). If a manufacturer subsequently becomes aware that either the beginning or the completion dates reported to the agency for any of the notifications will be delayed by more than two weeks, it shall promptly advise the agency of the delay and the reasons therefore, and furnish a revised estimate.

(iii) If a manufacturer intends to file a petition for an exemption from the recall requirements of the Act on the basis that a defect or noncompliance is inconsequential as it relates to motor vehicle safety, it shall notify NHTSA of that intention in its report to NHTSA of the defect or noncompliance under this section. If such a petition is filed and subsequently denied, the manufacturer shall provide the information required by paragraph (c)(8)(ii) of this section within five Federal government business days from the date the petition denial is published in the FEDERAL REGISTER.

(iv) If a manufacturer advises NHTSA that it intends to file such a petition for exemption from the notification and remedy requirements on the grounds that the defect or noncompliance is inconsequential as it relates to motor vehicle safety, and does not do so within the 30-day period established by 49 CFR 556.4(c), the manufacturer must submit the information required by paragraph (c)(8)(ii) of this section no later than the end of that 30-day period.

(9) In the case of a remedy program involving the replacement of tires, the manufacturer's program for remedying the defect or noncompliance shall:

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(i) Address how the manufacturer will assure that the entities replacing the tires are aware of the legal requirements related to recalls of tires established by 49 U.S.C. Chapter 301 and regulations thereunder. At a minimum, the manufacturer shall notify its owned stores and/or distributors, as well as all independent outlets that are authorized to replace the tires that are the subject of the recall, annually or for each individual recall that the manufacturer conducts, about the ban on the sale of new defective or non-compliant tires (49 CFR 573.11); the prohibition on the sale of new and used defective and noncompliant tires (49 CFR 573.12); and the duty to notify NHTSA of any sale of a new or used recalled tire for use on a motor vehicle (49 CFR 573.10). For tire outlets that are manufacturer-owned or otherwise subject to the control of the manufacturer, the manufacturer shall also provide directions to comply with these statutory provisions and the regulations thereunder.

(ii) Address how the manufacturer will prevent, to the extent reasonably within its control, the recalled tires from being resold for installation on a motor vehicle. At a minimum, the manufacturer shall include the following information, to be furnished to each tire outlet that it owns, or that is authorized to replace tires that are recalled, either annually or for each individual recall the manufacturer conducts:

(A) Written directions to manufacturer-owned and other manufacturer-controlled outlets to alter the recalled tires permanently so that they cannot be used on vehicles. These shall include instructions on the means to render recalled tires unsuitable for resale for installation on motor vehicles and instructions to perform the incapacitation of each recalled tire, with the exception of any tires that are returned to the manufacturer pursuant to a testing program, within 24 hours of receipt of the recalled tire at the outlet. If the manufacturer has a testing program for recalled tires, these directions shall also include criteria for selecting recalled tires for testing and instructions for labeling those tires and

returning them promptly to the manufacturer for testing.

(B) Written guidance to all other outlets which are authorized to replace the recalled tires on how to alter the recalled tires promptly and permanently so that they cannot be used on vehicles.

(C) A requirement that manufacturer-owned and other manufacturer-controlled outlets report to the manufacturer, either on a monthly basis or within 30 days of the deviation, the number of recalled tires removed from vehicles by the outlet that have not been rendered unsuitable for resale for installation on a motor vehicle within the specified time frame (other than those returned for testing) and describe any such failure to act in accordance with the manufacturer's plan;

(iii) Address how the manufacturer will limit, to the extent reasonably within its control, the disposal of the recalled tires in landfills and, instead, channel them into a category of positive reuse (shredding, crumbling, recycling, and recovery) or another alternative beneficial non-vehicular use. At a minimum, the manufacturer shall include the following information, to be furnished to each tire outlet that it owns or that is authorized to replace tires that are recalled, either annually or for each individual recall that the manufacturer conducts:

(A)(1) Written directions that require manufacturer-owned and other manufacturer-controlled outlets either:

(i) To ship recalled tires to one or more locations designated by the manufacturer as part of the program or allow the manufacturer to collect and dispose of the recalled tires; or

(ii) To ship recalled tires to a location of their own choosing, provided that they comply with applicable state and local laws and regulations regarding disposal of tires.

(2) Under option (c)(9)(iii)(A)(1)(ii) of this section, the directions must also include further direction and guidance on how to limit the disposal of recalled tires in landfills and, instead, channel them into a category of positive reuse (shredding, crumbling, recycling, and recovery) or another alternative beneficial non-vehicular use.

(B)(1) Written guidance that authorizes all other outlets that are authorized to replace the recalled tires either:

(i) To ship recalled tires to one or more locations designated by the manufacturer or allow the manufacturer to collect and dispose of the recalled tires; or

(ii) To ship recalled tires to a location of their own choosing, provided that they comply with applicable state and local laws and regulations regarding disposal of tires.

(2) Under option (c)(9)(iii)(B)(1)(ii) of this section, the manufacturer must also include further guidance on how to limit the disposal of recalled tires in landfills and, instead, channel them into a category of positive reuse (shredding, crumbling, recycling, and recovery) or another alternative beneficial non-vehicular use.

(C) A requirement that manufacturer-owned and other manufacturer-controlled outlets report to the manufacturer, on a monthly basis or within 30 days of the deviation, the number of recalled tires disposed of in violation of applicable state and local laws and regulations, and describe any such failure to act in accordance with the manufacturer's plan; and

(D) A description of the manufacturer's program for disposing of the recalled tires that are returned to the manufacturer or collected by the manufacturer from the retail outlets, including, at a minimum, statements that the returned tires will be disposed of in compliance with applicable state and local laws and regulations regarding disposal of tires, and will be channeled, insofar as possible, into a category of positive reuse (shredding, crumbling, recycling and recovery) or another alternative beneficial non-vehicular use, instead of being disposed of in landfills.

(iv) To the extent that the manufacturer wishes to limit the frequency of shipments of recalled tires, it must specify both a minimum time period and a minimum weight for the shipments and provide that shipments may be made at whichever minimum occurs first.

(v) Written directions required under this paragraph to be furnished to a manufacturer-owned or controlled out-

let shall be sent to the person in charge of each outlet by first-class mail or by electronic means, such as FAX transmissions or e-mail, with further instructions to notify all employees of the outlet who are involved with removal, rendering unsuitable for use, or disposition of recalled tires of the applicable requirements and procedures.

(vi) Manufacturers must implement the plans for disposition of recalled tires that they file with NHTSA pursuant to this paragraph. The failure of a manufacturer to implement its plan in accordance with its terms constitutes a violation of the Safety Act.

(10) A representative copy of all notices, bulletins, and other communications that relate directly to the defect or noncompliance and are sent to more than one manufacturer, distributor, dealer, or purchaser. These copies shall be submitted to the NHTSA not later than 5 days after they are initially sent to manufacturers, distributors, dealers, or purchasers. In the case of any notification sent by the manufacturer pursuant to part 577 of this chapter, the copy of the notification shall be submitted by certified mail.

(11) Except as authorized by the Administrator, the manufacturer shall submit a copy of its proposed owner notification letter, including any provisions and attachments related to reimbursement, to the Office of Defects Investigation ("ODI") no fewer than five Federal Government business days before it intends to begin mailing it to owners. Submission shall be made by any means which permits the manufacturer to verify promptly that the copy of the proposed letter was in fact received by ODI and the date it was received by ODI.

(12) The manufacturer's campaign number, if it is not identical to the identification number assigned by NHTSA.

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