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Comments
of the
Harley-Davidson Motor Company
to the

124443

NHTSA Advanced Notice of Proposed Rulemaking, Standards Enforcement and defect Investigation; Defect and Noncompliance Reports; Record retention, Docket No. NHTSA 2001-8677; Notice 1.

NHTSA-01-8677-26

The Harley-Davidson Motor Company (Harley-Davidson, H-D, HDMC or the Motor Company) is the nation's oldest and largest manufacturer of motorcycles. In addition to motorcycles, HDMC produces or licenses a wide variety of parts, accessories and apparel, administers a world-wide community of motorcycling events and activities and, through a subsidiary, provides motorcycle financing and insurance. We appreciate the opportunity to present comments on this ANPRM and request they be made part of the public record on this issue.

Harley-Davidson is very well aware of its responsibilities to society. We provide aggressive support to efforts aimed at understanding and resolving issues relating to race relations, the communities where our employees live, work and play, schools, the arts and higher education. The Motor Company is particularly supportive of actions related to motorcycle safety. In 2000, H-D introduced Riders Edge, providing motorcycle training in a Motorcycle Safety Foundation approved course to over a thousand individuals to date. The motor company is an active participant in worldwide motorcycle industry safety research efforts, employees take a leadership role in developing safety standards and safety testing through various standards organizations, one vice-president serves on the board of the Motorcycle Safety Foundation.

The Motor Company does all these things because they add value to our company and our products. Harley-Davidson employs about 8,000 individuals around the globe in an environment where companies with similar revenues generally employ 12-14,000. Our most recent 15 years of profitable history happened in part because we hesitate to perform any action that does not add value to our products, our employees, the communities in which we do business and the experience of motorcycling.

Many of the reporting changes contemplated by this ANPRM would add little or no value and would instead drain Motor Company resources. We would have to essentially start from scratch, dedicating what we reliably estimate to be millions of dollars of funds allocated currently to other uses to provide an information infrastructure of negligible value.

The Tread Act was passed to rectify an unfortunate situation affecting companies producing cars, trucks and tires. The ANPRM reporting requirements, in their current form, should not be imposed on this or any other motorcycle company. The Harley-Davidson Motor Company does recognize that this rule results from a perception of a problem, with a resolution that, after some work, may lead to some social benefit. We therefore suggest that the motorcycle industry be

removed from the first regulation set. Then, as NHTSA gains experience with the process, perhaps a motorcycle-only rule could be realistically contemplated.

Harley-Davidson and NHTSA have developed a positive relationship the years. The process of determining whether a safety issue exists and whether a recall is the correct remedy has become smooth. Any final rule affecting motorcycle companies should act to ensure that new information the agency receives will in fact enable a safety-related recall be initiated in such a manner that it would occur faster than it does today. We would be more than happy to engage in dialogue about how this might be accomplished.

Harley-Davidson is also aware that the Motorcycle Industry Council (MIC) is developing and submitting comments for the record on this issue. While the Harley-Davidson Motor Company is not an MIC member, we agree in substance with their comments and incorporate them as though written herein. It is our desire that NHTSA use all the comments it receives from the motorcycle industry as its starting place in beginning the dialogue on how this industry might fit into the regulatory scheme proposed by the TREAD Act.

The balance of these comments will relate to specific portions of the ANPRM.

Who Should Report.

Which Manufacturers. If reporting is to be imposed upon the motorcycle industry, it should be of a very limited nature. This will give industry and government the opportunity to understand more fully what is being provided, gain confidence in the methodologies that still need to be developed and set the agency up for early success. The Harley-Davidson Motor Company is proud of the relationship we have established with NHTSA and the record of cooperation on safety issues we have been able to develop. We want this to continue. Therefore, reporting should be limited to vehicle manufacturers. HDMC uses approximately 2500 suppliers. The infrastructure and overhead to them, many of whom are very small business, would be burdensome. The data returned would likely be duplicative of that received from the vehicle manufacturer and will probably not be available on the timely basis that this ANPRM contemplates. Even finding vehicle manufacturers might be more difficult than NHTSA may have contemplated. Motorcycle companies are relatively small businesses. Additionally, there are many small-scale and hobby manufacturers of vehicles often mistaken for (and even titled as though they were) HDMC products.

Other Entities. A strong after market industry has grown up around motorcycles of many types. If a component does cause an accident or injury, it is not always easy to ascertain just who produced it. We are skeptical of the value in requiring eventual reporting by manufacturers of replacement or after market equipment. This may have the undesired effect of reducing competition and thereby innovation. It would be counter-productive to require component manufacturers to take part in the process. In some cases, the component builder may only possess awareness that a part is used in a safety component, and will likely not even know if a problem exists unless it is brought to their attention by the vehicle manufacturer, who will be reporting the information in any event to NHTSA.

Partial Requirements for Some. In order for this rulemaking to be successful, people have to understand it and understand how to make it work. It should not be disruptive of current successful practices. If a regulation were to be imposed, we would suggest partial reporting, at least at first until there is some track record.

International Feedback. HDMC does not possess a formal field report system. While forty-seven countries are officially served by Motor Company products, we control distribution in only nine. The others, including Canada, are controlled by individual distributors with often long-standing relationships with HDMC. Their systems, including warranty processes, are often controlled internally. Information from sources not directly controlled by the Motor Company, while generally in English, is considered to be as accurate as the needs of those importers require. This has not resulted in problems. Any vehicle recalls ever performed overseas have always been accompanied by a domestic action.

Accessories. We agree NHTSA should limit the items it would regulate. Some, especially apparel, may have traditionally been covered by the protections of the Consumer Product Safety Commission.

What Is To Be Reported

Offices Receiving Claims Data. Ownership of a Harley-Davidson motorcycle places one in an intimate community. Every HDMC office and employee receives contact from vehicle owners of some sort or another. Specific staff units engage in dealer and service support. Our Harley Owners Group (HOG) provides planning and administration of rallies, public demo rides and manufacturer displays. Many employees volunteer for such events placing them in direct with consumer customers every day. However, in general, only contacts with our Customer Service Department are documented.

Form of Data Maintenance. Written communications and allegations of injury are maintained for an appropriate period of time. This includes customer contact in the form of e-mail, telephone calls, etc.

Classification System. The information is not classified or coded in any formal manner.

Foreign Reporting. HDMC does receive some data especially warranty claims from foreign distributors. However, this data may not be as reliable as that obtained from Motor Company sources.

Foreign Reporting Requirements. We have no formal system requiring periodic reports other than warranty claims.

Foreign Information Data Maintenance. Foreign data is generally received in written form. It is combined with domestic data.

Time Data Maintained. Warranty, allegations of injury and, indeed, all written communications relevant to this ANPRM are maintained for the statutory period. This period is the same for domestic data.

Early-Warning Reporting. We have no formal “early-warning” system. We do have informal reporting from many local dealers. We do not subscribe to any clipping or similar service.

Cut Off Dates. To maintain consistency with other record-keeping requirements, we suggest that information retention not extend beyond seven years.

Additional Information. The Harley-Davidson Motor Company is still small enough that formal processes for reporting customer claims, incidents and other information are not necessary. We do have formal processes for assembly and product development, but consider these trade or business secrets and out of the scope of the TREAD Act mandate.

Claims.

Proposed Definition. Claim: Contact with the company, alleging a product failure, accompanied by a demand for compensation.

Information To Be Reported. A more appropriate question should be the types of claims to be reported. HDMC believes that only claims for safety-related matters should be reported, with no summaries. Due to the nature of our leadership in fit and finish, we receive a large number of cosmetic claims. We have no benefit in reporting claims not reasonably involving a product safety issue.

Components. If NHTSA does require motorcycle companies to report under this process, it appears attractive to limit claims reporting to substantive safety-related component issues. However, understanding what is critical and what is not could be difficult. Developing lists of such components and their safety aspects would be time intensive and require active input from component designers. For example, reports of failure of a swingarm weld might be appropriate, reports of failure of a swingarm paint job would not. The limitation of appropriate components would be an appropriate subject for a future formal discussion. We would anticipate that critical motorcycle components would differ from that for automobiles.

Claim Reporting. As stated earlier, claims reporting should be limited. We suggest limiting such reporting to incident trends that might be indicative of a problem. This would suggest a threshold. Further discussion on an appropriate threshold would be necessary before we could contemplate a number.

Warranty.

Reporting Warranty. Due to the volume of warranty claims received, some limitation process related to the intent of the TREAD Act will need to be explored. Claims unrelated to safety or performance, such as fit and finish and top speed, should certainly be excluded. Otherwise, both HDMC and NHTSA systems would be overwhelmed.

Warranty Data Base. Warranty information is maintained in both paper and electronic formats, with the trend towards electronic formats. It is kept for seven years.

Threshold Reporting. Warranty data at HDMC is used primarily for production quality tracking and as a marketing tool. Company conceptualization of warranty would have to undergo an institutional change in order to be contemplated as an appropriate tool for reporting information relating to safety issues to NHSTA. Threshold concepts are attractive as a concept, but we would need more time and information to make informed comments. We do operate under California Air Resources Board (CARB) regulation to monitor California emissions equipment warranty claims in order to determine whether recalls might be necessary. However, no recalls have resulted from this process. Since for all practical purposes, CARB monitoring has not been shown necessary to date, we hesitate to suggesting such a process be expanded.

Threshold Size. See the above discussion.

Sort of Information To Be Reported. See the above discussions.

Coding Warranty. We are not aware of any industry warranty code standard applicable to HDMC and believe that any attempt to force a standard across the industry will be problematic and without commensurate benefit.

Standardizing Warranty Codes. There is no reason to travel such a path. The TREAD Act does not contemplate imposing such standardization of internal company processes.

Reporting Format. If NHTSA does require warranty reporting, an electronic format is appropriate.

Lawsuits.

Information To Be Provided. Only information sufficient to capture possible trends in safety-related factors should be reported.

Reportable Suits. If suits are to be reported, only those alleging a personal injury (PI) element should be included.

Thresholds for Reporting. See the above discussion. Use of a threshold does appear to be attractive at first. But, if only suits relating to PI claims, and only information tending to allow NHTSA to raise preliminary questions about safety concerns are reported, a threshold may not be necessary.

Design Changes.

If NHTSA does ultimately require reporting of design changes, some sort of limit would have to be made. HDMC experiences more than 5,000 changes (including over 2,000 running changes),

involving a geometric change in engineering design documents, every year in which a new vehicle is not introduced.

Mere changes in component supplier, deviations or variations occurring due to the complexities of the manufacturing process, supplier system evaluations, corrective actions and our custom vehicle operations are not included. The average life for any given work instruction is six weeks.

We cannot and do not track each and every one of these in a centralized, coherent format. We could not conceive of a good business reason to do so. We would not want to contemplate having to review all of these at once, and cannot believe that NHTSA would want to impose such a burden of review both on HDMC and on its employees. The information overload would be tremendous, of little probative value and the costs to HDMC in providing it would be substantial. Receipt of reports of these changes would be equally overloading to NHTSA personnel, with little return benefit and very expensive to administer.

Deaths and Serious Injury Reporting.

Foreign Injury Data. We are unaware of the systems outside of the United States for characterizing the seriousness of injury. From our involvement in vehicle safety research, we do know that the AIS and similar systems are a universally recognized research tool.

AIS Criteria. We have no internal expertise in the use of AIS raw data and no internal measure for what might constitute a serious injury.

Claims to be Reported. If NHTSA does require reports, we will do our best to comply. However, we will only be able to report what is reported to us and are disinclined to engage in extensive investigatory efforts merely to satisfy a reporting requirement. Using the definition of “claim” above, we might be able to report what is claimed. We would anticipate that claims, like legal complaints, can be amended and appropriate amendments might well reasonably result in amended reports to NHTSA.

Burdensome Reporting. Since we have no institutional expertise with the use of the AIS as a tool to determine injury severity, reports based on this measure might be overly burdensome. If reporting of claims is required, reporting claims alleging injury appears attractive. Further discussion of this factor is necessary.

Receiving PI and Death Reports. We do not have a formal method for collecting, accumulating and distributing reports unaccompanied by a claim of death or serious injury domestically or internationally. We strongly suggest that NHTSA make use of the Fatality Analysis Reporting System (FARS) and General Estimates System (GES), already in place for injury and death reporting purposes. This information is likely more complete than anything this company could provide. Further, NHTSA is itself in the unique position to develop reporting using FARS and GES to ensure that information among the several states is obtained in a more uniform manner. Under its Federal government auspices, NHTSA could also act to move international reporting in a direction enhancing harmonization. NHTSA already has a position supporting international harmonization practices, this could be one area in which to put the

position into practice. As this information is obtained in a more uniform or more harmonized manner, one aspect of the desired “early-warning” function would benefit the entire transportation industry.

Property Damage.

HDMC does not maintain separate property damage data apart from claims data. We do not have a system in place to easily capture the data requested in this section. Submission of any of this data to NTSA would require further discussion.

Internal Investigations.

Required Reporting. The contemplated required reporting appears problematic. If too extensive, it may have a chilling effect on the proclivity of a vehicle manufacturer to perform investigations. NHTSA should defer implementation of such a provision until such time as further discussion of threshold requirements can take place.

Definition. A range of activities are reasonably related to and easily confused with, internal investigations. The problem and perhaps the solution lie in ascertaining exactly when an investigation has become reportable. Some investigations might be so closely related to preparation to trial that a company would be unable to take advantage of legitimate client confidentiality concerns. In order to encourage internal investigations, perhaps NHTSA should not only narrowly define the topic but also wait until a conclusion has been reached before requiring reporting. Since NHTSA is contemplating claim reporting, it would likely be receiving sufficient information to determine whether a safety-related concern has arisen.

Customer Satisfaction Campaigns.

Harley-Davidson has performed 13 Product Performance Campaigns since 1994. None of these inhibited any recall actions we have taken during the same period.

Substantially Similar Vehicles

Harley-Davidson sells substantially the same product lines in every nation in which it does business. Any time Harley-Davidson has ever performed any product recall actions in foreign nations, they were mirrored by a recall in the United States. NHTSA can use its good offices to lessen the differences between vehicles sold in the US and foreign counterparts. Most differences among our domestic and international versions reflect differences in emissions and safety regulations. Increased harmonization of such regulations would lead to an efficient reduction in manufacturing complexities, with a concurrent likelihood of a reduction in deviations taking place during manufacture.

Field Reports

Harley-Davidson does not have a formal field reporting system. Reporting roughly analogous to field reports is relationship based and personal. Data is not accumulated.

When to Report.

If formal reports to NHTSA are required, they should be on a quarterly or semi-annual basis. Urgent actions taken in a recall situation can be reported as necessary, but that happens today with current systems in place.

Form of Information Reported.

Format. Format for reports should be electronic only, preferably e-mail or as an attachment to e-mail.

Death and Injury Information. Unless accompanied by a claim, we do not today uniformly analyze such information in any formal manner. We might view such information with a thought to looking at it further, but this would not necessarily rise to the level of an investigation. Therefore, without further discussion, we cannot anticipate having to report raw data we do not use.

Spreadsheet Design

Aggregate Statistical Information. HDMC does not have an institutional definition for this term; NHTSA would have to develop the term further before it would possess utility.

Manufacturer Burden

Start-up and Ongoing Costs. Without more information as to the final form of the regulation, we cannot be specific about these costs. However, information requests from NHTSA regarding possible defects represent a substantive cost. Such requests have historically been infrequent, once every year or so. In responding to the most recent such request, several hundred hours of professional and administrative staff time and the generation of hundreds of pages of information was required. It is apparent that a start up functional reporting unit would require infrastructure, personnel, training, programming and other costs related to doing business differently than ever before. We estimate such costs to be in excess of several million dollars. The burdens of such funding would not end there. All such funds thereby allocated would have to be diverted from ongoing projects originally intended to add value to the business. Deferral or cancellation of these projects will add substantial costs or result in lost opportunities. We do not know what threshold of significance NHTSA used in its analysis, but it appears to have been wrong.

Unduly Burdensome. If NHTSA wants to avoid overly burdensome requirements, it should move very cautiously. Since automobile manufacturers were the primary targets of the TREAD Act, perhaps it should focus on them at first. NHTSA should narrowly focus on several specific

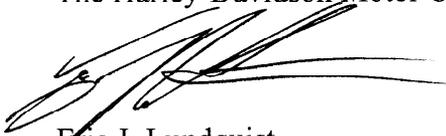
components directly related to safety. The agency should also determine whether information it already collects, such as that under the FARS system, might be employed to obtain at least some kinds of the early warnings desired by the Congress.

Effective Early Warning. The informal systems in place at Harley-Davidson and the relationship between the Motor Company and NHTSA have already combined to provide timely warning of safety issues leading to recalls. Perhaps early warning programs can be tailored to the industries affected and the relative sizes of the companies involved.

Manufacturer Early Warning. The systems currently in place at HDMC have served us well; we see no reason to change.

Thank you for the opportunity to place these comments in the public record for this ANPRM. We welcome the opportunity to take place in further discussions on any relevant basis with NHTSA on this subject.

Sincerely,
The Harley-Davidson Motor Company



Eric J. Lundquist
Regulatory Affairs Department
11800 W. Capitol Drive
Wauwatosa, WI 53222
Tel: 414.616.1852
Fax: 414.616.1338
eric.lundquist@harley-davidson.com