

# VOLVO

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Volvo Trucks North America, Inc.

March 22, 2001

**VIA EXPRESS MAIL**

Taylor Vinson  
National Highway Traffic Safety Administration  
Docket Management  
Room PL-401  
400 Seventh Street, SW  
Washington, DC 20590

Re: **Docket No. NHTSA 2001-8677; Notice 1 - 12**

Dear Mr. Vinson:

The comments submitted below are on behalf of Volvo Trucks North America ("Manufacturer") in response to NHTSA's January 22, 2001 ANPRM. The comments are categorized according to the questions set forth in section IV. D., of the ANPRM.

Manufacturer is in the business of manufacturing, assembling and distributing heavy trucks. Manufacturer distributes the overwhelming majority of its vehicles to customers in North America, with a small percentage of the completely knocked down kits ("CKDs") being exported to South America and vehicles to the Middle East. Manufacturer occasionally receives warranty claims for the exported vehicles, but has received no personal injury claims for such vehicles.

Manufacturer normally distributes approximately 30,000 heavy trucks annually. In light of the small percentage of the total market of motor vehicles sales Manufacturer's distribution represents, and for additional reasons set forth below, Manufacturer does not believe that information in its possession would benefit NHTSA in carrying out the intent of the early warning section of the TREAD Act. Moreover, requiring compliance with several of the reporting requirements contemplated in the ANPRM would impose an undue burden on Manufacturer. For these reasons, Manufacturer recommends that NHTSA carefully limit the new reporting obligations it is considering imposing on Manufacturer and those similarly situated.

**General Questions:** NHTSA seeks information about the following: how manufacturers receive, classify, evaluate and maintain warranty and claims data; whether warranty and claims data is coded; whether foreign entities gather or report warranty or claims data; how long the information is retained; whether NHTSA should establish a cutoff date for reporting; whether additional information would be helpful in identifying safety defects. NHTSA also seeks warranty information about the following: whether warranty data should be reported; whether particular warranty data should be excluded; how manufacturers maintain warranty data; the thresholds for reporting warranty data; the type of warranty data that should be reported; whether

# VOLVO

Docket No. NHTSA 2001-8677; Notice 1 – Page 2

warranty codes are employed by the industry; whether standardized codes should be used; the form in which warranty data should be submitted.

## **Response to General Questions and Warranty Questions:**

### **Warranty Information**

Manufacturer's warranty claim data consists of information regarding specific claims made for a particular vehicle. In the aggregate, the warranty claims data includes information of all claims for all vehicles subject to the express warranty that accompanies the new truck. It generally includes information concerning the vehicle's identification number, the date of the repair, a dealer code, the dealer repair order number, the causal part number, the warranty coverage under which the claim was allowed, a brief description of the repair and various information concerning the time required to make the repair, the associated costs and other financial data. A significant portion of the components installed on Manufacturer's trucks are not covered by Manufacturer's warranty, such as tires and non-Manufacturer engines. Manufacturer's warranty data does not include information regarding the repair or replacement of such non-warranty components. In addition, Manufacturer's warranty data does not indicate the date the vehicle was placed in service or the vehicle's year of manufacture.

Manufacturer's warranties differ dramatically from automobile warranties. Manufacturer's warranties are highly customized, differentiating between the conditions of use, the weight rating of the truck, the system covered, and the priorities of the purchaser. Manufacturer cannot query its warranty database for these warranty coverage criteria. The warranty coverage for a particular vehicle cannot be determined without working through a complex matrix of warranty options. A brief summary of Manufacturer's warranty system illustrates the peculiarities of heavy truck warranties.

First, Manufacturer's warranty system establishes categories of coverage based upon the weight rating of the vehicle, the use of the vehicle and the particular system on the vehicle.

The vehicle systems include the following categories: engine, transmission, driveline, rear axle, cab structure, frame rail/crossmembers, noise emission, emission control system, and towing. Manufacturer has also established three categories of heavy truck use: (1) normal duty, which contemplates almost exclusive highway use such as line/long haul, short haul, and pickup & delivery; (2) heavy duty, which contemplates mixed on and off highway use or heavy line haul, such as construction, refuse, and fire or rescue service; and (3) severe duty, which contemplates primarily off highway use with extremely heavy loads, such as heavy construction, heavy refuse, mining, logging, and oil field. The purchaser can choose from standard or premium coverage terms, and some fleets negotiate individual warranty coverage plans. Overall,

# VOLVO

**Docket No. NHTSA 2001-8677; Notice 1 – Page 3**

the particular warranty terms vary dramatically from one to eight years, 100,000 miles to 1,000,000 miles, and 3,250 operating hours to 18,000 operating hours.

Manufacturer collects warranty data on its trucks through its dealer network. When a truck owner requires a warranty repair, the owner takes the truck to one of Manufacturer's authorized dealers for diagnosis and repair. Before authorizing the repair, dealer personnel search the dealer's information system by vehicle identification number to determine which warranty applies to the vehicle and whether the recommended repair is covered by the applicable warranty. After performing a warranty repair, the dealer enters the warranty claim data on its computer, and the information is transmitted to the Manufacturer's warranty database and stored. Thus, virtually all warranty data in Manufacturer's warranty database has been entered by dealer personnel.

Manufacturer maintains warranty information for five years, and warranty information more than five years old is purged daily from the database. Even with this constant purge of information, Manufacturer's warranty claims database is its largest database. At any give time, the warranty database contains approximately 1.3 million claims. This is roughly equivalent to 4 billion characters.

The size of the warranty database requires Manufacturer to lease a mainframe computer and software to manage the information. Manufacturer's mainframe computer is an IBM 9672-RC6. The operating system for Manufacturer's mainframe is OS390 version 2.9 (JES2). Manufacturer's warranty claims data program is IMS version 6.0. Manufacturer's claims data is stored on Hitachi HDS RAID-5 tapes. Storing and maintaining this information, including the mainframe lease, software lease and maintenance costs is in excess of one million dollars per year.

## **Reasons Why Reporting Warranty Data is not Feasible or Beneficial**

Manufacturer's express warranty does not cover damages caused by accidents. Consequently, the Manufacturer's warranty database does not include accident information. Since warranty claims do not deal with personal injuries, they do not contain information useful in developing an early warning system for safety-related defects. Unlike tires, which, if defective, almost invariably will pose a safety threat, the overwhelming majority of Manufacturer's warranty repairs bear no relation to safety. Manufacturer is unable to search its database for warranty defects that relate to safety. Additionally, the warranty data stored in Manufacturer's database will not aid in implementing an early warning system because the warranty claims submitted by dealers do not state whether the repairs are related to an accident.

Manufacturer employs warranty data coding in three general categories; warranty, goodwill, and recall. This information can be searched by these categories, and it is generally

# **VOLVO**

**Docket No. NHTSA 2001-8677; Notice 1 – Page 4**

evaluated by Manufacturer's warranty and claims department employees. These general categories of Manufacturer's warranty claims database will not aid NHTSA in developing and implementing an early warning system. In order to attempt to carry out an early warning system, NHTSA would be required to review all of Manufacturer's warranty claims on a case-by-case basis to determine if any safety-related defects deserved early-warning treatment. Even if an independent review produced useful information, requiring Manufacturer or NHTSA to conduct such a review would have a crippling effect.

For several reasons, Manufacturer's warranty database is not a reliable source to extrapolate statistical trends for safety defects. As set forth above, the information in Manufacturer's warranty database is entered by its dealers. Consequently, the quality and uniformity of the information is inconsistent. The costs associated with reviewing every claim submitted is too high to justify conducting an inquiry about the accuracy in claims reporting. As a result, many claims are never reviewed for accuracy or validity.

The particular warranties purchased by a customer are highly customized. A component installed in one truck may be warranted for several years, whereas the same part on a similar truck may be warranted for one year. The differences in the duration of coverage for Manufacturer's warranties are controlled by factors such as the use to which the truck is placed. These differences in coverage are also the result of the purchaser choosing, and in some cases, negotiating a premium warranty. In addition, Manufacturer's warranty records include fleet repairs that may significantly overstate the number of warranty repairs in certain situations. Similar trucks are often sold to fleet owners. A fleet owner may experience a failure of a part in a small number of its vehicles. As a result, the fleet owner asks Manufacturer to conduct a campaign on all similar trucks in its fleet. If Manufacturer agrees to conduct the campaign, its warranty records will show that warranty work that related to the part at issue was conducted on the total number of vehicles in the fleet, when in fact, there may have been only a few trucks serviced that contained the defective part. Manufacturer does not have the search capability to redact or separate these fleet campaign records from its warranty database.

A final consideration bearing on the accuracy of extrapolating trends from manufacturer's warranty data is product application. Heavy trucks are highly customized, and one component installed in a truck may demonstrate a high rate of failure, whereas when installed in a different heavy truck system, operates without incident. The manner in which the truck is put to use also renders it impossible to draw meaningful conclusions from heavy truck warranty data. For example, the components in a suspension system of a heavy truck used in severe duty conditions may demonstrate a much higher rate of failure than the same components in a heavy truck used in normal duty conditions. The higher rate of failure may be an acceptable level of product performance for the severe duty truck, whereas, it would be unacceptable for a similar normal duty truck. Manufacturer cannot search its warranty database to account for these

# **VOLVO**

**Docket No. NHTSA 2001-8677; Notice 1 – Page 5**

differences in use and application. Consequently, the aggregate warranty data that manufacturer could provide would not assist NHTSA in implementing an early warning system.

Another factor weighing against requiring Manufacturer to provide NHTSA warranty data is the economic burden that would result. It is not economically feasible for Manufacturer to provide NHTSA with its warranty information. Manufacturer cannot download information from its database to a diskette or CD ROM for NHTSA to view on a personal computer. The only way Manufacturer can transmit warranty data to NHTSA electronically is by providing NHTSA copies of its mainframe cassettes. In order for NHTSA to review the warranty data, NHTSA would be required to construct and maintain a compatible mainframe computer with appropriate software, the costs of which are set forth above. Even if NHTSA went through this effort and expenditure, the limited data search capabilities render the information meaningless for purposes of administering an early warning system.

Manufacturer's warranty database is stored on a mainframe computer that contains virtually all of its corporate-wide data. The mainframe has no firewalls to prevent a person who gains access to the warranty database from retrieving Manufacturer's non-warranty information. Consequently, access to Manufacturer's mainframe would compromise its confidential information.

## **Personal Injury Claims**

Claims for personal injuries are directed to Manufacturer's legal department and are received in a variety of ways, including letter, electronic mail, facsimile and telephone. Manufacturer normally maintains a hard copy of its personal injury claims records. Manufacturer cannot search personal injury claims by part number or defect allegation. Manufacturer retains its legal claims data for seven years from the date a claim file is closed. Retained legal claims data are primarily limited to a copy of the complaint, and any release executed in the matter or final order issued by a court, as well as the opposing side's depositions.

## **Reasons Why Personal Injury Claims Reporting Should be Limited**

The personal injury claims submitted to Manufacturer can be fairly characterized as formal or informal. Generally, a person making an informal claim will call Manufacturer and provide the vehicle identification number of the truck and ask general questions. Manufacturer does not retain records of these informal claims. Formal claims consist of demand letters from representatives of the injured party or personal injury lawsuits. Manufacturer receives approximately ten personal injury lawsuits per year.

Even when a lawsuit is filed, Manufacturer rarely has enough information in the complaint papers to determine the specific allegation of defect or the actual injuries alleged.

# VOLVO

Docket No. NHTSA 2001-8677; Notice 1 – Page 6

Many of the cases are subrogation suits filed by insurance companies, which have little personal understanding of the underlying facts of the case. Increasingly, states have created form complaints that allow *pro se* litigants to check off boxes and fill out a few lines of information to generate a complaint. In addition, the pleading requirements in federal court and in most state courts are minimal, and lawsuits serve merely to put a defendant on notice of the general nature of the claim. As a result of these practices, Manufacturer often does not learn of the specific defect that the plaintiff is alleging until it deposes plaintiff's expert. Generally, the plaintiff's expert is not deposed until the latter part of the discovery period, which on average, is two to three years after the lawsuit has been initiated, which, in turn, may be two to three years after the accident giving rise to the claim.

From the formal complaints, Manufacturer is rarely, if ever, in a position to provide NHTSA more information about the alleged defect than that which is set forth in the complaint. Manufacturer is, in large part, an assembler of heavy trucks. Other than the cab of the truck, Manufacturer does not manufacture any of the major components or systems that make up the trucks it sells. In some instances, Manufacturer designs a component and outsources the manufacturing responsibility. In other situations, the components are designed and manufactured exclusively by component manufacturers or assemblers. This practice is common in the heavy truck industry.

Consequently, when a formal complaint is filed against Manufacturer, it is not in a position to independently investigate and determine the specific nature of the alleged defect without a substantial investment in time and resources. To complicate independent investigation efforts, most lawsuits are not filed until a year or two after the accident, when evidence has been destroyed and memories of witnesses have faded. Beyond providing NHTSA with a copy of every lawsuit it receives, Manufacturer is unable to provide the information contemplated by the early warning provisions of the TREAD Act.

The personal injury reporting requirements in the early warning section should not apply to Manufacturer. The small number of personal injury lawsuits filed against Manufacturer illustrate that it will not provide a satisfactory predictor upon which to base early warning action. Manufacturer suggests that a threshold of 25 new personal injury lawsuits per year should be required before personal injury reporting is required under the early warning section. If NHTSA intends to require all governed entities to report personal injury claims, the reporting requirements should be limited to providing NHTSA with a copy of all personal injury lawsuits.

In the event reporting is required, a sensible reporting cutoff period should be established. Manufacturer suggests that such a period is ten years—the useful life of the heavy trucks it distributes.

# VOLVO

**Docket No. NHTSA 2001-8677; Notice 1 – Page 7**

**Questions Relating to Claims:** NHTSA seeks information about the following: the appropriate definition of “claim;” whether NHTSA should limit claims reporting to certain components; whether all claims involving serious injuries or deaths should be submitted.

**Answers Relating to Claims:**

The term “claim” should mean any lawsuit filed requesting compensation for personal injuries or property damage that is the result of an alleged safety-related defect in a motor vehicle. The definition of “claim” should exclude any request for consequential damages that are the result of a warrantable repair or an alleged defect that does not relate to safety.

NHTSA should only require the submission of claims for safety-related problems with components. Component failures having no bearing on the overall safety of the vehicle should be exempted from NHTSA’s reporting requirements.

Since they will not be able to determine what a “serious injury” is to report, Manufacturer believes that NHTSA should require manufacturers to submit all personal injury lawsuits filed against them.

Manufacturer has never performed a safety recall as a result of consumer personal injury complaints or warranty claims. Instead, whenever Manufacturer conducts a voluntary recall or issues a technical service bulletin, it acts as an impetus for personal injury and warranty claims.

**Questions Relating to Lawsuits:** NHTSA seeks information about the following: the information that should be provided about lawsuits; whether the information should be provided for each lawsuit involving an injury-related defect; and if not the threshold for reporting.

**Response to Questions Relating to Lawsuits:**

If NHTSA requires Manufacturer to file copies of lawsuits with NHTSA as an obligation under the TREAD Act’s early warning section, NHTSA should not attempt to differentiate between injury-related defect claims. As discussed above, Manufacturer ~~Manufacturers~~ is unable to distinguish between the seriousness of the injuries alleged in a lawsuit from the pleadings. In light of the TREAD Act’s criminal penalty provisions, it is unfair to require Manufacturer to determine the seriousness of the injuries alleged in a complaint. If NHTSA intends on collecting lawsuits from Manufacturer, the only criteria NHTSA should impose is that the complaint must allege personal injuries caused by a defect in a motor vehicle.

**Questions Relating to Design Changes:** NHTSA seeks information about the following: whether information about design changes should be provided; whether different consideration should apply to prospective only running changes then to changes to service parts.

# VOLVO

Docket No. NHTSA 2001-8677; Notice 1 – Page 8

## **Responses Relating to Design Changes:**

One aspect of manufacturing that complicates a parts numbering and tracking system is that manufacturers regularly change part numbers. The most common reason for a part number change is when a manufacturer or one of its suppliers changes the part design. When this occurs with a part used by Manufacturer, a Design Change Notice (“DCN”) is issued. DCNs inform the organization what changes will be made to a particular component. DCNs encompass a broad spectrum of part alterations, and often have little to no impact on safety or performance issues. For example, if Manufacturer decides to change the color of a component, it would issue a DCN and change the part number.

Forced disclosure of Manufacturer’s DCNs could be devastating because they contain proprietary information. The DCNs are the result of the culmination of product development efforts. The research and development costs associated with DCNs represent a substantial portion of Manufacturer’s operating costs. The risk of allowing one of Manufacturer’s competitors to have access to these materials presents a substantial threat to the viability of Manufacturer and its ability to provide competitively-priced products.

Manufacturer processes approximately 5,000 DCNs per year. Approximately 10,000 part numbers are affected each year by a DCN. The sheer volume of paperwork generated by DCNs minimizes the value of reporting DCN’s.

Most design changes reflect product upgrades, not safety-related alterations. When the DCN is a safety-related problem, Manufacturer reports the DCN to NHTSA under its current statutory and regulatory obligations. In addition, when DCNs are safety related, Manufacturer is generally engaged in recalling affected vehicles.

**Questions Relating to Deaths and Serious Injuries:** NHTSA seeks information about the following practices: the AIS system for characterizing the seriousness of injuries; whether AIS3 “serious” criteria is appropriate; how serious injuries should be determined; how NHTSA should define serious injuries; whether manufacturers would find it less burdensome to report all allegations of injuries to NHTSA; how and to which offices of a manufacturer death and serious injuries are reported.

## **Responses Relating to Death and Serious Injuries:**

Deaths and serious injuries are reported to Manufacturer’s legal department. Manufacturer’s legal department is prepared to file with NHTSA a copy of all personal injury lawsuits filed against it. In light of the criminal conduct provision of the TREAD Act, Manufacturer believes that it would be extremely difficult and potentially unfair to require its employees to attempt to categorize lawsuits as reportable or not. Rarely, if ever, does

# **VOLVO**

**Docket No. NHTSA 2001-8677; Notice 1 – Page 9**

Manufacturer receive a complaint that fails to allege serious injury, and later learn that serious injury actually occurred. Instead, it is typical for Manufacturer to receive a complaint that alleges serious permanent injury, but after discovery proceeds in the case, the claim for permanent injuries is dropped.

Attempting to use serious injury criteria, such as the AIS criteria, to implement the TREAD Act may create more problems than it solves. Manufacturer views serious personal injuries as those in which it can be reasonably expected that the individual will not fully recover. Thus, Manufacturer's view is that the injury must have an element of permanency before it can be fairly categorized as serious. One concern Manufacturer has with establishing a regulatory definition of "serious injury" based on the AIS criteria is the effect it will have on the trucking industries' warning structure.

The Maintenance Council ("TMC") of the American Trucking Association has developed a recommended system of warning that is premised on the gravity of the harm a particular risk poses. The TMC uses the term "CAUTION" on its warnings to convey that the risk posed by the activity is damage to the vehicle. The term "WARNING" is used to convey that the risk presented by the situation is serious personal injury, and the term "DANGER" conveys that death could result from the activity. Manufacturer is concerned that by mandating a definition of serious personal injury that is inconsistent with the approach taken by the trucking industry, the trucking industry will be forced to integrate this new definition into its existing system of warnings. By doing so, the regulated definition could render the trucking industry warnings confusing and misleading.

Additionally, the AIS3 "serious" criteria may not be an appropriate indicia of serious injury. The AIS approach places emphasis on the location of the injury as opposed to the gravity of the injury. This may cause an over-reporting or an under-reporting of injuries worthy or unworthy of the label "serious."

Finally, the AIS3 "serious" criteria should be rejected because it is unworkable. The AIS system is a detailed and exhaustive system of coding injuries. In order to properly implement a system of coding injuries according to the AIS system, Manufacturer would have to determine the body region of the injury, the type of anatomic structure, the specific anatomic structure, the nature of the injuries, and the level of injury within a particular body region and anatomic structure. Manufacturer has no way of determining these elements of alleged injuries from the pleadings in a lawsuit. Rarely, if ever, does a complaint set forth a detailed description of the injuries sustained. Often, vague descriptions are given, such as "permanent injury," "injury to the plaintiff's back and neck," or "severe pain and suffering." Even if pleadings contained detailed allegations of the injuries suffered or attached medical reports, the AIS system is unworkable for Manufacturer because it requires understanding in complex areas such as human

# VOLVO

Docket No. NHTSA 2001-8677; Notice 1 – Page 10

anatomy and injury severity, well beyond the training and expertise of Manufacturer's management, sales, legal and engineering staff.

**Questions Relating to Property Damage:** NHTSA seeks information about the following: the data that manufacturers should include as aggregate statistical data; the type of statistical data that relates to property damage that a manufacturer maintains; how aggregate statistical data is maintained by manufacturers; how aggregate statistical data should be submitted to NHTSA.

**Responses Relating to Property Damage:**

Manufacturer's warranty data does not include property damage claims. Manufacturer is unable to generate any "aggregate statistical data" on property damage. Manufacturer receives approximately ten personal injury lawsuits a year. Manufacturer does not have enough data to generate meaningful aggregate statistical data on its personal injury lawsuits. Manufacturer is prepared to send NHTSA copies of all personal injury lawsuits in which it is named as a party.

**Questions on Internal Investigations:** NHTSA seeks information about the following: whether a manufacturer should be required to report internal investigations; what is the appropriate definition of internal investigations; whether manufacturers should be required to report such investigations once commenced.

**Responses to Questions on Internal Investigations:**

Requiring Manufacturer to report internal investigations raises privilege and public policy issues that cannot be resolved. Internal investigations are often, if not always, conducted in anticipation of litigation. As such, they are generally protected from disclosure by the work-product doctrine. In addition, these investigations often implicate difficult attorney-client privilege issues creating other disclosure issues. For example, a design engineer involved in a defect investigation may inquire with an attorney for the manufacturer, seeking advice about whether a particular design complies with federal motor vehicle safety standards. The discussions between the engineer and the attorney are protected from disclosure by the attorney-client privilege. It would violate the policy underlying such a privilege if manufacturers are required to report attorney-client communications to NHTSA because they are part of an internal investigation. Moreover, once the information is disclosed to NHTSA, the privilege is waived and the information becomes subject to disclosure in other proceedings.

When claims are submitted to Manufacturer that are significant enough to trigger a safety-related defect investigation by NHTSA, it is invariably the case that Manufacturer has already reported the incident to NHTSA before conducting its internal investigation. Consequently, the internal investigation provisions contemplated are unlikely to provide earlier warnings to trigger NHTSA product defect investigations than under the current system.

# VOLVO

**Docket No. NHTSA 2001-8677; Notice 1 – Page 11**

Establishing additional reporting requirements for internal investigations is also bad policy. If manufacturers are concerned that all internal investigations that relate to allegations of defect will be disclosed to NHTSA, they may refrain from conducting such investigations, at the expense of public safety.

**Questions on Customer Satisfaction Campaigns:** NHTSA seeks information about the following: whether customer satisfaction campaigns, consumer advisories, recalls or other activities involving the repair of vehicle should be reported; what kind of campaign should be reported.

**Responses to Questions on Customer Satisfaction Campaigns:**

Manufacturer's technical service bulletins are provided to NHTSA under existing regulations. Manufacturer also issues recalls that are reported to NHTSA under existing regulations. Manufacturer performs service campaigns and issues technical service bulletins on parts and components that are not safety related. The service campaigns and technical service bulletins are communicated to Manufacturer's dealers. The customer satisfaction campaigns conducted by Manufacturer are communicated to Manufacturer's customers. All of these campaigns are unrelated to safety. Manufacturer believes that customer satisfaction campaigns and surveys fall outside of the realm of the TREAD Act, and the regulation promulgated by NHTSA should not require reporting these items.

**Questions on Identical and "Substantially Similar" Motor Vehicles and Equipment:** NHTSA seeks information about the following practices: whether the word identical is understood internationally; how should a manufacturer determine what substantially similar means; how should substantially similar be defined; should the definition of substantial similar differ with respect to individual parts, component parts assemblies and other systems; should the definition be restricted to replacement equipment for substantially similar motor vehicles.

**Responses to Questions on Identical and "Substantially Similar" Motor Vehicles and Equipment:**

Requiring Manufacturer to report when it learns of a defect in a substantially similar part or in a substantially similar vehicle is an unworkable requirement. Manufacturer has never experienced multiple accidents that resulted in serious personal injuries which involved the same parts or part numbers. Many of the personal injury claims received by Manufacturer are not amenable to categorizing by part. For example, Manufacturer receives personal injury claims that relate to falls from the vehicle cab, impaired visibility claims from drivers of heavy trucks, and industry-wide asbestos claims.

# VOLVO

Docket No. NHTSA 2001-8677; Notice 1 – Page 12

Creating a requirement to report defects in substantially similar parts is unworkable for a heavy truck manufacturer such as Manufacturer. If Manufacturer buys a part from a parts supplier to install during a vehicle's initial production and assembly, the part will normally contain a "production" part number. The same part installed by a customer post-production, as an after-market replacement part, may have a different "aftermarket" part number. Consequently, substantially similar and even functionally identical parts are untraceable through a system of parts numbering. Similarly, when generic parts are used, such as bolts or washers, the part is virtually untraceable once it is installed.

One problem inherent in the TREAD Act is the misconception that Congress can take what happened in the Ford/Firestone situation, generate a solution, and apply that solution to all parts and the entire motor vehicle industry. The flaw is that a tire represents the easiest part to determine "substantial similarity." Manufacturer believes that attempting to regulate the heavy truck industry on a substantially similar basis is not feasible. Heavy trucks are highly customized vehicles, and rarely will there be a large group of heavy trucks that are substantially similar in every way.

In addition, the task of determining similarity of parts or vehicle systems on foreign countries, as contemplated by the TREAD Act, further complicates the issue for heavy truck manufacturers. For example, the regulatory scheme for the heavy truck industry in the United States differs dramatically from its European counterparts. European heavy truck brake regulations focus on the balance across the vehicle when braking. The braking regulations for heavy trucks in the United States, however, focus on stopping distance. Thus, while the heavy trucks in each country may have similar parts, the application of the parts in the differing regulatory environments makes comparison particularly complex and potentially misleading.

**Questions on Field Reports:** NHTSA seeks information about the following: what is an appropriate definition of field report; do manufacturers screen field reports for safety-related information; how do manufacturers process and maintain field reports; what information regarding field reports should be provided to NHTSA.

**Responses to Questions on Field Reports:**

Field reports are filed by Manufacturer's field service employees. Manufacturer's district and regional service managers file reports based on customer contacts. Generally, the field reports relate to service issues and sales issues. Manufacturer does not screen its field reports. Safety-related issues are not included in a field report, instead, they are reported directly to Manufacturer's legal department, usually by telephone. The database containing the field reports cannot produce meaningful search results for purposes of the early warning section of the TREAD Act.

# VOLVO

Docket No. NHTSA 2001-8677; Notice 1 – Page 13

## Manufacturers Reporting Preferences:

Manufacturer would prefer not to report warranty-related information for the reasons set forth above. If Manufacturer were required to report this information, producing a hard copy would be voluminous. Manufacturer has no way of conveying sorted warranty data electronically. Manufacturer would prefer, if warranty information disclosure was required, to produce it on cassettes searchable on an independent mainframe owned and operated by NHTSA. As for complaints of serious personal injury or death, Manufacturer is willing to provide hard copies of all lawsuits filed against it alleging personal injuries.

Manufacturer believes that the information submitted under the early warning regulations, as applied to Manufacturer, would create statistically meaningless information because of the small sample size and the unreliable warranty information it generates. Manufacturer believes that in approaching the reporting requirements envisioned by the early warning section, NHTSA should apply a cost/benefit analysis. The warranty data that Manufacturer would be required to report is voluminous data that is not meaningful and that cannot be searched without a substantial investment of time and resources. Manufacturer's personal injury data can be submitted at a low cost by providing copies of all personal injury lawsuits filed against it. However, the small number of lawsuits filed against Manufacturer would render the information produced in the lawsuits difficult to analyze. In addition, the bare allegations contained in such lawsuits renders the information useless. The lawsuits filed against Manufacturer are not repetitive in nature and rarely, if ever, involve the same parts over a span of years.

The current reporting requirements adequately inform NHTSA of safety-related defects in the heavy truck industry. To the extent that NHTSA seeks additional information, it can refer to heavy truck accidents reported under FMCSA's regulatory scheme. The existing governmental reporting requirements adequately inform the applicable regulatory entities and protect the public from safety-related defects in heavy trucks.

Yours truly,



Heino W. Scharf  
Director, Product Assurance