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DEPT. OF TRANSPORTATION

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National Highway Traffic Safety Administration
Docket Management
Room PL-401
400 Seventh Street, S.W.
Washington, DC 20590

**RE: Docket No. NHTSA 2001-8677; Notice 1; - 14
Early Warning Reporting Advance Notice of Proposed Rulemaking**

Dear Sir or Madam:

Peterson Manufacturing Company is submitting these comments on the agency's advance notice of proposed rulemaking (ANPRM) to implement the early warning reporting provisions of the Transportation Recall Enhancement, Accountability and Documentation (TREAD) Act.

Peterson Manufacturing Company is a small business entity which manufactures visual safety products consisting of safety lighting products, mirrors and auxiliary lighting products which are distributed to the automotive, motorcycle, truck, truck tractor, truck trailer, bus and construction and agricultural machinery markets.

Most of the products which the company manufactures are regulated by FMVSS 108, FMVSS 111 or FMVSS 125 safety laws.

Peterson is a component supplier to the above original equipment manufacturers. The company's position in the supply chain may vary from tier 1 to tier 3.

While the TREAD Act places the responsibility of reporting on the motor vehicle manufacturer or the motor vehicle equipment manufacturer (OEs) the company realizes that in the real world this responsibility will be delegated downward through the supply chain to the suppliers of individual components for the vehicle.

It is in this delegation process that small business entities, like Peterson, will be impacted. In order to furnish components to the OE the contract with the OE will require the regulated reports. The only way to supply these in a timely manner is to staff for the required reports. If the component manufacturer is supplying more than one OE the reports will probably vary in format thereby compounding reporting requirements. As a minimum TREAD would require an analyst in returns, warranties and claims area and another in standards and regulations area.

While the addition of 2 staff members may be insignificant to an OE it represents an increase of about two percent and \$200,000 to \$300,000 by the time equipment, development cost and support are completed. Typically these programs grow in cost and complexity over the years.

All of this transpires at a time when OEs are making component manufacturers reduce prices over the life of the contract through a contractual obligation. Therefore, TREAD will have a "significant regulatory action" adversely affecting the component manufacturers sector of the economy. If this cost impact is multiplied by NHTSA's figure of "14,000 individual items of original equipment in a contemporary passenger car" and the number of car manufacturers, the extent of the impact on the component manufacturers economy can be visualized.

REPORTING OF EQUIPMENT ITEMS DIRECTLY COVERED BY THE FMVSS

Peterson manufactures and distributes products which fall into 3 FMVSS categories (108, 111 and 125). Of these, 108 regulated products are the only ones supplied to OEs. The company manufactures and certifies these products to the performance parameters of FMVSS. There are a myriad of process control and quality procedures in place to assure the product is in compliance when shipped. Since they may pass thru one or more assemblers to become part of the vehicle, Peterson loses control of how the component is operated within the vehicle's "system". There appears to be little or no promise of "early warning" detection of safety defects in lighting which would be meaningful to the lighting manufacturer. This is especially true when TREAD is dealing with safety defects which lead to "death or serious injury". In fact the very opposite of the intended objective may be true. The component manufacturer, as well as, the NHTSA may be so buried in reports that the truly serious safety defects are not highlighted.

Therefore, Peterson does not believe that reporting responsibilities should be extended beyond the "vehicle manufacturers". If the NHTSA does extend them then it should be after an extended time period for both entities to gain experience with the reporting requirements.

WARRANTY CLAIM DATA

NHTSA presented several pages and questions to be answered but these were mostly directed to vehicle manufacturers.

Peterson prefers to respond to the issues in a general manner since the questions do not specifically speak to the company's situation.

NHTSA identifies that the following areas are subject to inclusion in an early warning reporting system: claims data, warranty data, design change data, field report data and lawsuit data.

The implication is that NHTSA might have access to internal company data or computer files.

This opens up a whole "Pandora's Box" of litigious issues.

Since Peterson is involved with multiple markets and distribution chains the claims data and warranty data may be as varied as the customer base. For commercial or financial reasons some customers may report a claim or warranty and after proper documentation the product is scrapped in the field. Some OE customers insist on NOT returning product. How can a component manufacturer be held accountable if they cannot perform forensic analysis?

Some customers may falsely mis-code a warranty claim in order to facilitate payment. Conversely, as an average, one-third of all products which are returned still function. This points to a "system" defect not a component defect. To sort out a root cause may take months.

A review of the present legal system would probably reveal the filing of many frivolous lawsuits or "revenge" suits. This rule making may encourage that kind of activity. In this era when a disgruntled employee will gun down fellow co-workers, would a revengeful employee or customer stop at filing a false claim or lawsuit?

Likewise, design change data can be performed for a myriad of reasons. An employee can turn in a cost reduction suggestion, a part may move from manual assembly to automated assembly, a customer may request a change which facilitates his use of Peterson's component, a part may be changed to improve the processing of it are all valid reasons for design change other than failure of the part/component.

Peterson strongly objects to the agency's suggestion that it be allowed access to internal company electronic data. The potential leakage of competitively sensitive and highly proprietary material through a public record would place NHTSA in a compromising situation at best and possibly damaging position at worst.

Further, this action would be counter-productive as it would encourage only privileged activities at the direction of counsel. This would be in direct contrast to the directives of QS 9000 quality systems and could result in greater defects (because multi-disciplines will not review projects) and subvert the entire intent of the TREAD Act.

Peterson Manufacturing Company appreciates the opportunity to comment on the agency's early warning reports ANPRM. The company hopes the information provided is useful in proceeding to the next phase of a proposed rule making.

Sincerely,



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