

HONDA

AMERICAN HONDA MOTOR CO., INC.

1919 Torrance Boulevard • Torrance, CA 90501-2746
(310) 783-2000

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

Subject: Docket No. NHTSA-2001-8677, Notice 1
Advanced Notice of Proposed Rulemaking
49 CFR Parts 554, 573, and 576

Dear Sir or Madam:

Enclosed are the comments of Honda Motor Co., Ltd. and American Honda Motor Co., Inc. regarding the above-referenced docket.

We thank you for this opportunity to provide our comments. If you have any questions or require further clarification, please contact us at your earliest convenience.

Sincerely,

AMERICAN HONDA MOTOR CO., INC.



William R. Willen
Managing Counsel
Product Regulatory Office

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Enclosures

**Comments of Honda Motor Co., Ltd. and
American Honda Motor Co., Inc. on
49 CFR Parts 554, 573, and 576
Docket No. NHTSA-2001-8677, Notice 1**

Honda appreciates the opportunity to comment on this Advanced Notice of Proposed Rulemaking for the early warning reporting requirements of the TREAD Act. Honda supports the comments of the Association of International Automobile Manufacturers (AIAM) and the Motorcycle Industry Council (MIC). In addition to the comments submitted through the associations, Honda feels compelled to highlight additional concerns about the proposed rulemaking.

New Direction versus Current System

Honda is greatly concerned about the direction that the NHTSA Advanced Notice of Proposed Rulemaking has taken. NHTSA's current approach to implementing the motor vehicle safety laws is to rely to a great extent on manufacturer self-certification and self-reporting. This approach has generally worked well because the incentives for manufacturer compliance are strong. Not only is there a strong moral imperative to comply, but legal exposure (potential product liability claims) and adverse publicity which literally could destroy a product all serve as strong motivators to meet NHTSA's obligations. Additionally, the TREAD Act has increased the potential civil penalties more than 1,600 percent and has added severe criminal penalties for failing to comply with those regulatory requirements.

While the TREAD Act directs NHTSA to undertake a rulemaking to impose early warning information data collection and submission obligations on manufacturers, the philosophy reflected in the Advanced Notice appears to be a distinct departure from this long established regulatory philosophy. The sweeping and comprehensive nature of the types of data collection envisioned by the Advanced Notice would have a profound affect on our operations by imposing extraordinary costs with proportionately little safety benefit. As described below, the sheer mechanics of collecting, translating, organizing, evaluating and submitting data from worldwide operations would be tremendously time-consuming and resource intensive. Moreover, both manufacturers and NHTSA, each with finite resources, would be hard pressed to unearth a real potential defect from the mounds of paper and computer files that would be required. Overly broad data collection and submission requirements would also shift some of the burden of defect identification, analysis and decision making from industry to the government.

The current system has done a good job in serving public safety for the past 30 years. Other than the Ford/Firestone case, we note that there is no evidence that the current reporting system has not worked well. Carefully focused requirements to report foreign recalls and consumer campaigns, as required by the TREAD Act, will help to close the gaps, and if these had previously been in effect, they would have disclosed the Ford/Firestone issue to NHTSA earlier. We caution NHTSA to proceed carefully and to use prudence in defining the scope of the data it requires to be transmitted.

TREAD Act Mandates

Congress recognized the potential pitfalls of mandating the collection of too much data. Data that Congress *required* to be collected is specifically limited to –

- (i) data on claims submitted to the manufacturer for serious injuries (including death) and aggregate statistical data on property damage from alleged defects in a motor vehicle or in motor vehicle equipment; or
- (ii) customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment.

49 U.S.C. 30166(m)(3)(A). The Secretary has broad discretion to define other categories of information that “may assist in the identification of defects”. 49 U.S.C. 30166(m)(3)(B).

The Congress deferred to the Secretary because of his specialized expertise in striking the proper balance between the need for early notice with the potential burdens imposed. In this regard, Congress directed that –

. . .the Secretary shall not impose requirements unduly burdensome to a manufacturer of a motor vehicle or motor vehicle equipment, taking into account the manufacturer’s cost of complying with such requirements and the Secretary’s ability to use the information sought in a meaningful manner to assist in the identification of defects related to motor vehicle safety.

49 U.S.C. 30166(m)(4)(D)

Burdensome Requirements

NHTSA seeks comments on the burden that manufacturers would incur in complying with the Advanced Notice. Due to the broad scope of information outlined in the Advanced Notice, the burden—both in effort and expense—of merely gathering and translating the multitude of required documents and information would be onerous. Such requirements would require tying up many resources to collect great amounts of information, and the workload to sort, calculate, and analyze all that information would be enormous.

The translation process would also be an impediment to timely reporting. For example, if an incident occurred with a similar product in Turkey and the local representative writes a report, the Turkish Honda office would submit the report to Honda, and the report would have to be translated into Japanese for analysis. If submission of that report is mandated, it would require further translation from Japanese into English before it could be submitted to NHTSA. Experience has shown that there are many difficulties with translations.

For these reasons, it is important that NHTSA focuses the required information and documentation to only the most beneficial early warning sources, which should be determined only after thorough consideration of the effect and efficiency. Honda doubts that the worldwide gathering, translating and submission all the information identified in the Advanced Notice would be worth the associated efforts in terms of potential defect notice. It is inevitable that the costs involved in this proposed process will be added to vehicle price, thereby passing this financial burden to the consumers.

Honda's Scope of Business

NHTSA has requested that manufacturers help the agency decide whether particular requirements are unduly burdensome. Honda manufactures and distributes automobiles, light truck and motorcycles worldwide. Honda does business in more than 150 countries and has more than 100 factories in 33 countries. Creating an adequate process that minimizes complexity and delays in the collection of the information proposed in the Advance Notice will be difficult, given the number of languages and business practices, as well as the sheer volume of information, encountered in Honda's worldwide operation. For example, vehicles sold by American Honda generate more than 2 million warranty claims annually. Design changes for these vehicles would total more than 100,000 annually, if the cut-off date is limited to five years.

Identical or Substantially Similar Models to Vehicles or Equipment Sold in the United States

If NHTSA defines "substantially similar" to be the "platform and/or engine family," some models sold exclusively outside the United States would have to be included in the scope of reporting. Even when models have the same platform, they do not necessarily have the same body structure or components. Requiring analysis and reporting on these different components would be a big burden for both Honda and NHTSA, increasing the demand for human and financial resources.

Market Quality Information

Honda always inspects the actual products collected from the market, analyzes and traces the causes for the problem before we can determine whether the vehicle has a safety defect. Without analyzing the actual products, proper judgement cannot be expected, and much of the efforts and resources would go to waste.

Confidentiality Issues

Should the routine information that is not used in NHTSA's safety investigations become public accessible records? Honda would like to propose that the information or documentation required to be provided under the auspices of the TREAD Act remain confidential, unless the material becomes part of a formal NHTSA investigation. If there is not sufficient information for NHTSA to open an investigation, then preventing public access to these records should not be an issue.

The release of routinely submitted information should be considered carefully. Raw, unverified data can cause unnecessary confusion, misunderstanding, and even unnecessary concern or fear in consumers. The media may inadvertently use the data to support erroneous hypotheses for so-called safety experts.

Warranty claim information submitted under TREAD should be confidential.

Warranty rates may be more reflective of Honda's customer satisfaction policy than an indication of product quality or failure rate. Often, warranty service repairs are carried out to eliminate a customer complaint when there is no real problem. Warranty data could give our competitors an advantage in discovering the strengths and weaknesses of our products. Also, while Honda provides general guidelines for the selection of proper warranty claim codes, our dealers may not share our commitment to accuracy. Often, because of dealership staffing assignments, the person selecting the codes is not necessarily the person who is most familiar with the repair. Because of this, Honda must carefully consider many factors when validating or evaluating a dealer's warranty claim. Of course, the codes are important, but other factors include obvious contradictions, familiarity with a particular dealership, market conditions, technical feasibility, and ordinary common sense.

Design change information submitted under TREAD should be confidential.

The information provided in design change notices clearly contains proprietary information, relating to specifications and material, and could lead to disclosure of Honda's internal processes, which would give Honda's business competitors a competitive advantage.

Conclusion

Honda urges NHTSA to take a conservative approach in this rulemaking so that the agency preserves the successful aspects of the existing framework wherein the manufacturer is responsible for self-reporting on safety defects. This policy has worked well for the past 30 years. The specific changes required by the TREAD Act should suffice to bridge any gaps that exist and will ensure that NHTSA has sufficient early warning notice to ensure motor vehicle safety in the United States.