



March 23, 2001
GL01-05

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

Subject: Docket NHTSA 2001-8677; Notice 1, concerning Standards Enforcement and Defect Investigation; Defect and Noncompliance Reports; Record Retention

Dear Mr. Person:

The following comments are submitted by Delphi Automotive Systems LLC (Delphi) in response to the Advance Notice of Proposed Rule Making ("ANPRM") found in Docket NHTSA 2001-8677; Notice 1.

In the ANPRM, NHTSA requests public comments and discussion concerning its rulemaking obligations under Public Law 106-414 (the "**TREAD Act**" or the "**Act**"). This law was enacted to enhance the Agency's ability to collect information regarding potential safety related defects from various entities, including automotive equipment manufacturers such as Delphi. The purpose of requiring NHTSA to conduct this rulemaking was to establish procedures for reporting new categories of information required by the Act as well as permit the Secretary of Transportation to initiate rulemaking to investigate other categories of information that he might also be useful in detecting "early warning" of potential vehicle defects. This "early warning" initiative was brought about in response to recent tire tread issues. In part, it relates to a belief that if NHTSA had earlier access to information, believed to have been in the possession of the companies involved, NHTSA could have intervened in the situation at an earlier date and, thus, possibly could have mitigated the consequences of that situation.

In providing its comments to this ANPRM, Delphi will generally follow the organizational structure of the ANPRM (i.e., Who, What, When and How). Delphi's comments will be preceded by a brief overview of the ANPRM from Delphi's perspective. Delphi's response to specific questions in the ANPRM is attached as an Appendix to these comments.

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ABOUT DELPHI

Delphi is the largest automotive vehicle equipment supplier in the world, having over \$29 billion in sales. It employs approximately 211,000 persons and operates 190 wholly owned manufacturing sites, 44 joint ventures, 53 customer centers and sales offices, and 31 technical centers in 42 countries. Delphi has three business sectors: Dynamics & Propulsion; Safety, Thermal & Electrical Architecture; and Electronics & Mobile Communications.

Delphi is a member of both the Motor Equipment Manufacturers Association (MEMA) and the Automotive Occupant Restraint Council (AORC) and has participated in the development on their respective comments to this docket.

OVERVIEW OF THE TREAD ACT AND THE ANPRM

The TREAD Act **requires** that manufacturers report relatively limited categories of information – primarily certain information relating to self-initiated recalls in foreign countries, information relating to recalls ordered by foreign governments, and information relating to incidents which involve death or serious injury to persons in the United States and foreign countries as a result of an actual or alleged defect. The requirement to report information originating in foreign countries is further refined by the requirement that the vehicle or equipment involved in the foreign recall or injury situation be identical to or substantially similar to vehicles or equipment offered for sale in the United States.

Thus, the TREAD Act actually **requires** manufacturers to report only a **limited** number of categories of information to NHTSA. However, the Act also gives the Secretary of Transportation the authority – through rulemaking – to require manufacturers to automatically report, or report "on request," information which the Secretary, in his sound discretion and without being unduly burdensome to manufacturers, believes may enhance the Agency's ability to identify defects related to vehicle safety. Thus, the TREAD Act in part is a legislative response to the particular situation in which Congress believed that appropriate action would have taken place sooner (thus helping prevent loss of life, injury and property damage), if the information presumed to have been in the possession of the involved companies had been disclosed to NHTSA earlier.

Delphi believes that the TREAD Act has confronted NHTSA with a task of Herculean proportions. NHTSA now has a statutory mandate to investigate the automatic reporting of (or request the reporting of) large categories and quantities of information. Delphi believes that a prudent exercise of NHTSA's discretion will likely enhance its ability to more readily identify emerging defect issues. However, demanding too much information could easily overburden the industry and inundate NHTSA with information which is either useless or only marginally useful in detecting "early warning" of potential vehicle defects.

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As a preliminary observation to its more specific comments on NHTSA's Who, What, When and How, Delphi notes that there is a natural overlap between NHTSA's organization of the topics. For example, the question of whom should report are tied, to a certain extent, to what should be reported; i.e., different entities in the production chain of a vehicle will possess different categories of information.

WHO IS COVERED BY THE NEW REPORTING REQUIREMENTS?

In the ANPRM, NHTSA acknowledges that the TREAD Act requires information "to be submitted by manufacturers of motor vehicles and motor vehicle equipment." The ANPRM then proceeds to define several categories of entities, which could, in NHTSA's view, be classified as "manufacturers of motor vehicles and motor vehicle equipment."

Generally, Delphi would consider itself to be a Tier I or Tier II motor equipment manufacturer; i.e., it provides components/modules directly to a motor vehicle manufacturer or it provides relatively sophisticated components to a Tier I manufacturer. Delphi also builds some parts to vehicle manufacturers' prints and has no input into the product design and engineering of the part. Finally, Delphi supplies components and parts to the aftermarket. Accordingly, Delphi's comments are directed to the suggestion that motor vehicle equipment manufacturers (of at least some types of equipment) may be subject to any final rule requiring reporting of the types of information discussed in the ANPRM.

In the ANPRM, NHTSA indicates that it is considering whether to initially require certain manufacturers to supply information (e.g., based on past experience, those items of equipment which NHTSA believes are more likely to be involved in a safety related recall) and later expanding the requirements to other equipment items (e.g., those certified to equipment standards within FMVSS¹ and/or those equipment items associated with certain FMVSS standards, such as crash avoidance or crash protection).

Delphi believes that applying reporting requirements to motor vehicle equipment manufacturers – especially viewed in light of the various types of information that NHTSA has suggested it may require to be reported – would not help effectuate the TREAD Act's purpose of enhancing early warning of safety related defects.

First, manufacturers of components and modules for use in motor vehicles do not generally have "big picture" knowledge of how those components and modules perform in the vehicle. Such knowledge

¹ Brake hoses, lighting equipment, tires, brake fluids, retread tires, rims, warning devices, non-pneumatic spare tires, glazing, seat belt assemblies, child restraint systems, motorcycle helmets, rear impact guards, and compressed natural gas fuel containers.

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is generally with vehicle engineers who were responsible for developing the specification of those parts, integrating them into the vehicle, and evaluating their performance after extensive testing. For example, a supplier of an airbag module is generally requested by its customer to provide a module that meets a specification requiring production of a certain amount of gas pressure over a certain amount of time. While performance of the module has implications for the vehicle's compliance with FMVSS 208, most of the critical issues associated with the overall vehicle crash worthiness are unrelated to the airbag module. The critical issues addressed by the vehicle designer would include a crash pulse of the vehicle (e.g., by determining how "stiff" to make the vehicle), seat belt performance, selection of the instrument panel and seats, and determination of "may" and "must" fire windows for the airbag systems. The equipment engineer, who designs the airbag, is only responsible for assuring that the vehicle engineer's specifications are met.

Often, the notion of whether a vehicle safety defect exists is bound up in system performance of the vehicle, which can only be evaluated by the vehicle manufacturer. Thus, the motor vehicle equipment manufacturer often has no insight into, or ability to analyze the overall performance of his part on the safety in the vehicle.

Similarly, even in those cases when an equipment manufacturer may have determined that a noncompliance or a nonconformance exists for products where the equipment is certified, it is still the vehicle manufacturer that initiates the recall with few exceptions (e.g., child restraint systems, motorcycle helmets, and, in some instances, tires). In many of those same cases, it is only the vehicle manufacturer that can determine whether or not it is appropriate to file an inconsequential noncompliance petition based on the affect on performance in its vehicle. In all other cases, it is the vehicle manufacturer that notifies the consumers and tracks the campaign.

This issue is compounded by the fact that motor vehicle equipment manufacturers generally lack direct and timely access to the types of information NHTSA discusses in the ANPRM. For example, the ANPRM states NHTSA's belief that warranty data can "often" indicate the existence of a possible safety defect. Generally, motor vehicle equipment manufacturers do not have access to customer warranty data. In limited cases, companies, such as Delphi, may be provided with limited warranty data as part of a "risk and reward" arrangement intended to help reduce overall warranty costs. This limited information is not generally of the type or accuracy, which would support an analysis of an emerging defect to vehicle safety.

Similarly, Delphi is not the usual recipient of "claims" (however that phrase may ultimately be defined in the final rule) relating to possible defects in products it produces for a vehicle manufacturer. "Claims" relating to product safety are generally made directly to the vehicle manufacturer, which is far more visible to the vehicle owner/user than a typical supplier and whose name (unlike tires) is not normally identified on the part in question. Neither do equipment manufacturers directly warrant their parts to the vehicle owner, but typically do so to the vehicle manufacturer. It should also be noted

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that the vehicle manufacturer also generally has a formal system in place to record, track and respond to these types of claims and complaints. The equipment manufacturers do not.

Delphi generally is involved in the claims process only when its customer (the vehicle manufacturer) needs information or specialized expertise in our possession in order to respond to a claim made against the vehicle manufacturer.

Accordingly, Delphi urges NHTSA to limit any reporting requirements to vehicle manufacturers. The TREAD Act gives NHTSA the authority to fine tune automatic reporting obligations at a later time to the extent experience establishes that certain types of information can and should be obtained from motor vehicle equipment manufacturers such as Delphi. In the interim, NHTSA has authority under existing rules to obtain information from equipment manufacturers on an as needed basis.

WHAT INFORMATION AND DATA SHOULD BE REPORTED?

NHTSA lists and defines several categories of data it is considering for inclusion in a final rule. Delphi believes that aside from the issues of which entities possess such data (see discussion above), NHTSA must carefully consider the predictive value of the information it might require with its associated burden on the industry to provide such data. Delphi will comment in turn on the categories of information delineated in the ANPRM:

1. Actual Notice of Death or Serious Injury

Both the TREAD Act and the ANPRM place a high priority on obtaining information relating to deaths or "serious" injury (preliminarily defined by NHTSA as AIS3 or higher), which relate to alleged defects in motor vehicles and equipment. Delphi offers the following caveats regarding whether such data would help provide early warning of possible defects:

- A. Notice of a death or serious injury is not usually provided on a contemporaneous basis, especially to an equipment manufacturer. It often happens that some later event may trigger the report to the vehicle manufacturer of a possible vehicle malfunction.
- B. The notice initially is often vague and requires further investigation to determine the exact aspect of the vehicle's performance that is thought to have been substandard.
- C. The volume of reported incidents (and claims) is often influenced by media coverage, by web chat rooms, or simply by word of mouth.
- D. It is not always apparent whether or not an injury is "serious," either because the information reported is insufficient to make such a determination or because the nature and extent of the

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injuries have not yet been determined by the medical professionals treating the injured person.

Human judgment will play a significant role in determining what information is accessed, how it is analyzed, and what is reported. Even thoroughly trained experts will make mistakes. This needs to be taken into account when an opposite assessment is derived in hindsight by Monday morning quarterbacks or by persons on the sidelines who later second-guess after having obtained additional and usually "better" information with which to make a judgment.

2. Claims Relating to Death or Serious Injury

For an equipment manufacturer the definition of a claim is a written demand, assertion, or notice of litigation, from a foreign or United States source, expressly alleging that a death or serious injury has been caused by a specified defect in the manufacturer's motor vehicle equipment.

The same caveats and concerns apply to "claims" as to notices as delineated above; e.g., timeliness, specificity and whether or not "serious injury" is involved. Should NHTSA decide to require reporting of this information by equipment manufacturers, a minimum threshold be established as to the number of claims received for a type of equipment before a reporting obligation would be triggered.

3. Warranty Data

As noted above, equipment manufacturers, such as Delphi, have limited access to warranty reports regarding the original equipment that is installed in vehicles. Accordingly, and to the extent NHTSA believes that warranty data furthers the goal of enhancing early warning of possible safety defects, Delphi does not believe that equipment manufacturers are appropriate entities to provide such data.

Warranty data for replacement parts are generally accumulated by the vehicle manufacturer and are rolled into the OE data so long as the vehicle is still within the allotted warranty period. After the warranty period, the vehicle manufacturers normally obtain this information in the form of complaints.

A warranty is not usually extended for most aftermarket products and when extended, it is limited in scope. Hence, Delphi would urge NHTSA to carefully consider whether such minimal data is predictive of a potential unreasonable risk to vehicle safety.

3. Lawsuits

Generally, lawsuits are not initiated until a year or more has passed after the incident and then multiple allegations are usually stated without specificity. Such information is not only late in being

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reported to the manufacturers, but generally is of little use in defining a specific problem. Such information would not be useful supporting an early warning system for a safety defect.

4. Property Damage

As with warranty information and claims, this information is generally not in the possession of equipment manufacturers. Limited information is occasionally available with respect to aftermarket products; however, Delphi does not maintain such data in aggregate form as suggested by the ANPRM.

5. Customer Communications

As defined by NHTSA in the ANPRM, customer communications are already reported to NHTSA in that they fall within the scope of the current 49 CFR §573.8

6. Internal Investigations

Internal reviews are undertaken by Delphi for a variety of reasons, such as process improvement, cost reduction, etc., as well as safety concerns. Should an internal review reveal a safety defect in a product, Delphi, or its customers, already has an existing statutory obligation to report the matter to NHTSA. An additional requirement is not needed.

To require that all investigations be reported would again amass so much data that NHTSA would not be able to analyze it all without doubling the size of the entire Administration for this purpose. Furthermore, NHTSA's suggestion that it would require involvement in the "internal investigation" process could deter manufacturers to undertake or conduct in depth reviews, unless the reviews were subject to a privilege.

Manufacturers also initiate reviews to assess potential product liability exposure. Were NHTSA to require reporting of this information under the early warning reporting requirements, a manufacturer could be seriously compromised. NHTSA has discretion under the TREAD Act to determine whether "the disclosure of such (early warning report) information will assist in carrying out" its investigative and enforcement functions. The agency does "not interpret (this provision) . . . as affecting the current policies and practices applicable to the disclosure of information to the public." On the other hand, the ANPRM also references President Clinton's charge to NHTSA as he signed the TREAD Act in November of 2000, "directing us 'to implement the information disclosure requirements of the [TREAD] Act in a manner that assures maximum public availability of information.'"

As NHTSA is aware from its experience with internal company review data in past investigations, these reviews may be conducted by or under the direction of legal counsel, under claim of privilege.

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If the agency incorporates an "internal investigation" component in its early report rule, it can reasonably anticipate that either an increasing number of these reviews will be conducted pursuant to privilege or that companies may forego conducting the reviews at all.

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7. Engineering Changes To Production and Service Parts

With respect to routine running production change data, Delphi submits that this information will be of little practical early warning benefit to NHTSA. This is because the activity either occurs before product has reached the field, or because there is already a reporting duty under Section 573. Moreover, this category carries, and would place, an enormous burden on the equipment supplier in collecting and submitting such data.

Delphi initiates or receives tens of thousands of product change requests every year for a wide range of reasons. For example, some production changes are merely cosmetic or change an instruction to conform to the way parts are actually being produced. Others may involve cost reduction initiatives. However, when a production change is made to address a safety defect as a result of a company's good faith determination that such a safety defect exists, it would trigger a reporting obligation to NHTSA under 49 CFR Part 573.

Both the production and service part change processes are subject to a multidisciplinary review approach which, in companies which sell to the automotive industry, is further subject to independent audits as part of QS-9000 and other ISO-9000 series systems. Under these systems and similar automotive quality standard systems, the justification for change and the revalidation of parts must be provided to the vehicle manufacturer(s) supplied.

Additionally, CFR 49 §573.8 currently requires reporting of "product improvement" and other communications to more than one customer, "regarding any defect... failure or malfunction ... performance, or any flaw or unintended deviation from design specifications . . ." Delphi believes that NHTSA is already getting, or has the current means to obtain, the information it needs for early warning detection of potential safety defects based on the engineering process.

8. Field Reports

This term has a variety of meanings in the automotive industry. Usually, such information, even "field" data involving competitive issues, is anecdotal and/or based on rumor. Whatever information is field generated, is frequently delayed in transmission and must be screened and often substantiated for accuracy.

For the purposes of this rulemaking, the field reports that ought to be reported to NHTSA should include only those claims, complaints and allegations about a given part, component, system, or vehicle that have risen to a high enough level so as to trigger an investigation. This information is then used to verify what is actually occurring in the field. The trigger ought to be based on historical data and the consequences alleged by the reports.

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Field reports are usually generated directed to the vehicle manufacturer, and not to equipment manufacturers.

9. Manufacturing Plant Quality Reports

Internal Delphi quality reports relate to all aspects of manufacturing operations, from raw material intake, sorting and storage of inventory, to machining and processing, vision systems, inspection, packaging, etc. For original equipment manufacturers, possible quality deviations cause parts to be quarantined and cause reports to be generated to vehicle manufacturers under QS-9000 until a decision is reached concerning their usability. Such deviations serve to flag those parts that are analyzed to evaluate the performance of the part within a specific environment. Throughout the automotive industry, engineers or groups of engineers with expertise make these product performance judgements on thousands of part deviations. Monitoring this process and any resulting reports on it would require a substantial number of NHTSA engineers to evaluate even a portion of this extensive activity, not to mention the burden on the industry to collect and supply such information.

10. Standardized Warranty Codes

Most warranty systems are designed as payment systems for work done at a dealership. They are not and cannot be used to assess quality problems. They can only be used to alert knowledgeable personnel to investigate a given issue. Even when warranty parts are returned to a manufacturer, only a small percentage is accurately coded. This normally includes a significant percentage of returned parts that are determined to be fully operative and free of defects.

Additionally, some dealers or other repair facility have an incentive to incorrectly list a warranty code knowing that this will ensure payment by the manufacturer.

WHEN SHOULD THE INFORMATION BE REPORTED?

Should NHTSA conclude that the equipment manufacturers' reporting of such notices is warranted, Delphi would suggest the rule require that equipment manufacturers report to NHTSA on a periodic basis. And then they should report only those situations in which they have received formal notice of death or serious injury (assuming sufficient information, such as medical records, is available to conclude a particular injury is "serious"), alleged or proven to have been caused by a product defect. Delphi also suggest that such reporting occur in the following quarter after receiving the information. This would generally provide equipment manufacturers with sufficient time to determine whether specific "notices" would be reportable. Delphi agrees that these reports should be submitted in summary form.

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HOW SHOULD INFORMATION BE REPORTED?

The ANPRM expresses the "view . . . that manufacturers must do more than merely provide raw information and data" and states:

The aspects of reasoning, deduction, and inference in the definition of "derive", in our view, authorize a rule that requires a manufacturer to process, organize, and to some degree analyze the raw data and information it has, so that meaningful information is provided.

While one meaning of derive is to "infer or deduce," other meanings of this word are "to take or receive [or] . . . obtain from a specified source" (*Webster's Ninth New Collegiate Dictionary* 342 (1990)).

Delphi's position is that the obligation to "analyze" data obtained or received by manufacturers rests upon NHTSA, and not on Delphi. While there may be a need for processing and organization of such data by manufacturers, any requirement for manufacturers "to some degree [to] analyze" this submitted information is outside the boundaries of the TREAD Act.

Website Access.

Delphi strongly opposes providing access to its internal websites. Much of the information found there is highly proprietary and is password protected (even in some cases from access by Delphi employees in other business units). The potential disclosure of such information through agency information leaks or placement in a public docket could have catastrophic competitive consequences.

OTHER COMMENTS

1. Recalls Initiated by a Foreign Government

Should a foreign government make a determination that a recall is needed, there should first be a determination if a "substantially similar" product is sold in the United States. The actual notification of the recall in the foreign country, however, may not be made until sometime later; i.e., after a root cause has been determined, a fix is found and parts are produced. Therefore, the best and most timely source of this information would come from the foreign governments with whom NHTSA could negotiate to obtain the data at the time of decision instead of the time of notification. This would allow NHTSA to convene its own investigation, if applicable, while these other actions were occurring.

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If NHTSA cannot negotiate with its counterparts to obtain such information, the vehicle manufacturer rather than equipment manufacturers would then be the next best source for this information.

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2. **Definition of “Substantially Similar”**

NHTSA also invited recommendations with respect to the definition of the term “substantially similar,” as contained in the TREAD Act. Delphi agrees with NHTSA that a definition of “substantially similar” motor vehicle equipment will “be different with respect to individual parts, component parts, assemblies and systems.” In fact, Delphi believes that a generalized definition cannot be achieved.

The agency’s proposed definition that this term “should . . . be restricted to replacement equipment for substantially similar motor vehicles” begs the question as to what is “substantially similar” and disregards critical distinctions in component applications and operations. For example, a bolt, having a given part number, may perform in substantially **dissimilar** ways, depending on how and where it is used. If used in a critical safety application, such as a seat belt anchorage, the application may require a higher standard than the same bolt used in a less significant application.

The vehicle environment may also dictate whether the same part performs in substantially similar or dissimilar ways. For example, an electronic part may perform well in one vehicle where the temperature in the engine compartment is low; where it is somewhat protected from water splashing in the environment; where it is mounted solidly to the vehicle; where vibration and/or natural frequency does not affect it, etc. Yet the same part or component in a vehicle where one or more of these conditions is not present may fail. Often these conditions are beyond a supplier’s control and can only be judged by the vehicle manufacturer.

On the other hand, components dissimilar in appearance or function can be substantially similar in performance characteristics (Several electronic control modules, having substantially different functions, may be susceptible to similar failure modes if one of the components that may be common to all were to have a defect).

2. **Disclosure of Information by NHTSA**

Because NHTSA has a responsibility to the American public, it is important that the data that may become available through the TREAD Act be kept secure and confidential. This is especially true for “raw” data. Until the data has been completely collected, sorted, verified, analyzed, and a root cause determined and documented, the data is susceptible to misinterpretation. A need for discussion between NHTSA and the manufacturer is plain before any data is released. The NHTSA engineers were not involved in developing the drawings, releasing the parts, tearing down of test parts. Open communication will be essential. Of

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course, if NHTSA is not convinced after dialogue with the manufacturer, it may, at the Secretary's discretion, choose to disclose the information. However, the only way for NHTSA to satisfy their responsibilities is to have an exchange of information with the manufacturer.

If materials are submitted in electronic format, it must be done in a way to maintain the integrity of the material so that the original content cannot be manipulated or changed without documentation.

3. **Rulemaking is "Significant"**

Delphi believes this proposed rulemaking to be "significant" within the meaning of Executive Order 12866 and DOT Regulatory Policies and Procedures. Delphi estimates that the costs for training and implementing these requirements will approach \$1 million and the ongoing costs could well approach a minimum of \$350,000 annually, depending on the final requirements. Furthermore, the proposed requirements could adversely impact companies that do business mainly in the United States. For example, if triggers for implementing investigations are based on absolute numbers rather than incidents per units sold in the United States, the burden of responding to inquiries would be highly disproportionate on manufacturers selling to the domestic industry which has the higher volume of units. It is therefore important for NHTSA to obtain the customary OMB reviews and approvals before issuing the Notice of Proposed Rulemaking on this matter.

4. **Implementation of the TREAD Act**

For more than 30 years, NHTSA has had a mechanism in place for reporting defect materials or designs that lead either to noncompliance to a standard or cause a risk to automotive safety. This mechanism also has built within it enforcement procedures should NHTSA find its requirements are not being met. This reporting system has worked well and should not be replaced. As NHTSA determines how best it receives more information to provide earlier warning of potential safety defects as a result of the TREAD Act, it would be a good starting point to use the current mechanism and to supplement it with the added information.

CONCLUSION

Fashioning a reports rule to accommodate NHTSA's collection and review capabilities and the industry's cost burdens and other compliance concerns are challenging tasks. Delphi is prepared to work with the Agency to help it understand the control systems already in place within the industry, the types of information that is normally available to an equipment manufacturers, the differences between such equipment as tires and other parts, components, modules, and systems, etc. as it seeks to achieve the proper regulatory balance.

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If you have any questions about Delphi's comments, please do not hesitate to contact me at telephone number 248-813-3362.

Sincerely,

Michael J. McKale
Manager
Product Regulations and Investigations
Delphi Automotive Systems L.L.C.

Appendix

TREAD Act ANPRM – Questions

Background

General Definitions

Who is covered by the new reporting requirements?

Motor vehicle manufacturers, Registered importers, Miscellaneous motor vehicle manufacturers, Motor vehicle equipment manufacturers

Questions to be answered

A. *Which of the manufacturers listed above should be covered by the final rule and why?*

The manufacturer that is the primary recipient of the information from the field ought to be the entity with primary reporting responsibility for required reports. Generally, this is not the equipment manufacturer. Motor vehicle manufacturers, registered importers, and miscellaneous motor vehicle manufacturers are responsible to certify that motor vehicles comply with the requirements of the Safety Act. In addition, because their nameplates are on the vehicle, consumers view the vehicle manufacturer as the entity responsible for the safe and functional operation of their vehicles. Therefore they are the natural owners of the customer interface and are most likely the recipients of early warning field information either directly or through their dealers.

The Safety Act and Regulations also assigns certification responsibility to manufacturers of certain types of equipment, namely: brake hoses, lighting equipment, tires, retread tires, rims, warning devices, non-pneumatic spare tires, glazing, seat belt assemblies, child restraint systems, motorcycle helmets, rear impact guards, and compressed natural gas fuel containers.

In the case of brake hoses, lighting equipment, glazing, seat belt assemblies, rear impact guards, and compressed natural gas fuel containers, consumers would again normally look primarily to the vehicle manufacturer and then perhaps only infrequently and secondarily to the equipment manufacturer. Therefore, for these products, the vehicle manufacturer is still the primary recipient of early warning field information. On the other hand, consumers are likely to look to the equipment manufacturer for child restraint systems and motorcycle helmets. Finally consumers look to either the tire manufacturer or the vehicle manufacturer for tire issues due to the prominence of the equipment manufacturer's name on the tire and the history of tire warranty replacement in the USA.

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Even though these products may be certified to meet the requirements of the applicable FMVSS standard, they need to be properly installed into the vehicle: e.g. brake hoses need to

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be tightened and not cross threaded, lighting equipment must be "securely fastened" in the proper location, windshields must be adhered and allowed to cure, etc. Hence, the equipment manufacturer is only partially responsible for the performance of these products in the vehicle.

Suppliers of materials in the aftermarket will normally have their names on the parts or packaging materials and therefore they can occasionally become recipients of early warning field information. The amount of such information is very small.

B. Are there other entities that should be covered by the reporting requirements and why?

As noted above, only the entities that are likely to receive timely data regarding "serious injuries (including death) and aggregate statistical data on property damage from alleged defects in a motor vehicle or in motor vehicle equipment" available, to wit: field data. If NHTSA solicits data from multiple sources, there is a high likelihood of duplication, confusion, and burden. Since these reports generally do not contain information such as the VIN that allows one to sort one case from another, it would be extremely time consuming to rid the database of replicates. Further, it would be almost impossible to do so if the data were provided in some aggregate form.

C. Should any of the above manufacturers or other entities be covered by only some reporting requirements and not others?

Manufacturers of motor vehicle equipment that is self-certified ought to be responsible for supplying data on component certification issues only. Manufacturers of aftermarket equipment ought to be responsible for supplying relevant field data on products, which they sell directly themselves, or through distribution chains and dealers. Only vehicle manufacturers ought to be responsible for supplying all other field data.

D. With respect to manufacturers' international feedback mechanisms, to what extent is information provided in the English language? Are there delays in transmitting information such as narrative field reports due to the need to translate it into English? If so, what is the length of delays?

Field reports, to the extent they are available, are normally found in the native language. To obtain a proper understanding of what is meant in these reports in their vernacular and idioms, it is necessary to have them translated at their source by competent translators. This does involve time and money, which can vary depending on many factors, such as the specific language, dialect, translator workload, etc.

E. What accessories could develop safety-related defects?

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In general, any accessory that could malfunction or become dislodged and distract or impact a vehicle occupant could become a safety-related defect. These items include mirrors, seat covers, radar detectors, etc. In addition, accessories which impede the normal control functions of a vehicle such as steering wheel covers, objects lodged under the control pedals, cell phones, etc. might also be considered safety related. Hence any product sold with the intention that it be placed on the interior of a vehicle could affect vehicle safety. On the exterior of a vehicle, any accessory that detracts from or effects the performance of a required device could adversely effect vehicle safety.

What information and data should be reported?

Relevant information and data

Warranty claim data, Claims and incidents involving serious injury or death, claims for death, claims for serious injuries, Claims for property damages, Consumer complaints, Customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment, Internal investigations, Changes to components and service parts, Remedy failures, Fuel leaks, fires and rollovers

General Questions

Vehicles and equipment covered: substantially similar vehicles and equipment in foreign countries

Cut off dates

Questions to be answered

1. *Which offices of manufacturers receive, classify, and evaluate warranty and claims data, and other data or information, related to deaths, serious injuries, and property damage involving a manufacturer's products that occur in the United States.*

The vehicle manufacturer typically collects warranty information. On occasion, at the OEM's discretion, this information may be provided to the vehicle equipment manufacturer's quality department for monitoring, analysis and reporting, or for warranty cost sharing purposes. When this happens, the data and analysis remains to the sole property of the OEM and cannot be shared by the supplier with third parties.

Claims data is not normally shared with the supplier unless the OEM is investigating a particular issue or wishes to pass the costs on to the supplier. This would not be timely for early warning purposes in most cases.

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2. *In what form is that data received and maintained? If it is maintained electronically, please describe the database in which it is kept.*

When this data is made available to equipment suppliers, it is received and maintained electronically. The data is usually grouped into various spreadsheets and charts, which are then analyzed. The database belongs to the OEM and is best described by them.

3. *Is the information referred to in question 1 otherwise classified (for example, warranty codes, lawsuits)? If so, how? By whom is such information evaluated?*

Generally warranty data is generally classified by product, by warranty code (related to the repair activity resulting in the claim), by model year, by vehicle platform, by build date, and by defect found, if any. This data is then evaluated by designated members of the quality department; and reported to manufacturing, purchasing, engineering and management as appropriate.

4. *Do manufacturers in the United States (defined to include importers of vehicles or equipment for resale), currently receive warranty and claims data, and other data or information, related to deaths, serious injuries, and property damage involving their products that occur outside of the United States? If so, what form are these data received?*

Warranty data rarely relates to “death” or “serious injury.” Suppliers of equipment, in general, do not receive this sort of information. However, on occasion the vehicle manufacturer may supply copies of this information for analysis, technical assistance, or subrogation.

5. *If a manufacturer in the United States does not receive, maintain, and evaluate such data or information referred to in Paragraph 3 above, what entity does (e.g. foreign affiliate, factory-authorized importer, outside counsel, other third party entity)? Do manufacturers require that entity to make periodic reports to it?*

As noted above this information generally goes to the vehicle manufacturer.

6. *What is the length of time that manufactures maintain warranty data and claims data? Is this period different for data related to events occurring outside the United States?*

See response to question 8 of this section.

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7. *Are US dealers currently collecting and/or maintaining information relevant to early warning reporting? If so, what is this information, and to what extent is it furnished to the manufacturer?*

Delphi has no contact with US dealers except as may be directed from time to time by the OEM. We do not know what information is collected or reported except on a specific case by case basis.

8. *Should there be a cut off date for reporting (e.g. not require it regarding vehicles or equipment that are older than some specified age)? If so, what age or ages?*

Warranty reporting varies by component, vehicle manufacturer and nameplate. For example, Oldsmobile is currently offering a 6 year / 60,000 mile warranty whereas the conventional warranty period in the USA is 3 years and 36,000 miles. These warranty periods have typically been established without the supplier industry's input.

9. *Is there additional information or data beyond that mentioned in this notice that manufacturers should report to NHTSA that would assist in the identification of defects related to motor vehicle safety? For example, assembly plant quality reports, dealer feedback summaries, test fleet summary reports, fleet experience, and rental car company reports.*

Most motor vehicle manufacturers maintain a well-organized activity for the collection and assessment of this type of data. This source is the "cleanest" source of data available. Other sources mentioned would require considerable analysis and the coordination of numerous data collection activities to sort out the many issues that can naturally flow from raw field data.

Questions relating to claims

1. *What is the appropriate definition of "claim?"*

For an equipment manufacturer, an appropriate definition of a claim is a written demand, assertion, or notice of litigation, from a foreign or United States source, expressly alleging that a death or serious injury has been caused by a specified defect in the manufacturer's motor vehicle equipment.

2. *What information should be submitted (e.g. just the number of claims by make, model year and component or system, or more information, including summaries and names of complaints)?*

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Raw claims information (especially involving property damage or minor injuries) is generally not very predictive of an emerging issue due to the issues discussed in Delphi's comments to the ANPRM. Assuming suppliers such as Delphi were to be required to supply information concerning claims relating to death and serious injury, such information should be reported only after Delphi has had an opportunity to develop certain "baseline" information concerning the claim.

No information that has not gone through at least a preliminary investigation for veracity and cause ought to be reported. This should be the first step after a designated level of occurrence has triggered attention to an issue.

3. *Should NHTSA only require the submission of claims about problems with certain components? If so, which ones?*

NHTSA has had more than 30 years of experience in analyzing the effect of defects on vehicle safety. That experience ought to be relied on in choosing which systems and components ought to be scrutinized.

4. *Should information about all claims involving serious injuries or deaths be submitted, or should there be some threshold?*

As noted in response to question 2 supra, only claims relating to death or serious injury should be reported and then only after there has been at least a preliminary investigation of the allegations.

Questions relating to warranties

1. *Should warranty data be reported? If so, are there specific categories, which should be included or excluded?*

Warranty systems have generally been established for the purpose of providing payment to dealers for certain types of work done on behalf of the vehicle manufacturer. When Delphi has been asked to analyze a specific group of parts returned from warranty under a specific warranty code or codes, it is not unusual to find less than half of the parts have anything wrong with them and less than a third have the problem specified by the warranty code. Warranty data is affected by many factors, which limit its usefulness. Wrong codes, misidentified parts, good parts replaced, system issues, varying warranty terms and conditions, varying warranty policies all limit the validity and comparability of warranty data.

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- 2. How do manufacturers maintain warranty data? How long is it kept? For what purposes is it kept? How do manufacturers review warranty data to identify possible safety concerns?*

Delphi is not responsible for collecting or keeping warranty data. On those occasions when we receive warranty data, it is limited and it remains the property of the vehicle manufacturer and is not to be disclosed to third parties.

- 3. What thresholds, if any, would be appropriate with respect to specific vehicle components, systems, and equipment items, below which warranty information would not have to be reported to NHTSA? Should there be different thresholds for different components or systems?*

Thresholds should not be used to trigger a requirement to report warranty information to NHTSA. Warranty data is one of many tools manufacturers can use to note seemingly unusual conditions that need to be investigated and then, if a defect is found to cause an unreasonable risk to vehicle safety, the issue should then be reported to NHTSA. To simply require, however, that warranty data be provided in raw form will cause NHTSA deal of information that has little predictive value by itself at a great burden to the industry.

- 4. Should thresholds be based solely on claims rates, or should there be some absolute number of claims that would trigger a reporting requirement?*

Thresholds for triggering investigations ought to be based on historical data.

- 5. What sorts of warranty information should be reported (e.g. make, model, model year, component)?*

Warranty information should not be reported by equipment manufacturers but by the vehicle manufacturers who own the data. They are in the best position to characterize what is best reported based on the content and accuracy of the data.

- 6. Are there warranty codes common to the motor vehicle industry? Passenger car industry? Heavy truck industry? Motor home industry? Child seat industry? Etc.?*

There are no standard codes for any of these industries of which Delphi is aware.

- 7. Should we require warranty data to be submitted using standardized codes? If so, what level of standardization would be appropriate?*

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Standardization would not necessarily make warranty data any more relevant or accurate. (See response to question 1.)

8. *In what form should we require warranty information to be submitted?*

It should not be submitted at all except as backup material to a vehicle manufacturer or NHTSA investigation.

Questions relating to lawsuits

1. *What information should be provided about lawsuits?*

Lawsuits are initiated up to several years after an event and are usually couched in general and vague allegations prior to going to trial. Consequently, lawsuits are not a good source for providing early warning of a product defect.

2. *Should information be provided about each lawsuit involving an alleged defect?*

Generally, no. Again, prior to trial, allegations are vague and often unfounded. Lawsuits are often not initiated until a year or more has passed after the incident occurred and then multiple allegations are usually stated in quite a vague manner. Such information is not only late in being reported to the manufacturers but also is of little use in defining a specific problem. Such information would not be useful supporting an early warning system for a safety defect.

3. *If not, what threshold would be appropriate? Should there be different thresholds based on the component or system involved?*

Delphi believes that lawsuits will not prove to be useful in assisting the Agency to provide early warning for the reasons stated above. However, if NHTSA persists in requesting this type of information, it should be made available only after each case has been investigated and facts become known. Thereafter, NHTSA should look to other Government Agencies, such as the Consumer Product Safety Commission, for the template in establishing threshold requirements.

Questions relating to design changes

1. *Should information about design changes be provided? If so, should all changes be covered or just only those relating to specified components or systems important to vehicle safety? If so, which components or systems?*

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Thousands of changes are made to most product lines for many reasons: some of them are made to improve the product, some are cosmetic, some change the print to agree with the way the parts are made, some are made to reduce costs, and so on. When changes are made to address a defect that has been found in the field, this means that the company has determined that a safety defect exists. This means that the company already has a reporting obligation to NHTSA under Section 573.3. Hence, this additional requirement would not enhance an early warning system.

2. *Should different considerations apply to prospective – only running changes than to changes to service parts?*

It is estimated that there are 14,000 parts in a vehicle. There are over 16,000 engineers in Delphi alone, most of whom are responsible for one or more aspects of the change process. For NHTSA to review their daily work would require 2 or 3 times the size of the entire, current Administration for our company alone. On the other hand, there is already a reporting requirement in place for changes made for safety defect reasons and there is an independent audit of our activity under QS9000 to assure that we are following our written procedures.

Service parts differ only in quantity of parts run and the consequent risk to motor vehicle safety.

Questions relating to deaths and serious injuries

1. *What systems for characterizing the seriousness of injuries are used in countries other than the United States? How do they relate to the AIS system?*

Delphi is not aware of other systems.

2. *Are the AIS3 “serious” criteria appropriate as indicia of “serious injury?” If not, what criteria are appropriate?*

Injury information from consumers or their relatives that comes to Delphi as a result of a rare vehicle claim is generally not made in sufficient detail for anyone to make an assessment of level of injury. This information usually is available only as a result of a lawsuit. Other claims we receive are a result of a request for reimbursement from a vehicle manufacturer. In either case the data does not support an effective early warning system.

3. *How shall it be determined whether a claim pertaining to an injury pertains to a serious injury? What assumptions should be made? If an initial claim does not allege a “serious” injury, should the manufacturer be required to report the claim later, if it learns that the injury was serious or alleged to be serious?*

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Claims are usually made sufficiently after an event that the injuries, if any, are known but are generally not revealed in sufficient detail at that time to make an assessment.

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4. *Would manufacturers find it less burdensome to report to NHTSA all allegations of injury caused by a product defect?*

No because if a generalization is reported and later to be proved to be erroneous, much more effort is require to correct the error in reporting.

5. *How and to which office of a manufacturer are deaths and serious injuries reported? Is the answer different with respect to incidents that occur in foreign countries?*

They are reported to the legal department and third party adjusters.
The same procedure is followed if the incident occurred in a foreign country.

Questions relating to property damage

1. *What data should manufacturers include as “aggregate statistical data?”*

Property damage claims usually are sent to the OEM and thus we do not normally receive any data.

2. *What type of statistical data relating to property damage (including fire and corrosion) do manufacturers maintain? What corporate office is responsible for their maintenance? Is the answer different with respect to incidents and claims in foreign countries?*

See response to question 1.

3. *How is this data maintained by manufactures? How is it used?*

Not applicable.

4. *How should this data be submitted to NHTSA to best provide an early warning of potential safety defects?*

Not applicable.

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Questions on internal investigations

1. *Should a manufacturer be required to report information on active investigations that it has initiated with respect to potential defects in its vehicle equipment? How, if at all, should it be determined that these are safety related? What is the extent to which this information should be reported?*

Internal investigations may be initiated for many reasons, only one of which is safety concerns. To require that all investigations be reported would again amass so much data that NHTSA would not be able to analyze it all without doubling size of the entire Administration for this purpose. To require such would defeat the effectiveness of investigations and would undoubtedly cause a chilling effect, resulting in some decisions not to investigate an issue at all.

If it is determined after an investigation that a safety related defect is at issue, Section 573.3 already requires that company report the problem. If companies are not reporting such, there are already remedies built into the law at NHTSA's disposal to correct the problem.

2. *What is an appropriate definition of an integral investigation that should be reported to NHTSA?*

Only internal investigations that are determined to impose an unreasonable risk of vehicle safety ought to be reported.

3. *Should manufacturers be required to report such investigations as soon as they are commenced? If not, at what point should the investigation be reported to NHTSA?*

As noted above, only those investigations that are determined to be an unreasonable risk to safety ought to be reported.

Questions on customer satisfaction campaigns, etc.

1. *Should "customer satisfaction campaigns," "consumer advisories," "recalls" or "other activities involving the repair of motor vehicles or motor vehicle equipment" be defined in NHTSA's regulation, and, if so, what would be an appropriate definition for each of these terms?*

NHTSA already collects this type of information. Such data ought to be sufficient for providing early warning if appropriate.

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2. *How many and what kind of customer satisfaction campaigns, consumer advisories, recalls, or other activity involving repairs have occurred since January 1, 1998, that were not required to be reported to NHTSA under 49 CFR 573.8? Indicate whether these occurred in the United States or foreign countries. Please submit a copy of all communications provided to consumers or dealers with respect to each such campaign, advisory, recall or other activity.*

Delphi has issued no such communications.

Questions on identical and “substantially similar” motor vehicles and equipment

1. *Is the word “identical” understood internationally, or do we need to define it? If so, how?*

The term, “identical” or “substantially similar,” for a given part or component must be understood in the context in which it is used.

For example, a bolt, having a given part number, may be substantially **dis**similar depending on how and where it is used. If it is used in a critical safety application, such as a seat belt anchorage, for example, the application may require a higher standard than the same bolt used in a less significant application.

The environment may dictate whether the same part is substantially similar or **dis**similar. For example, an electronic part may perform well in one vehicle where the temperature in the engine compartment is low, where it is somewhat protected from water splashing in the environment, where it is mounted solidly to the vehicle, where vibration and/or natural frequency does not effect it, etc. and yet the same part or component in a vehicle where one or more of these conditions is the opposite may fail. Often these conditions are beyond the suppliers control and can only be judged by the OEM.

On the other hand, dissimilar components can be substantially similar. For example, several electronic control modules, having substantial different functions, may be susceptible to similar failure modes if one of the components that are common to the all was to have a defect.

Each case must be judged on its own merits.

2. *How should a manufacturer determine if a vehicle sold in a foreign country is “substantially similar” to vehicles sold in the United States? Is it enough that the vehicles share the same platform and/or engine family? If not, why not?*

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As noted above, no one can make a generalization about what is and what is not “substantially similar.” It must be done on a case by case basis. The person that is most capable of making that judgment is the engineer of the part, component, system, or vehicle involved.

3. *How should “substantially similar” motor vehicle equipment be defined? Would the definition be different with respect to individual parts, component parts, assemblies and systems? Other than tires and off-vehicle equipment (such as child seats), should the definition be restricted to replacement equipment for substantially similar motor vehicles?*

See response to question 1.

Questions on field reports

1. *What is an appropriate definition for “field report?”*

Field reports that ought to be reported to NHTSA ought to include only claims, complaints and allegations about a given part, component, system, or vehicle that have risen to a high enough level as to trigger an investigation which verifies what is actually occurring. The trigger ought to be based on historical data and the consequences alleged.

2. *In the context of field reports for which information is to be provided, should there be a list of systems, parts, and components that are safety related? Should it be the same as the list for warranty claims and other claims?*

Yes, based on NHTSA’s 30 plus years of experience of actual occurrences.
The list for warranty and claims will likely be very similar.

3. *Do manufacturers screen field reports for safety-related information? If so, what are their systems and how do they work?*

“Field reports” in this more general definition are usually sent to the vehicle manufacturer expect as noted above.

4. *How do manufacturers process and maintain field reports? Is all information entered into computers?*

The vehicle manufacturer normally only involves Delphi with field reports on a requested basis. When they do, we receive the material both electronically or by hard copy depending on its availability.

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5. *What information regarding field reports should be provided to NHTSA? Should there be a numerical or rate threshold before field reports must be provided?*

Only fully investigated and verified "field reports" ought to be reported to NHTSA. There should be a threshold basis on the seriousness of the incident and historical data for similar parts.

V. When should information be reported?

- A. *Periodically, Upon receipt of information, Monthly, Quarterly*
B. *Upon NHTSA's request*

Questions to be answered

1. *Should reporting frequency vary depending on the type of information (e.g. deaths, injuries, warranty rates, complaints, etc.)? If so, what is an appropriate frequency for each type?*

Information ought to be reported only after a diligent investigation has been completed. Such investigations ought to be triggered based on historical data and the seriousness of the issue.

2. *Should reporting frequency vary depending on the type of vehicle or equipment (e.g. passenger car, bus, child seats or other equipment)? If so, what is an appropriate frequency for each type?*

No. The type of vehicle or equipment needs to be assessed as part of the risk to vehicle safety.

3. *Should reporting frequency vary depending upon the component or system involved (e.g. air bag, child restraint, seat belt assemblies, brakes)? If so, what is an appropriate frequency for each?*

No. See question # 1.

4. *Should manufacturers of particular equipment, such as off-vehicle and accessory equipment, be required to report data on a periodic basis, or only if they receive certain information such as claims alleging deaths or serious injuries involving their products.*

Manufacturers of accessory equipment ought to report based on the same criteria as established above.

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VI. How should the information be reported?

Questions to be answered

1. *How would manufacturers prefer to report information to us (e.g., hard copy, electronically)? If both, what would be in hard copy? What would be in electronic format? Which electronic format(s) would be preferable?*

If data is reported only as noted above, it will not be so massive as to require a need to change systems. If data were required to be reported to a greater extent, the data needs to be reported in a format that can be kept safe from tampering. It must also be secured in a way that raw data cannot fall into the raw hands and be disseminated without proper precautions.

2. *Should information regarding deaths and serious injuries be submitted in the form in which it is received by the manufacturer, the form in which it is entered into a database by the manufacturer, or in some other way?*

Delphi does not typically get this kind of information in a format, which permits the data to be intelligible in the manner that NHTSA would like to use it.

Questions relating to spreadsheets for reporting aggregate information

1. *What do manufacturers understand the term "aggregate statistical information" to mean?*

"Aggregate statistical data" in the context of the act is assumed to mean summaries of property damage information organized by category (e.g. model year, product type, damage type) and tabulated as to total cost or number of incidents.

2. *Is aggregate statistical information regarding claims, deaths and injuries likely to be useful in identifying potential safety-related defects?*

No.

3. *Would this type of aggregate statistical information tend to result in a large number of investigations into issues that are not related to potential safety-related defects?*

Yes.

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4. *Would the submission of supplemental information beyond the aggregate statistical information be necessary or appropriate to provide NHTSA with sufficient information upon which to decide to open an investigation? What types of information?*

This type of information would not be useful to NHTSA unless it is prepared to thoroughly investigate an issue and determine a root cause in a given application and environment.

5. *If NHTSA needs to submit requests for supplemental information, should the requests be made as part of an investigation? If not, why not? If not, how should NHTSA characterize these requests, and should the requests and responses be made available to the public?*

It should not be classified as an investigation until NHTSA has determined that a safety issue exists, which the supplemental information could be used to help determine. The requests should be characterized as interrogatories for supplemental information to support or clarify previously furnished data. The requests and responses should not be made public until the alleged facts have been verified.

VII. How NHTSA might handle and utilize early warning information reported to it

A. Specifications for use of information

Questions to be answered

1. *How should NHTSA review and utilize the information to be submitted under the early warning rule?*

Through a diligent, complete and fair investigation.

2. *What system or processes should NHTSA utilize in reviewing this information?*

NHTSA should only review data required by the TREAD Act. The other information ought to be reviewed only after a defect had been found to exist.

B. Information in possession of manufacturer

C. Disclosure

D. Burdensome requirements

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Questions to be answered

1. *What are the estimated startup and ongoing costs (including financial as well as manpower costs) of complying with the early warning reporting requirements discussed in this notice? What is the basis for the estimate?*

If the various types of data go beyond the requirements of the TREAD Act were to become a requirement, it is estimated that Delphi startup costs would approximate \$900,000 which includes one man-year of data systems preparation for each Division and aftermarket as well as in-house training. On-going costs would involve an additional \$350,000 annually, most of which would be used for clerical support for collecting and reporting the required information.

2. *How should NHTSA decide whether particular requirements are “unduly” burdensome? Should we balance the burdens against the anticipated benefits of receiving the information in questions? If so, how should we perform that balancing?*

The providing of any information that would not materially aid in the identification of defects related to motor vehicle safety would be, by definition, unduly burdensome. A direct relationship between the data requested and the regulatory objective should be established. Before NHTSA requests any information whatever, it is hoped that they would balance the burden of anticipated benefits with the benefit to be derived by obtaining the information. This might best be done by requesting various manufacturers to provide a sample or pilot of the types of data NHTSA is thinking of requesting. NHTSA could then assess its potential benefit or lack thereof.

In Delphi's opinion, all information discussed the design or manufacturing of the product is already covered by Section 573. The information obtainable from lawsuits is too vague and too late to be useful as early warning system. Therefore only complaints, claims and field reports, that have been collected, investigated, and analyzed are likely to be of any value whatever to NHTSA in assessing defects in an earlier timeframe than is now available.

3. *What is the most effective early warning information and least burdensome ways of providing it?*

Obtain copies of customer complaints and add them to the NHTSA hotline database.

4. *Have manufacturers developed or are manufacturers beginning to develop and implement their own early warning reporting procedures in advance of NHTSA's rulemaking? If so, what are these procedures? How do these procedures differ from those discussed in the ANPRM? How are they similar?*

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We are not aware of any systems being specifically developed to address the requirements of the TREAD Act.