Automotive Lighting

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OSRAM SYLVANIA

March 26, 2001

National Highway Traffic Safety Administration
Docket Management
Room PL-401
400 Seventh Street, S.W.
Washington DC 20590 NHTSA-01-8677-50

Re: Docket No. NHTSA 2001-8677; Notice 1;
Advance Notice of Proposed Rulemaking, Early Warning Reporting

Dear Sir or Madam:

OSRAM SYLVANIA and its related companies produce Automotive Lighting Products at several locations throughout the world. Most of these automotive product sold worldwide are similar to the products sold in the United States. Establishing and maintaining the reporting structure outlined in this ANPRM will be burdensome. Especially considering the numerous somewhat autonomous business units worldwide. In the end the purchaser of automobiles in the United States will absorb the cost of this additional regulation.

The cost of complying with the new requirements will depend on three factors: The number of business events that need to be reviewed for potential reporting; The extent of change required by international business units in associated companies worldwide; And finally, the number of items that need to be reported.

We are alarmed by the extensive reporting this regulation could require.
The amount of review and reporting will depend greatly on how broadly the words "defect" and "problem" are defined. These words are used throughout the ANPRM and their interpretation is key to whether action is required. Could they mean failure to meet any of the manufacturers published specifications? Or, could they mean failure to meet FMVSS requirements? Or, could they mean failure to meet customer expectations?

NHTSA should implement the early warning reporting system in phases of both who should be reporting and what should be reported. This will minimize the burden as the system is defined, developed and debugged.

We encourage NHTSA to minimize the amount of information reported by tailoring requirements to different classes of components.

We are very concerned about our proprietary information becoming available to our competitors through NHTSA. Such as:
1. Warranty claim data.
2. Field Reports.
3. Consumer complaints.
4. Copies of all communication with customers about possibly defective product. Whether or not the conditions or circumstances in question relate to motor vehicle safety.
5. Information on product returned as possibly defective.
6. Information on internal defect analysis.
7. Notice of design changes.

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The following are responses to questions asked in the ANPRM:

IV. What Information and Data Should Be Reported?

General Questions

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?

   Only claims submitted in writing should be considered claims. We assume this question only relates to cases involving death, serious injury, or property damage. Such data maybe received through many channels, such as: Legal Department, Management, Sales, Marketing, Quality, Engineering, or Manufacturing. Cases involving death, serious injury or property damage are reviewed by our Legal Department.

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

   We do not restrict the form of communications. Our customers use whatever form of communication they choose. This data has been retained primarily in paper files. Retention policy depends on the department and type of information.

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?

   Claims of this nature are rare and are addressed on a case by case basis.

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?

   These cases are usually dealt with by the business unit in the country where they occur.

6. In what form is foreign the data or information received *(e.g.,* electronically, e-mail, inter-company memo)? Is it maintained separately or is it combined with data about events occurring in the United States?

   Serious injury or property damage claims are very rare domestically and internationally.

8. Are U.S. 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?

   Yes, most OEMs maintain and report warranty information to manufacturers. In many cases this reporting is sporadic.

9. 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?

   We suggest the early warning reporting system initially focus on data up to 36 months in service. The benefit will decrease and the cost increase as older vehicle data is required.

Questions Relating to Claims

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 complainants)?

   Narrative information should not be required. Narrative information is costly and cumbersome to collect and report. The purpose of the Early Warning Reporting System should be to identify the need for investigations not to conduct them.

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

   NHTSA should start with analysis of statistics related to death and serious injury. Products responsible for these accidents should be the initial focus. Please see our general comments on a phased in approach. Establish the cost benefit.

Questions Relating to Warranties

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

   See General Comments on phased in approach.

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?

   Our Quality Department maintains a database on all customer quality complaints including warranty. Our retention policy on these databases is the life of the database + 5 years. We have not established a retention policy on the individual database records. Our interest is to reduce warranty for cost and competitive reasons. Warranty data is not currently screened or classified for safety related concerns.

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 of warranty should be established that trigger reporting rather than reporting all warranty claims.

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 should be based on claim rates.

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

   If warranty information is reported, make, model, model year, component, failure mode, and component manufacturing date should be reported.

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 codes that we are aware of that are common to any of the industries.

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

   NHTSA should not direct manufacturers to change their warranty codes. This would disrupt the business purpose, maintainability and usefulness of the warranty system. If NHTSA develops and requires the use of its own codes it would be duplicative and expensive. In such a case each warranty event would also need to be classified according to the NHTSA coding system and criteria.

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

   Submission of data electronically would be the most manageable.

Questions Relating to Design Changes

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

   If any product design change reporting is required the burden will be on the manufacturer to screen all product changes for those that require reporting. This will be a significant baseline burden and cost, even if no reportable changes occur. NHTSA needs to clearly define how a manufacturer determines which changes are reportable. Furthermore, this reporting presents a risk, as competitive and even proprietary data could become public information. Blanket requirements for new technology should be avoided. NHTSA needs to assess new technologies individually.

Questions Relating to Deaths and Serious Injuries

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

This should be left to the manufacturer's discretion.

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?

For cases occurring in the U.S. these claims are reviewed by our U.S. Legal Department.

Questions Relating to Property Damage

1. What data should manufacturers include as "aggregate statistical data"?

The number of claims and property value above and beyond warranty repair of the manufacturer's product.

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

Aggregate statistical data on property damage periodically reported would lead to significant cost in reporting and tracking worldwide claims. Threshold levels of property value and definitions are needed. Only claims above a threshold can be consistently identified, reliably reported and tracked.

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 vehicles or 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?

Reporting of all internal investigations of product performance defects will require major changes in the way the company operates and communicates internally on these studies. This will be very difficult and costly to communicate, train and police throughout our worldwide organization. The disruption to our business will depend on how broadly NHTSA defines the scope of investigations that require reporting.

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

Internal investigations related to claims of death or serious injury allegedly caused by product defects.

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?

NHTSA will already be notified when the claim of death or serious injury occurs. Internal investigations are likely misleading and inaccurate until they are complete. There are significant discovery and privilege matters that must be protected. Those investigations prepared in lieu of trial should be protected and should not be provided to NHTSA.

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?

This ANPRM suggests a vast expansion in reporting beyond the currently required "safety-related" customer communications. As proposed this would require us to report every performance related request for return of goods from our OEM customers along with our related analysis. As part of our Quality and customer satisfaction effort we routinely receive small quantities of product from OEM customers. On a worldwide basis this could result in a very large number of reports. These additional reporting requirements can only negatively impact our quality and customer satisfaction efforts.

Questions on Identical and "Substantially Similar" Motor Vehicles and Equipment

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?

Most of the Automotive Lighting Products sold worldwide are similar to the products sold in the United States.

Questions on Field Reports

1. What is an appropriate definition for "field report'?

This should be limited to communications from customers or employees expressing a concern over the potential for death or serious injury.

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?

NHTSA may define a class of components and associated reporting requirements. To comply, manufacturers will need to screen business communications related to these components for reportable material. We need clear screening criteria. The term "Field Reports" can be interpreted as covering a very large category of communications.

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

Again, this depends on the definition of a field report. Some data is available by computer, other information is maintained on paper.

VI. How Should Information Be Reported?

Questions to be answered. We seek answers to the following questions relating to the manner in which information should be reported.

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?

Electronically, using Electronic Data Interchange similar to the communications between automobile manufacturers and suppliers. NHTSA does not need electronic access to our intranet or other computer systems; we will report the required information to NHTSA. Providing NHTSA with electronic access to our systems presents a host of security problems with no apparent benefit to NHTSA.

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?

Data should be submitted in database ready format to be defined by NHTSA.

The following five questions relate to the possible use of a spreadsheet for reporting aggregate information.

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

Counting events and summing value fields over a reporting period.

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?

There would be the potential for unnecessary investigations.

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 such information?

Sales data would be useful in calculating a rate of occurrence given the number of claims. Note, sales data is of significant competitive value.

Sincerely,

Dennis Holt

Dennis Holt
Reliability & Regulations Manager