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Automotive Systems Group
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Docket Section
National Highway Traffic Safety Administration
400 Seventh Street, SW
Washington, D.C. 20590

Re: Docket No. NHTSA-2001-10773, Reporting of Information about Foreign Safety Recalls and Campaigns related to Potential Defects.

Johnson Controls, Inc. ("Johnson Controls") submits the following comments to the above docket in response to the October 11, 2001 notice of proposed rulemaking. Johnson Controls is a motor vehicle equipment manufacturer of both original equipment and replacement equipment as those terms are defined in 49 CFR 579.4(a) and 49 CFR 579.4 (b) respectively.[1] These comments focus on those aspects of the proposal related to the reporting obligations of motor vehicle equipment manufacturers.

PROPOSED PART 579

References to each of the sections that follow are to the proposed revisions that would reside at 49 CFR Part 579.

A. Johnson Controls supports the agency definition of "identical or substantially similar" motor vehicle equipment

Proposed Section 579.12(b) indicates that motor vehicle equipment sold outside the United States is "identical or substantially similar" to equipment sold in the United States if "such equipment and the equipment sold or offered for sale in the United States are the same component or system, or both contain the component or system that gave rise or contributed to a safety recall or other safety campaign in a foreign country, regardless of whether the part numbers are identical."

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[1] **49 CFR 579.4(a)** provides that "original equipment" is "an item of motor vehicle equipment (other than a tire) which was installed in or on a motor vehicle at the time of its delivery to the first purchaser if (1) the item of equipment was installed on or in the motor vehicle at the time of its delivery to a dealer or distributor for distribution; or (2) the item of equipment was installed by the dealer or distributor with the express authorization of the motor vehicle manufacturer." **49 CFR 579.4(b)** provides that "replacement equipment" is "(1) motor vehicle equipment other than original equipment as defined in [Sec. 579.4(a)]; and (2) tires."

Johnson Controls believes that the proposed definition is consistent with the intent of the Tread Act and thus supports NHTSA's proposal for the reasons expressed in the October 11, 2001 notice of proposed rulemaking.

B. Responsibility for reporting Manufacturer Determined Recalls should be with the manufacturer who makes the recall determination

Proposed Section 579.13(a) requires the reporting of a manufacturer's determination to conduct a safety recall in a foreign country on "identical or substantially similar ... equipment" within 5 working days of that determination being named. The report needs to contain the information noted in Section 579.14(a) and be reported to the agency. As currently worded, it is not clear that the manufacturer who makes that determination is the one who needs to make the report.

Johnson Controls recognizes that, in the case of original equipment or replacement equipment, the equipment manufacturer can make the determination of defect. In those cases, the equipment manufacturer should be the person who makes the report required under Section 579.13(a). There will be many situations, however, in which the equipment manufacturer does not make the determination of defect and does not have input into that determination. At 66 FR 51913, in commentary accompanying the proposal, the agency recognized this:

> Recalls and other safety campaigns involving problems with original equipment (OE) components or systems abroad, as here in the U.S., are likely to be conducted by the manufacturer of the vehicle in which they were installed.

Where the determination is made by a manufacturer, and that determination includes the information necessary to the report detail required under Section 579.14(a), the manufacturer who makes the determination should make the report. Further, imposing an obligation on the manufacturer "covered by" the recall is ambiguous, particularly in a case where a recall by a vehicle manufacturer is undertaken as a result of a defect discovered by the vehicle manufacturer in an original component made by an equipment manufacturer.

As a result, Johnson Controls proposes the following changes to the current Section 579.13(a) proposal:

> Not later than 5 working days after a manufacturer, including any of its subsidiaries and affiliates, determines to conduct a safety recall or other safety campaign in a country other than the United States covering a motor vehicle or motor vehicle equipment that is identical or substantially similar to a vehicle or equipment sold or offered for sale in the United States, the manufacturer ~~of the~~

~~vehicle or equipment covered by the recall or other campaign~~ making this determination shall report the determination to NHTSA.[2]

C. Responsibility for Reporting Government Determined Recalls Should be with the Manufacturer who receives Notice of the Government Determination

Section 579.13(b) requires the reporting of a recall or other safety campaign in a foreign country on "identical or substantially similar . . .equipment" that is mandated by a foreign government within 5 working days of the receipt of notice from that government. The manufacturer notified is in the best position to include the content required by Section 579.14(a). It is not clear, however, that it is the manufacturer notified who must make this report under the proposal.

To clarify this, Johnson Controls suggests the following revisions to Section 579.13(b):

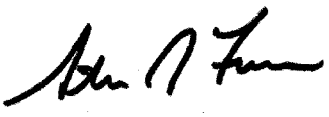
> Not later than 5 working days after a manufacturer, including any of its subsidiaries and affiliates, receives notification that the government of a country other than the United States, including a political subdivision of such country, has determined that a safety recall or other safety campaign must be conducted in that country with respect to a motor vehicle or motor vehicle equipment that is identical or substantially similar to a vehicle or equipment sold or offered for sale in the United States, the manufacturer so notified~~of the vehicle or equipment covered by the campaign~~ shall report the determination to NHTSA.

As in the case of our proposed edit to subparagraph 579.13(a), the proposed change suggested here is consistent with the terms used in proposed section 579.13(b), which speaks in terms of the manufacturer who has "received notification."

Thank you for the opportunity to comment on this proposal.

Sincerely,

JOHNSON CONTROLS, INC.



Steven J. Furr
Executive Director
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[2] This is consistent with the reporting approach taken in current 49 CFR 573.5(a) where the manufacturer who makes the determination makes the defect report.

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