2. Brookville (pop. 4,134), in Jefferson County (pop. 43,695),[2] is located approximately 97 kilometers (60 miles) north of Johnstown, Pennsylvania. There is no local aural broadcast service in Brookville.

3. Petitioner states that Brookville is the hub of a trading area in a growing region. He notes that manufacturing and mining are the main industries of the area.

4. We believe the public interest would be served by the assignment of FM Channel 240A to Brookville, Pennsylvania. An interest has been shown for its use, and such as assignmment would provide the community with a first local aural broadcast service.

5. The Canadian Government has given its concurrence to the assignment of Channel 240A to Brookville, Pennsylvania.

6. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7. *Accordingly, it is ordered,* That effective January 25, 1979, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended as it pertains to the community listed below:

City and Channel No.
Brookville, Pennsylvania, 240A.

8. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief,
Broadcast Bureau.

[FR Doc. 78-35830 Filed 12-22-78; 8:45 am]

[4910-59-M]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-03; Notice 5]

PART 571—FEDERAL MOTOR VEHICLE STANDARDS

New Pneumatic Tires—Passenger Cars

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Correction.

SUMMARY: In the FEDERAL REGISTER of October 2, 1978 (43 FR 45366), this agency published a notice amending Federal Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars,* by adding 10 new tire size designations to Table I of Appendix A of the Standard. Several typographical errors appear in those tables, and this notice corrects those errors.

FOR FURTHER INFORMATION CONTACT:

John Diehl, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1714).

SUPPLEMENTARY INFORMATION: In a notice published at 43 FR 45366, October 2, 1978 10 new tire size designations were added to Table I of Appendix A of Federal Motor Vehicle Safety Standard No. 109. Typographical errors appeared in Table I-HH, I-JJ, I-LL, I-X, and I-MM. Those tables should read as set forth below.

Issued on December 18, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator
for Rulemaking.

Footnotes continued from last page

there were no oppositions to the proposal and no other parties would be affected thereby.

[2] Population figures are taken from the 1970 U.S. Census.

TABLE I - HH

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/ 75' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P175/75R15	395	425	455	480	510	535	555	580	600	5	807	177
P195/75R15	470	510	545	580	610	640	670	695	720	5 1/2	854	196

TABLE I - JJ

TIRE LOAD RATING, TEST RIMS, MINIMUM SIZE FACTORS AND SECTION WIDTHS FOR 'P/70' SERIES ISO TYPE TIRES

Tire size 1/ designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (mm)	Section 2/ width (mm)
	120	140	160	180	200	220	240	260	280			
P175/70R13	315	340	365	385	410	430	445	465	485	5	740	177

1/ The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

TABLE I - X

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR MILLIMETRIC '50' SERIES RADIAL PLY TIRES

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width 2/ (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
175/50R15	500	535	565	595	625	655	680	710	735	760	785	810	835	5 1/2	26.67	7.13

1/ The letter "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."

2/ Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

TABLE I - LL

Tire size 1/	Maximum tire load (pounds at 60 psi cold inflation pressure	Test rim width (inches)	Minimum size factor (in)	Section 2/ width (in)
T125/90D16	1965	4	29.61	5.16

1/ The letter "D" for diagonal and "B" for bias belted may be used in place of the "R."

2/ Actual section width and overall width shall not exceed the specified section width by more than the amount specified in S4.2.2.2.

TABLE I - MM

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "65 SERIES" RADIAL PLY TIRES

Tire size 1/ designation	MAXIMUM TIRE LOADS, (pounds) at various cold inflation pressures (psi)													Test rim width (inches)	Minimum size factor (inches)	Section width 2/ (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
175/65R14	695	740	785	830	870	910	945	985	1020	1055	1090	1125	1155	5	29.47	6.97

1/ The letter "H," "S," or "V" may be included in any specified tire size designation adjacent to the "R."

2/ Actual section width and overall width shall not exceed the specified section width by more than 7 percent.

[FR Doc. 78-35549 Filed 12-22-78; 8:45 am]

[4910-59-M]

[Docket No. 74-7; Notice 4]

PART 573—DEFECT AND NONCOMPLIANCE REPORTS

Final Rule

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final Rule.

SUMMARY: This notice amends Part 573, *Defect and Noncompliance Reports*, by adding reporting requirements for equipment manufacturers and altering somewhat the requirements for vehicle manufacturers as authorized by the 1974 Motor Vehicle and Schoolbus Safety Amendments. The amended regulation requires the submission of reports to the agency concerning defects and noncompliance with safety standards and specifies the information to be included in those reports. The regulation will help enforcement of defect and noncompliance cases by ensuring that adequate information is submitted to the NHTSA.

EFFECTIVE DATE: January 25, 1979.

ADDRESS: Petitions for reconsideration should refer to the docket number and be submitted to: Room 5108, Nassif Building, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. James Murray, Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-2840.

SUPPLEMENTARY INFORMATION: This notice amends Part 573, *Defect and Noncompliance Reports*. A notice of proposed rulemaking was published on September 19, 1975 (40 FR 43227), proposing new requirements for vehicle and equipment manufacturers regarding submittal to the NHTSA of defect and noncompliance reports as authorized by the Motor Vehicle and Schoolbus Safety Amendments of 1974 (the Amendments) (Pub. L. 93-492).

Sections 151 to 160, or Part B of the Amendments alter the defect notification requirements of the National Traffic and Motor Vehicle Safety Act of 1966 ("the Act") (15 U.S.C. 1381 *et seq.*). These Amendments require manufacturers of motor vehicle replacement equipment to notify purchasers and to remedy any defects or noncompliances following the manufacturer's or the Administrator's determination that the equipment contains either a defect which relates to motor vehicle safety or a noncompliance with an applicable Federal motor vehicle safety standard. Prior to the enactment of these provisions, manufacturers of motor vehicle equipment were responsible under the Act for notification of defects or noncompliances only following a determination by the National Highway Traffic Safety Administrator that the item of equipment contained a safety-related defect or failed to comply (Sec. 113(e), Pub. L. 89-563, 15 U.S.C. 1402).

Comments on the proposal were received from manufacturers, safety organizations, and manufacturer representatives. The Vehicle Equipment Safety Commission did not submit comments. All comments were considered and the most significant ones are discussed below.

I. Scope

Several manufacturers objected to the scope of the regulation indicating that it exceeded the agency's authority to regulate vehicle and equipment manufacturers. For example, manufacturers alleged that the agency only has authority over safety-related defects and accordingly should restrict the defects mentioned in this section to safety-related defects. Further, many equipment manufacturers apparently thought that the statement of the scope of the regulation indicated that they would be required to retain purchaser and owner lists of all vehicles containing items of their equipment.

The intent of this regulation is not to impose upon equipment manufacturers recordkeeping requirements for all equipment that they manufacture. This regulation merely imposes limited recordkeeping requirements for that equipment which is determined to be defective or in noncompliance. In other words, an equipment manufacturer, after discovery of a defect or noncompliance, would ascertain from a vehicle manufacturer the identity of the vehicles and vehicle owners possessing the affected equipment. Notification would then be sent to those owners. The NHTSA would require that the equipment manufacturer retain the records of those sent notice of the defect.

Several manufacturers requested that the agency limit the applicability of this regulation to safety-related defects. They argued that the NHTSA has no authority to require information pertaining to non-safety related defects. Section 158 of the Act specifically authorizes the agency to require information on any defect, whether or not safety-related, in order to enable it to undertake defect investigations which permit a determination regarding the safety-related nature of the defect. Much of this regulation pertains only to safety-related defects and each section indicates whether it applies to all defects or only those that are safety related.

II. Application

Many manufacturers complained about the use of the term "direct control" in § 573.3(a). Some manufacturers contended that the use of the term was unnecessary. Importers contended that they should not be required to submit reports where a defect is identified before the vehicles leave their direct control since the Act considers them to be manufacturers and they would be in direct control of vehicles being imported. The Center for Auto Safety would have the agency drop the term and replace it with "beyond their place of final manufacture."

In the notice of proposed rulemaking, the NHTSA indicated the reasoning for excluding vehicles and equipment within the "direct control" of the manufacturer from the reporting requirements. Vehicles and equipment within the direct control of manufacturers are virtually assured of remedy of any defect or noncompliance, because they are still within the physical possession of the manufacturer. In the NPRM it was noted that direct control does not include in the possession of a dealer or distributor. For vehicles and equipment possessed by those entities, reports concerning defects or noncompliance would be required to be submitted to the agency. The agency declines to adopt the suggestion of the Center for Auto Safety for reasons explained in the NPRM. The phrase "beyond the place of final manufacture" is not broad enough to handle all instances where vehicles are still within the direct control of the manufacturer. For example, vehicles might be stored on a manufacturer's lot far removed from the place of manufacture. Nonetheless, these vehicles are still within the direct control of the manufacturer. Therefore, the agency concludes that the term "direct control" best accomplishes the objective of providing a limited exclusion from the reporting requirements. The agency agrees with importers that since they are considered manufacturers under the Act, vehicles that manifest defects while they are within their direct control are excluded from the reporting requirements.

Some manufacturers apparently misunderstood the requirements of § 573.3(d). Manufacturers indicated that reports should be required to be filed either by the brand name owner or the manufacturer, not by both. The section as written permits this. Compliance with the reporting requirements by the brand name owner shall

be considered compliance by the manufacturer. Either one is permitted to submit the required reports. The Act treats tire brand name owners as manufacturers. Therefore, the wording of this section has been changed to reflect the responsibility of tire brand name owners.

Several commenters requested that the name of fabricating manufacturers not be submitted since this might cause competitive disadvantage to the brand name or trademark owner. The NHTSA finds it a legitimate need to know the actual manufacturer of a product. That manufacturer could for example be manufacturing the same or similar components for other brand name or trademark owners. The agency would need this information to insure that all potentially defective or noncomplying equipment is remedied.

Many manufacturers complained of the requirements in § 573.3(f) that reports be filed both by the equipment manufacturer and the vehicle manufacturer where an equipment manufacturer's equipment has been used by more than 1 vehicle manufacturer. Manufacturers stated that this requirement is duplicative and costly providing identical information from both sources. The NHTSA stated in the NPRM that this issue had been thoroughly considered prior to the issuance of the NPRM. It has again been explored by the agency in response to these comments and the agency concludes that the dual reporting requirement for the § 573.5 report is necessary. Reports submitted by equipment and vehicle manufacturers will have different information in them. In both cases, the information is of importance to the agency in pursuing its defects and noncompliance obligations. Therefore, this requirement has been retained. It should be reaffirmed for clarity that where an equipment manufacturer's equipment is used in vehicles of only one vehicle manufacturer, reports need only be submitted by that vehicle manufacturer.

On a related matter, the NHTSA agrees that reports required under § 573.6 need not be filed by both vehicle and equipment manufacturers. These reports need only be filed by the manufacturer undertaking the recall. Section 573.3(f) has been amended to reflect this change.

Other commenters on this section indicated their disapproval of the shared responsibility for remedying defects and noncompliances between vehicle and equipment manufacturers. Section 573.3 places certain reporting responsibilities upon both equipment and vehicle manufacturers, depending upon the nature of the defect. For the most part, vehicle manufacturers are responsible for reports relating to defects or noncompliances in their vehicles while equipment manufacturers are responsible for reports on their defective or noncomplying equipment. In those instances where a defect or noncompliance is discovered in equipment installed in the vehicles of more than one vehicle manufacturer, both the equipment and vehicle manufacturers must report. Equipment manufacturers suggested that vehicle manufacturers should be responsible for defects and noncompliance reports while vehicle manufacturers want to place the burdens upon equipment manufacturers. The NHTSA adopted the present scheme of shared responsibility between vehicle and equipment manufacturers for compliance with agency regulations in response to the 1974 Amendments. Congress indicated in those amendments that equipment and vehicle manufacturers should share the burden of remedying defects in their equipment and vehicles. The NHTSA concludes that the reporting requirements outlined in this regulation implement the basic intent of those Amendments.

III. Definitions

Many commenters objected to the definitions of original and replacement equipment. Further, some of these commenters indicated that the NHTSA had little, if any, authority to place responsibility on an original equipment manufacturer, since Section 159 of the Act makes the vehicle manufacturers responsible for original equipment. The NHTSA has deleted the definitions of original and replacement equipment from Part 573 since both terms are defined in Part 579. The NHTSA notes that with respect to the authority to place responsibility for defects or noncompliances upon original equipment manufacturers rather than the vehicle manufacturer, Section 159 states that the Act's defect and noncompliance scheme of responsibility shall be controlling unless otherwise provided by regulation. Therefore, the NHTSA does have the authority to shift the responsibility from the vehicle manufacturer to the equipment manufacturer if it determines that such alteration will advance the efficiency of enforcement actions. Part 579, *Defect and Noncompliance Responsibility*, outlines the responsibilities of the various manufacturers and defines "replacement" and "original" equipment.

Commenters also requested that the agency define the term "safety-related defect" so as to clarify the agency's intent in this area. The NHTSA has in the past rejected requests to establish a specific definition of a safety-related defect. Whether or not a defect is safety-related depends upon a variety of factors and must be ascertained based upon the circumstances of each separate case. Thus, a specific definition cannot feasibly be created.

Ford Motor Company argued that the agency's preambular discussion tended to indicate that the definition of "first purchaser for purposes other than resale" would include the dealer or distributor. This was not the intent of the regulation. "First purchaser" is based on a similar statutory term and has been used by the agency for years with a specific meaning. The first purchase occurs where the purchaser does not buy the vehicle with the purpose of reselling it. Obviously, sale of a vehicle to a dealer presupposes that the dealer intends to resell the vehicle to the ultimate consumer or purchaser. Therefore, sale to a dealer would not constitute the sale to the first purchaser for purposes other than resale. The use of the term first-purchaser list in the preamble of the proposal in reference to the lists required to be retained by equipment manufacturers was a colloquial use of the term rather than its more precise meaning under the Act.

IV. Defect and Noncompliance Information Reports

Prestolite Company interpreted the requirements of § 573.5(a) to mean that they would be required to file a report with the NHTSA every time a defective piece of equipment was brought to their attention, since there is no specific definition of safety-related defect. This they suggested would be a burdensome requirement. Such a requirement is not the intent of this regulation. A manufacturer submits a report to the NHTSA when either it or the agency makes a determination under Section 151 or 152 of the Act that a defect related to motor vehicle safety in fact exists. A failure of a single piece of equipment may not occasion the finding of a safety-related defect. Further, some equipment failures might have no adverse safety effects. Therefore, every failure of equipment will not necessarily require a report to the NHTSA. It is incumbent upon the agency and each manufacturer to make a good faith determination concerning the safety relatedness of any defect before a report under this paragraph is filed.

International Harvester (IH) suggested that a manufacturer should not have to file a report if it intends to file a petition for inconsequentiality. The NHTSA does not agree with this position. The agency needs to know of potential safety-related defects or noncompliances at the earliest possible time. If a manufacturer intends to file a petition for inconsequentiality, it should indicate such in the report as part of the information supplied in accordance with paragraph (c)(8).

Many manufacturers objected to the 5-day requirement in § 573.5(b) under which information must be submitted within 5 working days after a safety-related defect or noncompliance has been discovered. Manufacturers suggested increasing the number of working days and changing the word "submitted" to "mailed." Ford requested that the 5-day period not begin until written notification is received from the NHTSA for agency-initiated determinations.

The agency does not find persuasive arguments for altering the existing 5-working day requirement. The NHTSA needs this information as rapidly as possible to aid expeditious notification and recall. Not all information need be supplied within the 5 working days if some of it is unavailable. The regulation clearly states that any unavailable information would be submitted later as it becomes available. The NHTSA also considers it unnecessary to change the word "submitted" to "mailed." The term "submitted" is broader than "mailed." Information may be submitted by mailing it or delivering it to the agency in person. If mailed, it must be mailed within 5 working days.

With respect to the alleged insufficient time to prepare information in 5 working days, the NHTSA notes that this requirement has existed in Part 573 for several years. Since the requirement has operated smoothly for that period of time, the agency declines to adopt recommendations that would change it.

The NHTSA declines to adopt Ford's recommendation concerning agency-initiated determinations. Agency initiated defect or noncompliance determinations are made after thorough investigations conducted by the NHTSA. A manufacturer is aware of these ongoing investigations, and therefore, it should not be unnecessarily burdened or surprised when the NHTSA makes a determination. Since the need for expeditious action exists after an agency determination and the manufacturer is aware of a pending agency decision, the NHTSA considers it adequate that a manufacturer submit the report in 5 working days after receipt of either written or oral agency notification.

Several equipment manufacturers contended that the requirements of paragraph (c)(2) would impose additional burdens upon them to mark the equipment that they manufacture. Paragraph (c)(2) requires defect and noncompliance reports to contain certain information that identifies the defective or noncomplying equipment. For example, they argued that the requirements for the date of manufacture of the affected equipment would be burdensome since much of their equipment is not dated according to time of manufacture. Therefore, they suggested that the NHTSA only require date of manufacture information when it is known.

It is important to remember that Part 573 is for the most part a reporting regulation. It is not a recordkeeping or labeling regulation. A manufacturer, under the regulation, only supplies to the NHTSA that information which is available to it. In the case of date of manufacture of equipment, the equipment manufacturer in most instances need not label its equipment in such a manner as to identify its date of manufacture. The regulation merely directs a manufacturer to supply such information to the NHTSA in its reports. Obviously, if a manufacturer does not know the dates of manufacture, it would be unable to supply them to the agency. However, a manufacturer must supply the approximate dates of manufacture if that information is available.

Manufacturers should note that the manufacturing date requirement is included in the regulation for the benefit of the equipment manufacturer. If that manufacturer knows the approximate dates when a defective piece of equipment was produced, then its recall can be limited to equipment manufactured during those dates. On the other hand, a manufacturer without such information might be required to undertake a more extensive recall of its equipment to ensure that all defective products are recalled.

The Center for Auto Safety requested that the NHSTA require motor vehicle manufacturers to submit the vehicle identification numbers (VIN) of vehicles involved in any recall activity. The NHTSA does not require this information in the § 573.5 reports because the agency normally has no need at the time of the reports issuance for such information. The agency does require the VIN's to be submitted in the § 573.6 reports for those vehicles that are uncorrected in a manufacturer's recall. In these instances, the agency uses the information to supplement a manufacturer's recall efforts. Until such time as a manufacturer determines that some vehicles are uncorrected however, the agency usually has little use for VIN information on all recalled vehicles. In those limited instances when VIN information is necessary at the time of submission of the § 573.5 report, the agency has the ability to request it from a manufacturer.

In regard to paragraph (c)(3), several manufacturers objected to the requirement that the precise number of vehicles or equipment in each category be reported. These manufacturers stated that often this information is not known. The NHTSA agrees and therefore modifies the section to require the submittal of this information when it is known. Chrysler suggested that the agency require the numbers of affected vehicles to be submitted by GVWR breakdown rather than by model. The agency disagrees with this recommendation since it usually undertakes recalls based upon model classification, not upon GVWR categories. Therefore, the submission of information based upon a GVWR classification would not be as useful as a classification based upon vehicle model.

Atlas Supply Company suggested that the agency not require the information specified in paragraph (c)(4) since, for tire manufacturers, tires are destroyed making the required calculations difficult. Paragraph (c)(4) requires the provision of information that estimates the percentage of defective or noncomplying equipment on vehicles. The NHTSA considers estimates of the amount of affected vehicles or equipment to be necessary to obtain an idea of the scope of the defect or noncompliance problem. Since the section merely requires an estimate, the agency does not consider this to place a difficult burden upon manufacturers.

Many manufacturers complained about the requirements of paragraph (c)(6) which requires the submission of information upon which the determination was made that a safety-related defect exists. These manufacturers indicated that it would impose unreasonable burdens upon manufacturers by requiring them to retrieve a large amount of information in a short period of time and to retain vast amounts of data. The intent of this section is to provide a summary to the NHTSA of the information upon which a manufacturer based his defect determination. This information, since it has been used by a manufacturer for its determination of a defect, should be readily available to it. The NHTSA notes that the submission of summary information is intended to reduce a manufacturer's burdens. However, the specificity and clarity of information must be maintained, and the agency might require further information if the summary information is inadequate. The NHTSA has reworded the paragraph somewhat to indicate that it is only necessary to submit a summary of the information upon which the determination was based.

Several manufacturers suggested that the requirement for submission of noncompliance test data in paragraph (c)(7) would require them to conduct tests and submit details of test procedures to the agency. This paragraph requires only that manufacturers supply the results and data of tests, if any are conducted, upon

which a noncompliance determination was based. Test procedures need not be submitted. If a noncompliance determination is made on information other that tests, then that information would be submitted.

Manufacturers claimed that they would be unable to submit a plan for remedy as required by paragraph (c)(8) in the required 5 working days. The NHTSA needs to have an indication of a manufacturer's plan for remedy as soon as possible. Like all of the information required by this section, the plan need not be extensively detailed in the initial 5-working day period and is subject to modification if subsequent circumstances warrant a change. In other words, a manufacturer is not binding itself to only those items established in the plan submitted during the first 5 days after a defect or noncompliance has been determined to exist. The NHTSA has amended the wording of this paragraph somewhat to indicate that a copy of a manufacturer's plan for remedying a defect or noncompliance will be made public in the NHTSA docket.

The Center for Auto Safety argued that paragraph (c)(9) should require actual copies of the defect or noncompliance notice bulletins or communications, not representative copies. The reason the NHTSA used the terminology contained in the notice is that in some instances a manufacturer has a multiple mailing of one communication. To require actual copies of multiple mailings would require copies of each of these identical communications. Therefore, the agency allows a representative copy (e.g., one actual copy) of such information. The NHTSA concludes that this requirement fulfills the agency's need for accurate copies.

V. Quarterly Defect Reports

Many manufacturers disagreed with the agency's scheme for quarterly defect reports outlined in § 576.6. Equipment manufacturers suggested that vehicle manufacturers should be responsible for these reports while vehicle manufacturers asserted that the equipment manufacturers are better able to accomplish the reporting requirements. The NHTSA requires any manufacturer, either vehicle or equipment, undertaking a recall to comply with the quarterly reporting requirement. This report tells the agency the status of recalls, and therefore, is best accomplished by the party conducting the recall. The NHTSA declines to adopt suggestions that would change this scheme.

Paragraph (b)(6) requires the submission of information on the number of vehicles or equipment that is determined to be unreachable. Several manufacturers argued for deletion of this information suggesting that it was impossible to ascertain why certain vehicles or equipment are unreachable. The manufacturer need only give the reasons why vehicles are unreachable when such information is available to him. This information aids the agency in understanding the effectiveness of a recall. The agency can determine from this data the number of vehicles still in use that were not corrected by a manufacturer and why.

VI. Purchaser and Owner Lists

The intent of this section was misunderstood by a number of commenters. Many manufacturers, both equipment and vehicle, indicated that this requirement burdened them with new recordkeeping requirements far beyond those currently in existence. This is not the case. For example, § 573.7(a) requires vehicle manufacturers to maintain lists of owners of vehicles involved in a notification campaign, not all vehicles produced. General recordkeeping requirements for vehicle and equipment manufacturers are found in the Act and in the agency's regulations in Part 576. These general recordkeeping requirements are not affected by this regulation.

Equipment manufacturers strenuously objected to paragraph (c) as placing huge recordkeeping burdens upon them while achieving little in the way of benefits. The agency does not find these arguments persuasive. The recordkeeping requirement in this paragraph is limited. the agency has reworded this section to clarify and equipment manufacturer's recordkeeping requirements. This requirement does not mandate an equipment manufacturer to make and retain a list of all purchasers of its equipment as the equipment is sold. Equipment manufacturers will be required to retain a list of individuals, dealers, distributors, and manufacturers determined by the manufacturer or the agency to be in possession of potentially defective or noncomplying equipment. This limited requirement is within the authority granted by Section 112(b) of the Act. The list would be compiled during the course of a defect or noncompliance campaign. If an equipment manufacturer is unable to find those in possession of its equipment, no list is required to be retained. The burden imposed by this requirement is minimal since it merely requires that manufacturers retain some information that will, by necessity, be generated should they be required to conduct either a defect or noncompliance campaign.

With respect to paragraph (b), tire manufacturers indicated that each tire does not have a different identification number and therefore the paragraph should be amended somewhat to reflect this. The agency agrees and has modified the language accordingly.

VII. Notices, Bulletins, and Other Communications

Many manufacturers objected to the requirements in § 573.8 as being too broad and beyond the scope of the NHTSA's authority. This section requires the submission of information concerning defects in equipment or vehicles. Further, the manufacturers recommended that the parentheticals be deleted from the section and that the term "defect" be changed to "safety-related defect." The agency does not agree with these comments.

First, the agency needs information concerning any defect in a manufacturer's product, not just those defects that a manufacturer deems to be safety related. The Act contemplates a two pronged approach to defects determinations. Either a manufacturer or the agency can make such a determination. For the agency to carry out its half of that responsibility, it needs information pertaining to all defects so that it can then judge for itself whether a defect is in fact safety related. To require only information pertaining to manufacturer-determined safety-related defects, would in effect mean that manufacturers would not be required to submit defect information to the agency until such time as that manufacturer had made a safety-related defect determination. This would stymie the agency's ability to make independent judgments concerning defects that is necessary for proper enforcement of the Act. In the past year, the NHTSA has made several safety-related defect determinations on the basis of information routinely submitted by manufacturters concerning defects that they had not considered safety-related. For example, some Airstream Trailers and White Trucks were recalled when the agency discovered safety-related problems that were mentioned in those companies' technical bulletins. Therefore, the agency needs all types of defect information not just information that manufacturers determine to be safety-related.

Second, the parentheticals were added to this section to help clarify the type of information intended to be covered by its requirements. These lists are not all-inclusive. the NHTSA concludes, however, that they do clarify the type of information the agency seeks to obtain from a manufacturer, and therefore, they will be retained in the regulation.

The agency has deleted from § 573.8 all references to noncompliances. All noncompliances must be reported to the agency under § 573.5(c)(9). Therefore, it is unnecessary to include refer-

ences to noncompliances in this paragraph.

In response to the allegations that the agency has no authority to require submittal of defect information, whether or not safety related, Section 158 of the Act specifically grants the agency that authority.

VIII. ADDRESS FOR SUBMITTING REQUIRED REPORTS AND OTHER INFORMATION

The address listed in § 573.9 has been altered to reflect the new agency organization and authority for enforcement actions.

In accordance with agency policy, the NHTSA has considered the costs and benefits of this requirement. The agency concludes that the regulation will help enforcement of defect and noncompliance cases by insuring that adequate information is submitted to the NHTSA. The costs to both industry and government of the regulation will be less than $5 million annually.

The principal authors of this notice are James Murray of the Office of Defects Investigation and Roger Tilton of the Office of Chief Counsel.

In consideration of the foregoing, Part 573, *Defect and Noncompliance Reports*, of Volume 49 of the Code of Federal Regulations is amended to read as set forth below.

(Secs. 108, 112, 119, Pub. L. 89-563, 80 Stat. 718; secs. 102, 103, 104, Pub. L. 93-492; 88 Stat. 1470; (15 U.S.C. 1397, 1401, 1408, 1411-1420); delegation of authority at 49 CFR 1.50.)

Issued on December 18, 1978.

JOAN CLAYBROOK,
Administrator.

PART 573—DEFECT AND NONCOMPLIANCE REPORTS

Sec.

573.1 Scope.
573.2 Purpose.
573.3 Application.
573.4 Definitions.
573.5 Defect and noncompliance information report.
573.6 Quarterly report.
573.7 Owner lists.
573.8 Notices, bulletins, and other communications.
573.9 Address for submitting required reports and other information.

AUTHORITY: Sec. 108, 112, 119, Pub. L. 89-563, 80 Stat. 718; secs. 102, 103, 104, Pub. L. 93-492; 88 Stat. 1470; 15 U.S.C. 1397, 1401, 1408, 1411-1420; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8

§ 573.1 Scope.

This part specifies requirements for manufacturers to maintain lists of purchasers and owners of defective and noncomplying motor vehicles and motor vehicle original and replacement equipment, and for reporting to the National Highway Traffic Safety Administration defects in motor vehicles and motor vehicle equipment, for reporting noncomformities to motor vehicle safety standards, for providing quarterly reports on defect and noncompliance notification campaigns, and for providing copies to NHTSA of communications with distributors, dealers, and purchasers regarding defects and noncompliances.

§ 573.2 Purpose.

The purpose of this part is to inform NHTSA of defective and noncomplying motor vehicles and items of motor vehicle equipment, and to obtain information for NHTSA on the adequacy of manufacturers' defect and noncompliance notification campaigns, on corrective action, on owner response, and to compare the defect incidence rate among different groups of vehicles.

§ 573.3 Application.

(a) This part applies to manufacturers of complete motor vehicles, incomplete motor vehicles, and motor vehicle orginal and replacment equipment, with respect to all vehicles and equipment that have been transported beyond the direct control of the manufacturer.

(b) In the case of a defect or noncompliance determined to exist in a motor vehicle or equipment item imported into the United States, compliance with §§ 573.5 and 573.6 by either the fabricating manufacturer or the importer of the vehicle or equipment item shall be considered compliance by both.

(c) In the case of a defect or noncompliance determined to exist in a vehicle manufactured in two or more stages, compliance with §§ 573.5 and 573.6 by either the manufacturer of the incomplete vehicle or any subsequent manufacturer of the vehicle shall be considered compliance by all manufactuers.

(d) In the case of a defect or noncompliance determined to exist in an item of replacement equipment (except tires) compliance with §§ 573.5 and 573.6 by the brand name or trademark owner shall be considered compliance by the manufacturer. Tire brand name owners are considered manufacturers (15 U.S.C. 1419(1)) and have the same reporting requirements as manufacturers.

(e) In the case of a defect or noncompliance determined to exist in an item of original equipment used in the vehicles of only one vehicle manufacturer, compliance with §§ 573.5 and 573.6 by either the vehicle or equipment manufacturer shall be considered compliance by both.

(f) In the case of a defect or noncompliance determined to exist in orginal equipment installed in the vehicles of more than one vehicle manufacturer, compliance with § 573.5 is required of the equipment manufacturer as to the equipment item, and of each vehicle manufacturer as to the vehicles in which the equipment has been installed. Compliance with § 573.6 is required of the manufacturer who is conducting a recall campaign.

§ 573.4 Definitions.

For purposes of this part:

"Act" means the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1391 et seq.)

"Administrator" means the Administrator of the National Highway Traffic Safety Administration or his delegate.

"First purchaser" means first purchaser for purposes other than resale.

§ 573.5 Defect and noncompliance information report.

(a) Each manufacturer shall furnish a report to the NHTSA for each defect in his vehicles or in his items of original or replacement equipment that he or the Administrator determines to be related to motor vehicle safety, and for each noncompliance with a motor vehicle safety standard in such vehicles or items of equipment which either he or the Administrator determines to exist.

(b) Each report shall be submitted not more than 5 working days after a defect in a vehicle or item of equipment has been determined to be safety related, or a noncompliance with a motor vehicle safety standard has been determined to exist. Information required by paragraph (c) of this section that is not available within that period shall be submitted as it becomes available. Each manufacturer submitting new information relative to a previously submitted report shall refer to the notification campaign number when a number has been assigned by the NHTSA.

(c) Each manufacturer shall include in each report the information specified below.

(1) The manufacturer's name: The full corporate or individual name of the fabricating manufacturer and any brand name or trademark owner of the vehicle or item of equipment shall be spelled out, except that such abbreviations as "Co." or "Inc.", and their foreign equivalents, and the first and middle initials of individuals, may be used. In the case of a defect or noncompliance determined to exist in an imported vehicle or item of equipment, the agent designated by the fabricating manufacturer pursuant to section 110(e) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1399(e)) shall be also stated. If the fabricating manufacturer is a corporation that is controlled by another

corporation that assumes responsibility for compliance with all requirements of this part the name of the controlling corporation may be used.

(2) Identification of the vehicles or items of motor vehicle equipment potentially containing the defect or noncompliance.

(i) In the case of passenger cars, the identification shall be by the make, line, model year, the inclusive dates (month and year) of manufacture, and any other information necessary to describe the vehicles.

(ii) In the case of vehicles other than passenger cars, the identification shall be by body style or type, inclusive dates (month and year) of manufacture and any other information necessary to describe the vehicles, such as GVWR or class for trucks, displacement (cc) for motorcycles, and number of passengers for buses.

(iii) In the case of items of motor vehicle equipment, the identification shall be by generic name of the component (tires, child seating systems, axles, etc.), part number, size and function if applicable, the inclusive dates (month and year) of manufacture, and any other information necessary to describe the items.

(3) The total number of vehicles or items of equipment potentially containing the defect or noncompliance, and where available the number of vehicles or items of equipment in each group identified pursuant to paragraph (c)(2) of this section.

(4) The percentage of vehicles or items of equipment specified pursuant to paragraph (c)(2) of this section estimated to actually contain the defect or noncompliance.

(5) A description of the defect or noncompliance, including both a brief summary and a detailed description, with graphic aids as necessary, of the nature and physical location (if applicable) of the defect or noncompliance.

(6) In the case of a defect, a chronology of all principal events that were the basis for the determination that the defect related to motor vehicle safety, including a summary of all warranty claims, field or service reports, and other information, with their dates of receipt.

(7) In the case of a noncompliance, the test results or other data on the basis of which the manufacturer determined the existence of the noncompliance.

(8) A description of the manufacturer's program for remedying the defect or noncompliance. The manufacturer's program will be available for inspection in the public docket, Room 5108, Nassif Building, 400 Seventh St., SW., Washington, D.C. 20950.

(9) A representative copy of all notices, bulletins, and other communications that relate directly to the defect or noncompliance and are sent to more than one manufacturer, distributor, dealer, or purchaser. These copies shall be submitted to the NHTSA not later than 5 days after they are initially sent to manufacturers, distributors, dealers, or purchasers. In the case of any notification sent by the manufacturer pursuant to Part 577 of this chapter, the copy of the notification shall be submitted by certified mail.

§ 573.6 Quarterly reports.

(a) Each manufacturer who is conducting a defect or noncompliance notification campaign to manufacturers, distributors, dealers, or purchasers, shall submit to NHTSA a report in accordance with paragraphs (b) and (c) of this section, not more than 25 working days after the close of each calendar quarter. Unless otherwise directed by the NHTSA, the information specified in paragraphs (b)(1) through (b)(6) of this section shall be included in the quarterly report, with respect to each notification campaign, for each of six consecutive quarters beginning with the quarter in which the campaign was initiated (i.e., the date of initial mailing of the defect or noncompliance notification to owners) or corrective action has been completed on all defective or noncomplying vehicles or items of replacement equipment involved in the campaign, whichever occurs first. The information specified in paragraph (b)(7) shall be included only in the third quarterly report furnished pursuant to this section.

(b) Each report shall include the following information identified by and in the order of the subparagraph headings of this paragraph.

(1) The notification campaign number assigned by NHTSA.

(2) The date notification began and the date completed.

(3) The number of vehicles or items of equipment involved in the notification campaign.

(4) The number of vehicles or items of equipment estimated to contain the defect.

(5) The number of vehicles and equipment items receiving corrective action, which shall be the sum of

(i) The number repaired; and

(ii) The number inspected and determined not to need repair.

(6) The number of vehicles or items of equipment determined to be unreachable for inspection due to export, theft, scrapping, failure to receive notification, or other reasons (specify). The number of vehicles or items of equipment in each category shall be specified.

(7) In the case of motor vehicles, the vehicle identification number for each vehicle for which corrective measures have not been completed.

(c) If the manufacturer determines that the original information submitted under paragraphs (b)(3), (b)(4), or (b)(6) of this section is incorrect, revised figures and an explanatory note shall be submitted. If the nature of the defect or noncompliance prevents determination of the information required by paragraph (b)(5) of this section, the manufacturer shall include a brief explanation. Information supplied in response to paragraphs (b)(5) and (b)(6) of this section shall be cumulative totals.

§ 573.7 Purchaser and owner lists.

(a) Each manufacturer of motor vehicles shall maintain, in a form suitable for inspection such as computer information storage devices or card files, a list of the names and addresses of the registered owners, as determined through State motor vehicle registration records or other sources, or the most recent purchasers where the registered owners are unknown, for all vehicles involved in a defect or noncompliance notification campaign initiated after the effective date of this part. The list shall include the vehicle identification number for each vehicle and the status of remedy with respect to each vehicle, updated as of the end of each quarterly reporting period specified in § 573.6. Each list shall be retained, beginning with the date on which the defect or noncompliance information report required by § 573.5 is initially submitted to the NHTSA, for 5 years.

(b) Each manufacturer (including brand name owners) of tires shall maintain, in a form suitable for inspection such as computer information storage devices or card files, a list of the names and addresses of the first purchasers of his tires for all tires involved in a defect or noncompliance notification campaign initiated after the effective date of this part. The list shall include the tire identification number of all tires and shall show the status of remedy with respect to each owner involved in each notification campaign, updated as of the end of each quarterly reporting period specified in § 573.6. Each list shall be retained, beginning with the date on which the defect information report is initially submitted to the NHTSA, for 3 years.

(c) For each item of equipment involved in a defect or noncompliance notification campaign initiated after the effective date of this part, each manufacturer of motor vehicle equipment other than tires shall maintain, in a form suitable for inspection, such as computer information storage devices or card files, a list of the names and addresses of each distributor and dealer of such manufacturer, each motor vehicle or motor vehicle equip-

ment manufacturer and most recent purchaser known to the manufacturer to whom a potentially defective or noncomplying item of equipment has been sold, the number of such items sold to each, and the date of shipment. The list shall show as far as is practicable the number of items remedied or returned to the manufacturer and the dates of such remedy or return. Each list shall be retained, beginning with the date on which the defect report required by § 573.5 is initially submitted to the NHTSA for 5 years.

§ 573.8 Notices, bulletins, and other communications.

Each manufacturer shall furnish to the NHTSA a copy of all notices, bulletins, and other communications (including warranty and policy extension communiques and product improvement bulletins), other than those required to be submitted pursuant to § 573.5(c)(9), sent to more than one manufacturer, distributor, dealer, or purchaser, regarding any defect in his vehicles or items of equipment [(including any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications)], whether or not such defect is safety-related. Copies shall be submitted monthly, not more than 5 working days after the end of each month.

§ 573.9 Address for submitting required reports and other information.

All required reports and other information, except as otherwise required by this part, shall be submitted to the Associate Administrator for Enforcement, National Highway Traffic Safety Administration, Washington, D.C. 20590.

[FR Doc. 78-35748 Filed 12-22-78; 8:45 am]

[4910-59-M]

[Docket No. 70-12; Notice 22]

PART 574—TIRE IDENTIFICATION AND RECORDKEEPING

Revision of Authority Citations

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final Rule.

SUMMARY: This notice corrects the authority citations applicable to Part 574, *Tire Identification and Recordkeeping*, and makes other small corrections of citations in the text of the regulation to reflect statutory amendments. This correction is being made to conform the statutory authority citations to the existing statute.

EFFECTIVE DATES: Since these technical corrections do not affect the responsibilities under the regulation, they are made effective December 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Roger Tilton, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-2992).

SUPPLEMENTARY INFORMATION: Since issuance of the Tire Identification and Recordkeeping regulation, several changes have been made to the agency's authorizing statute that require the NHTSA to correct the authority citations of the regulation. While authority citations found in the NHTSA's regulations and standards are not parts of the rules, they are useful to those who wish to review the legislative background of the rulemaking action. Therefore, the NHTSA corrects the authority citations for clarity and to provide information to those who are interested.

The agency also corrects §§ 574.2 and 574.8 by altering the existing reference to section 113. Section 113 was the safety defect and noncompliance notification section of the National Traffic and Motor Vehicle Safety Act of 1966 (Pub. L. 89-563). Section 102 of the 1974 Motor Vehicle and Schoolbus Safety Amendments (Pub. L. 93-492) transferred the notification provisions from section 113 to section 151 and 152 of the Safety Act, as amended (15 U.S.C. 1411 and 1412). Since the regulation currently refers to the old Act rather than the Act as amended, the agency is correcting the affected provisions of the regulation to bring them up to date.

Since this notice simply corrects references in the regulation and its authority citations without altering any of its substantive provisions, the Administrator finds that notice is unnecessary and that an immediate effective date is in the public interest.

In consideration of the foregoing, Volume 49 of the Code of Federal Regulations, Part 574, *Tire Identification and Recordkeeping*, is amended as follows:

1. The authority citation is amended to read:

(Secs. 103, 108, 112, 119, 201, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1397, 1401, 1407, 1421); secs. 102, 103, 104, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1397, 1401, 1411-1420); delegation of authority at 49 CFR 1.50).

§ 574.2 [Amended]

2. Section 574.2 is revised by changing the phrase "section 113 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1402)" to read "sections 151 and 152 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1411 and 1412)".

§ 574.8 [Amended]

3. Section 574.8 is revised by changing the reference in paragraph (d) from "section 113 of the Act (15 U.S.C. 1402)" to the correct authority "sections 151 and 152 of the Act (15 U.S.C. 1411 and 1412)."

Issued on December 18, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-35833 Filed 12-22-78; 8:45 am]

[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING REGULATIONS

Extension of Payment Period for Poundage Fees and Surcharge

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendment to regulation.

SUMMARY: This amendment is necessary because of the passage of Pub. L. 95-376, which requires the imposition of a surcharge on all fees paid for foreign fishing in the U.S. Fishery Conservation Zone (FCZ). Implementation of the new law caused an unavoidable administrative delay and late billing to foreign governments for vessel and poundage fees, including the new surcharge. This amendment extends briefly the period for payment of the poundage fees and the surcharge, providing partial relief for foreign fishing vessels for 1979 only, so that foreign vessels may engage in fishing for their respective national allocations while administrative processes are being completed.

EFFECTIVE DATE: This amendment becomes effective on January 1, 1979, and terminates at 1630 hours e.s.t. January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Denton R. Moore, Acting Chief, Regulations and Permits Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone 202-634-7454.

SUPPLEMENTARY INFORMATION: Public Law 95-376, effective September 18, 1978, amended Section 10 of the Fishermen's Protective Act of