this document overrules the conclusion in the *Report and Order* that Columbia City, Florida, is not a community entitled to a broadcast allotment pursuant to Section 307(b) of the Communications Act of 1934, as amended. This document finds that Columbia City, Florida, is a community entitled to a broadcast allotment and allots Channel 243A to Columbia City, Florida, as the community's first local broadcast service. The coordinates for that channel are 30–04–12 North Latitude and 82–41–42 West Longitude.

**DATES:** Effective January 29, 2001. A filing window for Channel 243A at Columbia City, Florida, will not be opened at this time. Instead, the issue of opening a filing window for that channel will be addressed by the Commission in a subsequent Order.

**FOR FURTHER INFORMATION CONTACT:** R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket No. 97–252, adopted December 6, 2000, and released December 15, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, located at 1231 20th Street, NW., Washington, DC 20036.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

## Part 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 reads as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Columbia City, Channel 243A.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 00–32790 Filed 12–22–00; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF TRANSPORTATION

## 49 CFR Part 199

**[Docket RSPA–97–2995; Notice 8]**

## Research and Special Programs Administration

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Notice of random drug testing rate.

**SUMMARY:** Each year, a minimum percentage of covered pipeline employees must be randomly tested for illegal drugs. The percentage, either 50 percent or 25 percent, depends on the positive rate of random testing reported to RSPA in the previous year. In accordance with applicable standards, we have determined that the positive rate of random testing reported this year for testing in calendar year 1999 was less than 1.0 percent. Therefore, in calendar year 2001, the minimum annual percentage rate for random drug testing is 25 percent of covered employees.

**DATES:** Effective January 1, 2001, through December 31, 2001, at least 25 percent of covered employees must be randomly drug tested.

**FOR FURTHER INFORMATION CONTACT:** L.M. Furrow; phone (202) 366–4559.

**SUPPLEMENTARY INFORMATION:** Operators of gas, hazardous liquid, and carbon dioxide pipelines and operators of liquefied natural gas facilities must annually submit Management Information System (MIS) reports of drug testing done in the previous calendar year (49 CFR 199.25(a)). One of the uses of this information is to calculate the minimum annual percentage rate at which operators must randomly drug test all covered employees during the next calendar year (49 CFR 199.11(c)(2)). If the minimum annual percentage rate for random drug testing is 50 percent, we may lower the rate to 25 percent if we determine that the positive rate reported for random tests for two consecutive calendar years is less than 1.0 percent (49 CFR 199.25(c)(3)). If the minimum annual percentage rate is 25 percent, we will increase the rate to 50 percent if we determine that the positive rate reported for random tests for any calendar year is equal to or greater than 1.0 percent (49 CFR 199.25(c)(4)). Part 199 defines ''positive rate'' as ''the number of positive results for random drug tests * * * plus the number of refusals of random tests * * *, divided by the total number of random drug tests * * * plus the number of refusals of random tests. * * *''

Through calendar year 1996, the minimum annual percentage rate for random drug testing in the pipeline industry was 50 percent of covered employees. Based on MIS reports of random testing done in 1994 and 1995, we lowered the minimum rate from 50 to 25 percent for calendar year 1997 (61 FR 60206; November 27, 1996). The minimum rate remained at 25 percent in calendar years 1998 (62 FR 59297; Nov. 3, 1997), 1999 (63 FR 58324; Oct. 30, 1998), and 2000 (64 FR 66788; Nov. 30, 1999).

Using the MIS reports received this year for drug testing done in 1999, we calculated the positive rate of random testing to be 0.7 percent. Since the positive rate continues to be less than 1.0 percent, we are announcing that the minimum annual percentage rate for random drug testing is 25 percent of covered employees for the period January 1, 2001, through December 31, 2001.

**Authority:** 49 U.S.C. 5103, 60102, 60104, 60108, 60117, and 60118; 49 CFR 1.53.

Issued in Washington, DC, on December 19, 2000.

**Richard D. Huriaux,**

*Manager, Regulations, Office of Pipeline Safety.*

[FR Doc. 00–32854 Filed 12–22–00; 8:45 am]

**BILLING CODE 4910–60–P**

## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

## 49 CFR Part 573

**[Docket No. NHTSA–2000–8509]**

**RIN 2127–AI23**

## Motor Vehicle Safety; Reporting the Sale or Lease of Defective or Non-Compliant Tires

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** This interim final rule implements Section 3(c) of the Transportation Recall Enhancement, Accountability, and Documentation Act (the TREAD Act). Section 3(c) directs us to issue a final rule by January 30, 2001, implementing that Act's requirement of the submission of reports concerning sales and leases of defective or noncompliant tires by certain persons. Accordingly, we are publishing a rule requiring any person who knowingly

and willfully sells or leases for use on a motor vehicle a defective tire or a tire not in compliance with applicable safety standards and has actual knowledge that the manufacturer of such tire has notified its dealers of such defect or noncompliance, to report that sale or lease to NHTSA.

**DATES:** *Effective date:* This rule is effective January 25, 2001.

*Comments:* Comments must be received on or before February 26, 2001.

**ADDRESSES:** You may submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. You may also submit your comments electronically by logging onto the Dockets Management System website at http://dms.dot.gov. Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

Regardless of how you submit your comments, you should mention the docket number of this document in our comments.

You may call Docket Management at 202–366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Jennifer T. Timian, Office of Chief Counsel, NCC–10, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366–5263.

**SUPPLEMENTARY INFORMATION:**

## Background

On November 1, 2000, the TREAD Act, Public Law 106–414, was enacted. The statute was, in part, a response to congressional concerns related to manufacturers' inadequate reporting to NHTSA of information regarding possible defects in motor vehicles and motor vehicle equipment, with specific reference to tires. The TREAD Act directs the Secretary of Transportation (''the Secretary'') to issue various rules to improve reporting of information that is or could be related to defects and noncompliances with applicable Federal motor vehicle safety standards. The authority to carry out Chapter 301 of Title 49 of the United States Code, under which the rules directed by the TREAD Act are to be issued, has been delegated to NHTSA's Administrator pursuant to 49 CFR 1.50.

Under pre-TREAD law, 49 U.S.C. 30120(i), when a manufacturer of a motor vehicle or replacement equipment has notified a dealer (including a retailer of motor vehicle equipment) that a new motor vehicle or new item of replacement equipment does not comply with a safety standard or contains a safety-related defect, the dealer may not sell or lease the noncompliant or defective vehicle or equipment, absent certain exceptions. Section 30120(i) does not apply to the sale or lease of used vehicles or equipment, and there had been media reports during congressional consideration of the bill that eventually was adopted as the TREAD Act that some persons were selling defective Firestone ATX or Wilderness tires that had been returned to dealers for replacement tires under an ongoing safety recall. Although Congress chose not to explicitly prohibit such sales, it imposed the reporting requirement contained in Section 3(c) of the TREAD Act.

Section 3(c) of the TREAD Act adds a new subsection (n) to 49 U.S.C. 30166. That subsection directs NHTSA to issue, within 90 days of enactment, a final rule requiring any person who knowingly and willfully sells or leases for use on a motor vehicle a defective tire or a tire which is not compliant with an applicable tire safety standard, with actual knowledge that the manufacturer of such tire has notified its dealers of such defect or noncompliance as required under 49 U.S.C. 30118(c) or as required by an order under 49 U.S.C. 30118(b), to report that sale or lease to NHTSA.[1] Under 30166(n)(2), reporting of such sales or leases is not required where: (A) Prior to delivery of any such tire pursuant to a sale or lease, the defect or noncompliance is remedied as required under 49 U.S.C. 30120; or (B) notification of the defect or noncompliance is required pursuant to an order issued under section 30118(b), but enforcement of the order is restrained or the order is set aside in a civil action to which 49 U.S.C. 30121(d) applies.

Under 49 U.S.C. 30165, as amended by section 3(a) of the TREAD Act, a person who violates section 30166 or a regulation promulgated thereunder, including the requirement being promulgated today, is liable for civil penalties of up to $5,000 per violation per day, with a maximum penalty for a related series of daily violations of $15,000,000.

In order to implement the statutorily-mandated final rule concerning the reporting of knowing and willful sales or leases of defective or noncompliant tires, we are amending 49 CFR Part 573 to add a new section 573.10. Below is a brief summary and explanation of particular requirements of today's rule.

### Who Will Be Required to Comply With § 573.10

Subsection 30166(n) provides that the final rule shall require ''any person who knowingly and willfully sells or leases for use on a motor vehicle a defective tire or a tire which is not compliant with an applicable tire safety standard * * * to report such sale or lease to the Secretary.'' (emphasis added). In this subsection, Congress chose to use the general terms ''any person,'' as opposed to the more restricted categories of ''manufacturer''and ''dealer'' used elsewhere within Section 30166 and Chapter 301. In view of the breadth of the terms ''any person,'' the subsection will not be limited to persons in particular classes or categories. Thus, the rule's reporting requirements will apply to the actions of all persons, including individuals and entities such as corporations.

To be covered by the rule, however, the person must engage in certain activities regarding tires. Subsection 30166(n) and the rule apply to all tires used on motor vehicles, including both new and used tires. Thus, unlike the limits in subsection 30120(i), subsection 30166(n) is not limited to new tires, and includes tires that are returned to dealers or other parties for replacement as part of a safety recall.

The activities that are covered by the statute and the rule are selling or leasing a defective or noncompliant tire ''*for use on a motor vehicle*'' (emphasis added). Congress' terminology in requiring reports from persons who sell or lease such tires ''*for use on a motor vehicle*'' effectively limits the applicability of the reporting requirement. Today's rule accordingly requires reports from those persons who sell or lease defective or noncompliant tires for use on a motor vehicle, but not from persons who sell or lease a new or used vehicle with a defective or noncompliant tire.[2] Thus, for example, a motor vehicle dealer is not subject to the reporting requirements of today's rule except with respect to tires that the dealer sells or

[1] Section 30118(c) requires manufacturers of motor vehicles or equipment to provide notification of safety-related defects or noncompliances with motor vehicle safety standards to NHTSA, as well as to the owners, purchasers and dealers of the vehicle or equipment.

Section 30118(b) authorizes the Secretary to make a final decision that a motor vehicle or equipment contains a safety-related defect and/or does not comply with an applicable motor vehicle safety standard and, in that event, order the manufacturer to give notification of the defect or noncompliance to owners, purchasers, and dealers of the vehicle or equipment, and order the manufacturer to remedy the defect or noncompliance without charge.

[2] As noted above, the sale or lease of a new vehicle with a defective or noncompliant tire is already prohibited by 49 U.S.C. 30120(i).

leases separately from a vehicle. Similarly, motor vehicle lessors and motor vehicle rental companies are not subject to the rule because these groups are not selling or leasing tires for use on motor vehicles, but rather are selling and leasing vehicles. Thus, we would expect that today's rule will generally apply to tire retailers, including individuals.

To be covered by the reporting requirement, the person must have ''actual knowledge that the manufacturer of such tire has notified its dealers of such defect or noncompliance * * *'' Thus, the person need not have received the defect or noncompliance notification directly from the manufacturer. It is sufficient the person have actual knowledge that the notification was made to dealers.

Employers, principals and other persons who are legally accountable for the actions of their employees or agents are also subject to § 573.10, and are required to report any covered sales or leases that their employees or agents cause while acting within the scope of their employment or agency. Compliance with § 573.10 is required regardless of whether the covered sale or lease was or was not approved or ratified by the legally responsible party. Therefore, for example, if an employee of a tire retailer sells or leases a tire that is defective or not in compliance with an applicable safety standard, both the employee and the tire retailer would be obligated to report the sale, and both would be accountable if the sale is not reported or reported in a manner not in compliance with § 573.10. Only one report per covered sale or lease is required, so that in the example above either the employee or the retailer could file a report.

**Timing of Reports Under § 573.10**

Reports required to be submitted pursuant to 573.10 must be mailed and/or submitted to NHTSA no more than five working days after the person to whom the tire was sold or leased took possession of the tire. We have chosen a five-day rule consistent with current 49 CFR 573.5, which requires defect and noncompliance information reports to be submitted within the same time frame. A five-day rule was also chosen in order to ensure the prompt reporting of covered sales or leases and to facilitate prompt follow up by the agency.

Reports must be submitted by any means which permits the sender to verify promptly that the report was in fact received by NHTSA and the day it was received by NHTSA.

**What Information Will Be Required in a Report Submitted Pursuant to § 573.10**

Reports submitted pursuant to section 573.10 must contain the following information, to the extent available to the reporting person: (1) A statement that the report is being provided pursuant to section 573.10 regarding the sale or lease of a defective or noncompliant tire; (2) the name, address and telephone number of the person who purchased or leased the tire; (3) the name of the manufacturer of the tire; (4) the tire's brand name, model name, and size; (5) the tire's DOT identification number (this is an alphanumeric code, unique to each tire, located on the sidewall of a tire); (6) the date of sale or lease; and (7) the name, address, and telephone number of the seller or lessor. Each report must be dated and signed, with the name of the person printed or typed below the signature. For corporations, the official position of the individual signing the report on behalf of the corporation must also be provided.

''Available'' information includes all information that a person who sells or leases a defective or noncompliant tire has within his or her possession or control, or could obtain using reasonable and diligent effort, as of the time of the report. Any person subject to § 573.10 is expected to take reasonable and diligent measures to learn or develop any information required to be reported of which he or she was not aware or did not have in his or her immediate custody at the time of the sale.

**Regulatory Analyses and Notices**

*1. Executive Order 12866 and DOT Regulatory Policies and Procedures*

We have considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This rulemaking is not considered ''significant'' under the Department of Transportation's regulatory policies and procedures. The impacts of this rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation because this provision only involves reporting and the incidence of covered sales and leases of defective or noncompliant tires is expected to be small.

*2. Regulatory Flexibility Act*

We have also considered the impacts of this notice under the Regulatory Flexibility Act. I certify that this rule will have no significant economic impact on a substantial number of small entities. The impacts of this rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation because this provision only involves reporting and the incidence of covered sales and leases of defective or noncompliant tires is expected to be small.

*3. National Environmental Policy Act*

We have analyzed this proposal under the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

*4. Paperwork Reduction Act*

NHTSA has determined that this interim final rule will impose new collection of information burdens within meaning of the Paperwork Reduction Act of 1995 (PRA). Pursuant to 5 CFR 1320.13 *Emergency processing,* NHTSA is asking OMB for a temporary emergency clearance for this collection. In this interim final rule, NHTSA begins the process of requesting a 3-year clearance for this collection.

Under the PRA, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations, (5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i.) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii.) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii.) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv.) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the collection of

information—*i.e.,* the reporting requirement— in this interim final rule.

Reporting the Sale or Lease of Defective or Noncompliant Tire

*Type of Request*—New.

*OMB Clearance Number*—No clearance number has been provided for this collection.

*Form Number*—This proposed collection of information would not use any standard forms.

*Requested Expiration Date of Approval*—Three years from the date of the approval of the collection.

*Summary of the Collection of Information*—Any person required to report the sale or lease of a defective or noncompliant tire as prescribed under this rule will be required to report the following information to NHTSA: (1) A statement that the report is being submitted pursuant to 49 CFR 573.10(a); (2) the name, address and phone number of the person who purchased or leased the tire; (3) the name of the manufacturer of the tire; (4) the tire's brand name, model name, and size; (5) the tire's DOT identification number; (6) the date of the sale or lease; and (7) the name, address, and telephone number of the seller or lessor.

*Description of the Need for the Information and Use of the Information*—This information collection was mandated by Section 3(c) of the TREAD Act. The information collected will provide NHTSA with basic information relating to the defective or noncompliant tire that was sold or leased, such as the identities of both the seller and purchaser of the defective or noncompliant tire and a description of the tire. We anticipate using this information to do any of the following: Investigate the sale or lease of the tire; inform the purchaser of the tire of the existence of a defect or noncompliance; and/or facilitate the providing of a remedy to the purchaser of the tire.

*Description of the Likely Respondents, Including Estimated Number and Proposed Frequency of Response to the Collection of Information*—This new collection of information would apply to any person who knowingly and willfully sells or leases a defective or noncompliant tire for use on a motor vehicle, with actual knowledge that the manufacturer of the tire has notified dealers of the defect or noncompliance. Thus, the collection of information applies to tire dealers, including tire retailers. The collection of information does not apply to the sale or lease of new or used vehicles which have placed upon them defective or noncompliant tires. It also does not apply to ordinary leasing activities of motor vehicle lessors or motor vehicle rental companies.

We estimate that there will be relatively few sales or leases of defective or noncompliant tires and therefore relatively few persons subject to this new collection of information. We estimate the number of reports that will be submitted will be less than 10.

*Estimate of the Total Annual Reporting and Recordkeeping Burdens Resulting From the Collection of Information*—As stated before, we estimate that no more than nine persons a year would be subject to this new reporting requirement. We estimate that it will take no longer than one-half of one hour for a person to compile and submit the information we are requiring to be reported. Therefore, the total burden hours on the public per year is estimated to be a maximum of 4.5 hours.

Since nothing in this rule would require those persons required to submit reports pursuant to this rule to keep copies of any records or reports submitted to us, recordkeeping costs imposed would be zero hours and zero costs.

*5. Executive Order 13132 (Federalism)*

Executive Order 13132 on ''Federalism'' requires us to develop an accountable process to ensure ''meaningful and timely input'' by State and local officials in the development of ''regulatory policies that have federalism implications.'' The E.O. defines this phrase to include regulations ''that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This rule, which requires the reporting of knowing and willful sales or leases of defective or noncompliant tires where the person selling or leasing the tire has actual knowledge that the manufacturer of such a tire has notified its dealers of that defect or noncompliance pursuant to either section 30118(c) or 30118(b) of the Safety Act, will not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in E.O. 13132. This rule making does not have those implications because it applies to those persons who sell or lease defective or noncompliant tires, and not to the States or local governments.

*6. Civil Justice Reform*

This rule does not have a retroactive or preemptive effect. Judicial review of the rule may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

*7. Unfunded Mandates Reform Act of 1995*

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribunal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rule will not have a $100 million annual effect, no Unfunded Mandates assessment is necessary and one will not be prepared.

**Plain Language**

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?
—Are the requirements in the rule clearly stated?
—Does the rule contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this rule.

**Interim Final Rule**

NHTSA is promulgating this regulation as an interim final rule to comply with Section 3(c)'s mandate that the final rule be issued ''within 90 days of the enactment of the [TREAD Act].'' As an interim final rule, the regulation will be effective 30 days after the date of publication in the **Federal Register**. However, as described below, comments may be submitted for a period of 60 days from the date of publication in the **Federal Register**. NHTSA will review and respond to all timely comments, as appropriate.

**Submission of Comments**

*How Can I Influence NHTSA's Thinking on This Rule?*

In developing this interim final rule, we tried to address the anticipated concerns of all our stakeholders. Your comments will help us improve this rule. We invite you to provide different views on it, new approaches we have not considered, new data, how this rule may affect you, or other relevant information. Your comments will be most effective if you follow the suggestions below:

Explain your views and reasoning as clearly as possible.

- Provide solid information to support your views.
- If you estimate potential numbers or reports or costs, explain how you arrived at the estimate.
- Tell us which parts of the rule you support, as well as those with which you disagree.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the rule, such as the units or page numbers of the preamble, or the regulatory sections.
- Be sure to include the name, date, and docket number with your comments.

*How Do I Prepare and Submit Comments?*

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES.**

Comments may also be submitted to the docket electronically by logging onto the Dockets Management System website at http://dms.dot.gov. Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

*How Can I Be Sure That My Comments Were Received?*

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

*How Do I Submit Confidential Business Information?*

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel (NCC–30), NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT.** In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

*Will the Agency Consider Late Comments?*

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under DATES. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

*How Can I Read the Comments Submitted by Other People and Other Materials Relevant to This Rulemaking?*

You may view the materials in the docket for this rulemaking on the Internet. These materials include the written comments submitted by other interested persons and the preliminary regulatory evaluation prepared by this agency. You may read them at the address given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location.

You may also see the comments and materials on the Internet. To read them on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (http://dms.dot.gov/).

(2) On that page, click on ''search.''

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–2000–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

(4) On the next page, which contains docket summary information for the materials in the docket you selected, click on the desired comments. You may download the comments.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

**List of Subjects in 49 CFR Part 573**

Motor vehicle safety, Reporting and recordkeeping requirements.

1. The authority citation for Part 573 of Title 49, CFR, continues to read as follows:

**Authority:** 49 U.S.C. 30102–103, 30112, 30117–121, 30166–167; delegation of authority at 49 CFR 1.50; 501.2.

2. Part 573 is amended by adding a new section 573.10 to read as follows:

**573.10 Reporting the sale or lease of defective or noncompliant tires.**

(a) *Reporting requirement.* Subject to paragraph (b) of this section, any person who knowingly and willfully sells or leases for use on a motor vehicle a defective tire or a tire which is not compliant with an applicable tire safety standard with actual knowledge that the manufacturer of such tire has notified its dealers of such defect or noncompliance as required under 49 U.S.C. 30118(c) or as required by an order under 49 U.S.C. 30118(b) must report that sale or lease to the Associate Administrator for Safety Assurance, National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, DC 20590.

(b) *Exclusions from reporting requirement.* Paragraph (a) of this section is not applicable where, before delivery under a sale or lease of a tire:

(1) The defect or noncompliance of the tire is remedied as required under 49 U.S.C. 30120; or

(2) Notification of the defect or noncompliance is required by an order under 49 U.S.C. 30118(b), but enforcement of the order is restrained or the order is set aside in a civil action to which 49 U.S.C. 30121(d) applies.

(c) *Contents of report; requirement of signature.* (1) A report submitted pursuant to paragraph (a) of this section must contain the following information, where that information is available to

the person selling or leasing the defective or noncompliant tire:

(i) A statement that the report is being submitted pursuant to 49 CFR 573.10(a) (sale or lease of defective or noncompliant tires);

(ii) The name, address and phone number of the person who purchased or leased the tire;

(iii) The name of the manufacturer of the tire;

(iv) The tire's brand name, model name, and size;

(v) The tire's DOT identification number;

(vi) The date of the sale or lease; and

(vii) The name, address, and telephone number of the seller or lessor.

(2) Each report must be dated and signed, with the name of the person signing the report legibly printed or typed below the signature.

(d) Reports required to be submitted pursuant to this section must be submitted no more than that five working days after a person to whom a tire covered by this section has been sold or leased has taken possession of that tire. Submissions must be made by any means which permits the sender to verify promptly that the report was in fact received by NHTSA and the day it was received by NHTSA.

Issued on: December 15, 2000.

**Sue Bailey,**

*Administrator.*

[FR Doc. 00–32528 Filed 12–22–00; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

## 49 CFR Part 578

## [Docket No. NHTSA–2000–8510]

**RIN 2127–AI24**

## Motor Vehicle Safety: Criminal Penalty Safe Harbor Provision

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** This Interim Final Rule implements Section 5(b) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act by specifying the time period and manner for correction of improper reports and failures to report to the Secretary of Transportation (Secretary) relating to safety defects in motor vehicles and motor vehicle equipment. Section 5(b) adds a new section, which provides for criminal liability in circumstances where a person violated reporting requirements with the intention of misleading the Secretary with respect to safety-related defects in motor vehicles or motor vehicle equipment that have caused death or serious bodily injury. To encourage the correction of incorrect or incomplete information that was reported or should have been reported to the Secretary, Section 5 includes a ''safe harbor'' provision that offers protection from criminal prosecution to persons who meet certain criteria. To qualify for this protection, the person must have lacked knowledge at the time of the violation that the violation would result in an accident causing death or serious bodily injury and must correct any improper reports or failures to report to the Secretary within a reasonable time. Section 5 directs the Secretary to establish by regulation what constitutes a ''reasonable time'' and a sufficient manner of ''correction,'' within 90 days of the enactment of the TREAD Act, which occurred on November 1, 2000.

**DATES:** *Effective date:* This rule is effective January 25, 2001.

*Comments*: Comments must be received on or before February 26, 2001.

**ADDRESSES:** You may submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590. You may also submit your comments electronically by logging onto the Dockets Management System website at http://dms.dot.gov. Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically. Regardless of how you submit your comments, include the docket number of this document on your comments. You may call Docket Management at 202–366–9324. You may visit the Docket from 10:00 a.m. to 5:00 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Steven Cohen, Office of Chief Counsel, NCC–10, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 20590, Telephone (202) 366–5263, Fax: 202–366–3820.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On November 1, 2000, the TREAD Act, Public Law 106–414, was enacted in response, in part, to congressional concerns related to manufacturers' inadequate reporting to NHTSA of information regarding possible defects in motor vehicles and motor vehicle equipment, including tires. The TREAD Act expands 49 U.S.C. 30166, Inspections, investigations, and records, and provides for the Secretary to issue various rules thereunder. The authority to carry out Chapter 301 of Title 49 United States Code, under which the rules directed by the TREAD Act are to be issued, has been delegated to NHTSA's Administrator pursuant to 49 CFR 1.50.

Section 5(b) of the TREAD Act, adds a new section, 49 U.S.C. 30170, to Chapter 301. Section 30170(a)(1) establishes criminal liability for a ''person who violates section 1001 of title 18 with respect to the reporting requirements of [49 U.S.C.] section 30166, with the specific intention of misleading the Secretary with respect to motor vehicle or motor vehicle equipment safety related defects that have caused death or serious bodily injury to an individual. . . .'' Section 1001 of title 18 provides that whoever ''. . . knowingly and willfully—(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry'' in a matter within the jurisdiction of the federal government is subject to a fine and imprisonment.

Section 30170(a)(2)(A) contains a ''safe harbor'' provision, which states that a

> person described in paragraph (1) [of 49 U.S.C. 30170(a)] shall not be subject to criminal penalties * * * if (1) at the time of the violation, such person does not know that the violation would result in an accident causing death or serious bodily injury; and (2) the person corrects any improper reports or failure to report within a reasonable time.

This safe harbor applies only to criminal liability related to 49 U.S.C. 30170(a)(1). Section 30170(a)(2)(B) requires the Secretary to ''establish by regulation what constitutes a reasonable time for the purposes of [49 U.S.C. 30170(a)(2)(A)] and what manner of correction is sufficient for the purposes of [49 U.S.C. 30170(a)(2)(A)].''

NHTSA is promulgating this regulation on a reasonable time and on the manner of correction as an interim final rule to comply with 49 U.S.C. 30170(a)(2)(B)'s mandate that the final rule be issued ''within 90 days of the date of the enactment of this section.'' In order to implement the statutorily-mandated final rule concerning the safe harbor from criminal penalties under 49 U.S.C. 30170, we are amending 49 CFR