

penalty under this paragraph is \$5,000 per violation per day. The maximum penalty under this paragraph for a related series of violations is \$16,050,000.

* * * * *

(c) *Bumper standards.* (1) * * *

(2) The maximum civil penalty under this paragraph (c) for a related series of violations is \$1,025,000.

(d) *Consumer information regarding crashworthiness and damage susceptibility.* A person that violates 49 U.S.C. 32308(a) is liable to the United States Government for a civil penalty of not more than \$1,100 for each violation. Each failure to provide information or comply with a regulation in violation of 49 U.S.C. 32308(a) is a separate violation. The maximum penalty under this paragraph for a related series of violations is \$500,000.

* * * * *

Issued on: September 22, 2004.

Jeffrey W. Runge,
Administrator.

[FR Doc. 04-21735 Filed 9-27-04; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 579

[Docket No. NHTSA 2001-8677; Notice 12]

RIN 2127-AJ41

Reporting of Information and Documents About Potential Defects

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.
ACTION: Final rule.

SUMMARY: This final rule amends the date by which quarterly early warning reports are to be submitted to the agency from 30 days following the end of a calendar quarter to 60 days following the end of a calendar quarter. The final rule also amends the date by which copies of non-dealer field reports are to be submitted from 30 days after the quarterly reports are due to 15 days after those reports are due.

DATES: *Effective Date:* The effective date of this final rule is October 28, 2004.
Petitions for Reconsideration: Petitions for reconsideration of the final rule must be received not later than November 12, 2004.

ADDRESSES: Petitions for reconsideration of the final rule should refer to the docket and notice number set forth above and be submitted to

Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, with a copy to Docket Management, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, contact Jonathan White, Office of Defects Investigation, NHTSA (phone: 202-366-5226). For legal issues, contact Andrew DiMarsico, Office of Chief Counsel, NHTSA (phone: 202-366-5263).

SUPPLEMENTARY INFORMATION:

I. Background

On July 10, 2002, NHTSA published a final rule implementing the early warning reporting (EWR) provisions of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, 49 U.S.C. 30166(m) 67 FR 45822. The EWR final rule established a schedule for the reporting of information and submission of copies of certain field reports required by the rule. The first calendar quarter for which reports were required was the second calendar quarter of 2003. *See* 49 CFR 579.28(a)(2002). For the quarterly reporting periods in 2003, the reports were due within 60 days after the end of the quarter. Thereafter, starting in 2004, reports were to be due within 30 days after the end of the quarter. *See* 49 CFR 579.28(b) (2002).

In response to a petition for reconsideration of the final rule, on June 11, 2003, NHTSA amended the reporting dates. 68 FR 35145. Under the revised rule, the initial reporting period for all quarterly data¹ other than historical reports and copies of non-dealer field reports was the third quarter of 2003. Reports covering the last two quarters of 2003 and the first quarter of 2004 were due to NHTSA within 60 days after the close of the reporting period. Thereafter, reports currently are due within 30 days after the close of the quarter. NHTSA also amended the requirements for submission of copies of non-dealer field reports. The initial reporting period for the submission of copies of non-dealer field reports was the first calendar quarter of 2004. Under that amendment, the dealer field reports are due within 30 days after the quarterly data are due. 49 CFR 579.28(b), (n) (2003); *see* 68 FR 35145.

¹ In general, quarterly reports include information on production, incidents involving death or injury, numbers of property damage claims, numbers of consumer complaints, numbers of warranty claims or warranty adjustments, and numbers of field reports. *See e.g.*, 49 CFR 579.21 (2003).

II. Notice of Proposed Rulemaking

In response to a petition for rulemaking filed by the Alliance of Automobile Manufacturers (Alliance), on June 29, 2004, NHTSA published a proposal to amend the date by which quarterly early warning reports are to be submitted to the agency from 30 days following the end of a calendar quarter to 60 days following the end of a calendar quarter. In addition, the agency proposed to amend the date by which copies of non-dealer field reports are to be submitted from 30 days after the quarterly reports are due to 15 days after those reports are due. 69 FR 38860. In the NPRM, the agency stated that based upon the experience of the Alliance's members, it appeared that manufacturers need more than 30 days to provide complete and accurate EWR reports to NHTSA. The agency further explained that complete reports best serve its EWR program because its analysts use the quarterly reports to assist in the identification of possible defect trends, and incomplete reports would disrupt the analytical process.

We received comments from industry trade associations and the public. For the industry, the Rubber Manufacturers Association (RMA), the Motor & Equipment Manufacturers Association (MEMA), the Association of International Automobile Manufacturers, Inc. (AIAM), the Alliance, and the Truck Manufacturers Association (TMA) submitted comments. In general, the industry supported the proposal and urged NHTSA to adopt it. Specifically, RMA indicated that its members report that the process of gathering information and completing the reports has been more complex than anticipated. In addition, MEMA commented that some of its members are part of large multi-national organizations that require more time to identify EWR information, translate it to English and prepare the applicable EWR report. Lastly, the Alliance and AIAM stated that the additional time to provide reports would ensure that its members provide complete and accurate reports to NHTSA.

We also received one comment against the proposal from a private citizen. That individual commented that 60 days to report EWR information is unreasonable since computers have the ability to quickly collate information.

III. Discussion

When we issued the EWR final rule, and when we postponed the initial reporting period on reconsideration, we believed that after manufacturers had three opportunities to gain experience

in making EWR submissions, 30 days after the end of each calendar quarter would be a sufficient amount of time for submitting EWR information. However, based upon the comments received from the industry, we are adopting the proposed revision to section 579.28(b) to permit manufacturers to submit EWR quarterly data not later than 60 days after the end of each calendar quarter.

As we stated in the NPRM, the EWR rule requires manufacturers to submit large amounts of data that are stored in a variety of locations. As manufacturers have compiled and reported EWR information, they have gained a better understanding of the amount of time it takes them to collect, collate, and report the information. Based upon the experience of commenters, it appears that, at least for the foreseeable future, manufacturers need more than 30 days to collect, collate, and provide complete and accurate EWR reports to NHTSA.

We do not believe that extending the due date for EWR reports will be a detriment to the interests of motor vehicle safety. Incomplete or inaccurate data would not serve NHTSA well. In fact, incomplete reports could lead the agency to fail to identify potential defects or to examine issues unnecessarily, thereby wasting agency resources.

As we have stated in earlier **Federal Register** notices on the early warning reporting program, we plan to begin reviewing the EWR regulation after two years of reporting experience. During the course of this review, we will assess whether the appropriate time for quarterly reporting should be 30, 60 or some other number of days after the end of the reporting period.

Under the current regulations, copies of non-dealer field reports are due to NHTSA within 30 days after the other quarterly reports are due. 49 CFR 579.28(n) (2003). In essence, beginning with the second quarter of 2004, these reports are now due 60 days after the end of the quarter. Given the structure of the regulation, which bases the due date for non-dealer field reports on the due date for quarterly reports, if we were to change the due date for the quarterly reports and make no other changes, the non-dealer field reports would be due 90 days after the end of the quarter. We do not see any need for a delay of that length. However, to avoid any possibility that the submission of the field reports could interfere with the submission of the quarterly data, we proposed to continue to stagger the two dates. We proposed a 15 day difference between reporting dates for this purpose. We did not receive any comments to the contrary. Therefore, we

will adopt the proposal to change the language of subsection 579.28(n) to require non-dealer field reports to be submitted not later than 15 days after the quarterly data is due, which would be 75 days after the end of the calendar quarter.

IV. Rulemaking Analyses

Regulatory Policies and Procedures. Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993) provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines as "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Today's final rule was not reviewed under E.O. 12866 or the Department of Transportation's regulatory policies and procedures. This rulemaking action is not significant under Department of Transportation policies and procedures. The impacts of today's final rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation because the final rule only revises the time period for reporting certain EWR data from 30 days to 60 days after the calendar quarter ends and revises the date for submission of certain field reports by 15 days. This document does not otherwise change the substance of the reports.

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations and small governmental jurisdictions. This was addressed in the EWR final rule and in response to petitions for reconsideration. See 67 FR 45870–71 and 69 FR 3292, 3297 respectively. Today's final rule simply extends dates

for reporting information under the early warning program and does not impose any new burdens on small businesses. Based on the analyses performed in the EWR final rule (67 FR 45870–71) and the response to petitions for rulemaking (69 FR 3292, 3297), I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities.

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 Executive Order 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." The agency has analyzed this final rule in accordance with the principles and criteria set forth in Executive Order 13132 and has determined that it will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. Today's final rule is a rule that regulates the manufacturers of motor vehicles and motor vehicle equipment, which does 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 Executive Order 13132.

Civil Justice Reform. This final rule will not have a retroactive or preemptive effect, and judicial review of it 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.

Paperwork Reduction Act. Today's final rule simply extends the reporting period for the submission of EWR data. It does not create new information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. To the extent that this final rule implicates the Paperwork Reduction Act, we will rely upon our previous clearance from OMB. To obtain a three-year clearance for information collection for the EWR rule, we published a Paperwork Reduction Act notice on June 25, 2002 (67 FR 42843) pursuant to the requirements of that Act (44 U.S.C. 3501 *et seq.*). We received clearance from OMB on December 20, 2002,

which will expire on December 31, 2005. The clearance number is 2127-0616. The amendments adopted by this document do not change the overall paperwork burden. They simply extend the dates for reporting certain information pursuant to the EWR rule.

Data Quality Act. Section 515 of the FY 2001 Treasury and General Government Appropriations Act (Public Law 106-554, § 515, codified at 44 U.S.C. 3516 historical and statutory note), commonly referred to as the Data Quality Act, directed OMB to establish government-wide standards in the form of guidelines designed to maximize the "quality," "objectivity," "utility," and "integrity" of information that Federal agencies disseminate to the public. As noted in the EWR final rule (67 FR 45822), NHTSA has reviewed its data collection, generation, and dissemination processes in order to ensure that agency information meets the standards articulated in the OMB and DOT guidelines. The changes adopted by today's final rule simply extends the reporting period for submission of data pursuant to the EWR rule and do not have any effects on the quality of the data disseminated by the agency.

Unfunded Mandates Reform Act. The Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted annually for inflation with base year of 1995). The EWR final rule did not have unfunded mandates implications. 67 FR 49263. Today's final rule simply extends the reporting period for submission of data pursuant to the EWR rule and does not create any unfunded mandates within the meaning of this Act.

List of Subjects in 49 CFR Part 579

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR chapter V is amended as follows:

PART 579—REPORTING OF INFORMATION AND COMMUNICATIONS ABOUT POTENTIAL DEFECTS

■ 1. The authority citation for part 579 continues to read as follows:

Authority: Sec. 3, Pub. L. 106-414, 114 Stat. 1800 (49 U.S.C. 30102-103, 30112,

30117-121, 30166-167); delegation of authority at 49 CFR 1.50.

Subpart C—Reporting of Early Warning Information

■ 2. In § 579.28, revise paragraphs (b) and (n) to read as follows:

§ 579.28 Due date of reports and other miscellaneous provisions.

* * * * *

(b) *Due date of reports.* Except as provided in paragraph (n) of this section, each manufacturer of motor vehicles and motor vehicle equipment shall submit each report that is required by this subpart not later than 60 days after the last day of the reporting period.

* * * * *

(n) *Submission of copies of field reports.* Copies of field reports required under this subpart shall be submitted not later than 15 days after reports are due pursuant to paragraph (b) of this section.

Issued on: September 22, 2004.

Jeffrey W. Runge,
Administrator.

[FR Doc. 04-21737 Filed 9-27-04; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 594

[Docket No. NHTSA 2004-17987; Notice 2]

RIN 2127-AJ34

Schedule of Fees Authorized by 49 U.S.C. 30141

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

ACTION: Final rule.

SUMMARY: This document adopts fees for Fiscal Year (FY) 2005 and until further notice, relating to the registration of importers and the importation of motor vehicles not certified as conforming to the Federal motor vehicle safety standards (FMVSS).

DATES: The amendments established by this final rule will become effective on October 1, 2004, the beginning of FY 2005. Petitions for reconsideration must be received by NHTSA not later than November 12, 2004.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice numbers above and be submitted to the Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC

20590, with a copy to the docket. You may provide a copy of your petition by any of the following methods:

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site. Please note, if you are submitting petitions electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions. Please also note that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

- Fax: 1-202-493-2251.

• Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

• Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For non-legal issues: Coleman Sachs, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-5291). For legal issues: Michael Goode, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-5263).

SUPPLEMENTARY INFORMATION:

A. Introduction

The amendments we are adopting in this rule increase the fees for the registration of a new registered importer (RI) from \$655 to \$830 and the annual fee for renewing an existing registration from \$455 to \$745. These fees include the costs of maintaining the RI program. We are also increasing, from \$550 to \$827, the fee for inspecting a vehicle that is the subject of an import eligibility petition when we are asked to conduct such an inspection by the petitioner. The fee required to reimburse the U.S. Department of Homeland