The State submittal meets the requirement for vehicle coverage of the Federal I/M rule.

Section 51.371 On-Road Testing

Vehicles commuting into Dallas and Tarrant Counties from Denton and Collin Counties will continue to be monitored via remote sensing through April 30, 2002. Starting May 1, 2002, all subject vehicles in Collin and Denton County will receive a tailpipe emissions test, as described in this proposal and the revised SIP.

In addition, the State will comply with the on-road testing requirements by continuing to use remote sensing to evaluate the on-road emissions performance of at least 20,000 vehicles (or 0.5 percent of the fleet) subject to emissions testing in all I/M program areas. All probable high-emitting vehicles which are registered within these counties are identified for compliance follow-up.

The State submittal meets the requirement for on-road testing of the Federal I/M rule.

Section 51.373 Implementation Deadlines

The Texas Motorist Choice Program met the November 15, 1997, start date requirement of the NHSDA. The Texas Motorist Choice Program started in July 1996 in Dallas and Tarrant Counties and in January 1997 in Harris and El Paso Counties. It has been operating continuously since that time.

The revised I/M SIP commits to a schedule for start-up of ASM–2 testing activities and OBD testing. All other aspects of this regulation remain the same as previously approved on an interim basis.

The State submittal meets the compliance with implementation plan submission requirements of the Federal I/M regulations for approval.

Notice of Proposed Rulemaking

Our review of this submittal indicates that the proposed SIP revision meets the minimum requirements of the Act and Federal I/M rules. Based upon the discussion contained in the previous analysis sections and in the Technical Support Document accompanying this notice, we find that the State's submittal represents an acceptable approach to the I/M requirements and meets the requirements for approval.

We propose to grant full approval of the Texas Motorist Choice I/M program in the DFW area. We also propose to approve the I/M SIP revision pertaining to the Houston-Galveston Area and El Paso nonattainment areas.

Nothing in this action should be construed as permitting, allowing, or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed rule will not 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 4, 2001.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 01–1519 Filed 1–19–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 534

[Docket No. NHTSA 2001–8668]

RIN 2127–AG97

Fuel Economy Standards—Rights and Responsibilities of Manufacturers in the Context of Changes in Corporate Relationships

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes a new regulation to define the rights and responsibilities of manufacturers under

the agency's corporate average fuel economy program in the context of changes in corporate relationships. The proposed regulation addresses the rights and responsibilities of predecessors and successors, as well the rights and responsibilities of manufacturers in other situations where there have been changes in corporate relationships, e.g., changes in control. Among other things, the proposed regulation would address how fuel economy credits are allocated in these types of situations.

DATES: Comments must be received by March 23, 2001.

ADDRESSES: You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, S.W., Washington, D.C. 20590. Alternatively, you may submit your comments 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. (This website also enables you to view the materials in the docket for this rulemaking.)

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: Edward Glancy, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590 (202–366–2992).

SUPPLEMENTARY INFORMATION:

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I. Background

A. Statutory Provisions

In December 1975, Congress enacted the Energy Policy and Conservation Act (EPCA) in response to the energy crisis created by the oil embargo of 1973–74 and the level of oil imports, particularly from OPEC sources. Congress included a provision establishing an automotive fuel economy regulatory program. That provision added a new Title V, ''Improving Automotive Efficiency,'' to the Motor Vehicle Information and Cost Saving Act. Congress has made various amendments to the fuel economy provisions since 1975, and the fuel economy provisions are now codified in Chapter 329 of Title 49 of the United States Code.

Under Chapter 329, manufacturers are required to meet average fuel economy standards for passenger automobiles and light trucks. While separate fuel economy standards apply for each model year, manufacturers that fail to achieve the level of a standard within a particular model year do not necessarily violate the statute. Instead, under certain circumstances, a shortfall in one year (or years) can be offset if a manufacturer exceeds the standard in another year (or years). Under the Act, manufacturers earn credits for exceeding average fuel economy standards which may be carried back for three model years or carried forward for three model years.

Chapter 329 defines the term ''manufacturer'' as ''a person engaged in the business of manufacturing automobiles, including a predecessor or successor of the person to the extent provided under regulations prescribed by the Secretary * * *'' (The Secretary has delegated responsibility for the automotive fuel economy program to NHTSA. 49 CFR 1.50(f).) To date, we have not issued any regulations concerning predecessors and successors. We have also not issued any regulations concerning the rights and responsibilities of manufacturers in other situations where there have been changes in corporate relationships, *e.g.,* changes in control.

B. Past Positions Taken by NHTSA With Respect to Predecessors and Successors

Under general principles of corporate law, the term ''successor'' ordinarily refers to a corporation which, through amalgamation, consolidation, or other legal succession, becomes invested with the rights and assumes the burdens of another corporation. See Black's Law Dictionary, West Publishing Co.

The automotive fuel economy program contains provisions which raise special issues related to the rights and burdens of predecessors and successors. Of particular significance are the provisions related to credits.

Because credits may be carried backward three years and forward three years, compliance with a fuel economy standard for a particular model year may actually be determined over as much as a seven-year period. A variety of changes in corporate relationships may occur during such a long period, e.g., mergers, acquisitions, spin-offs, etc., and these provisions raise the issue of how credits and shortfalls should be allocated when such changes occur.

In a 1990 letter to Chrysler, we addressed how fuel economy values should be calculated for Chrysler and AMC during the model year in which Chrysler acquired AMC, model year (MY) 1987. We concluded that all of Chrysler's and AMC's vehicles should be treated as manufactured by the same manufacturer for that model year. In reaching this conclusion we stated the following: [1]

> Fuel economy standards apply to passenger automobiles manufactured by a manufacturer, for a particular model year. See section 502(a)(l). Moreover, average fuel economy is calculated based on the total number of passenger automobiles manufactured in a given model year by a manufacturer. See section 503(a)(l). Under section 503(c), the term ''passenger automobiles manufactured by a manufacturer'' includes all automobiles manufactured by persons who control, are controlled by, or are under common control with, such manufacturer.'' Since Chrysler controlled AMC prior to the end of the 1987 model year, and since fuel economy standards apply to particular model years as a whole and not to separate parts of a model year, it is our opinion that all of the vehicles produced by both Chrysler and AMC for model year 1987 shall be treated as if manufactured by the same manufacturer, *i.e.,* placed into one fleet. Otherwise, one or both of the manufacturers would have two separate CAFÉ values, pre-acquisition (or pre-control) and post-acquisition (or post-control), for the same model year.

We also addressed generally the issue of how credits may be applied between predecessors and successors, along with the legal and policy issues associated with applying credits between predecessors and successors. Among other things, we stated the following:

[1] Our 1990 letter referred to the language and section numbers of the Motor Vehicle Information and Cost Savings Act. Those provisions were codified into 49 U.S.C. Chapter 329 by Pub. L. 103–272 (July 5, 1994). Section 1(a) of that law stated that the laws being codified were being done so ''without substantive change''.

We will now address generally the issue of how credits may be used where one manufacturer is the successor of another. In discussing the issue, we will refer to the following hypothetical example: A and B are both car manufacturers. After consolidation, A is the only surviving corporation and is invested with the rights and assumes the burdens of B. Thus, A is the ''successor'' of B.

While this example and subsequent discussion is for passenger automobiles, the relevant requirements concerning the earning and availability of credits are essentially identical for passenger automobile standards and light truck standards. Compare section 502(l)(1)(B) and 49 CFR Part 535, and see 45 FR 83233–36, December 18, 1980. Thus, our analysis for passenger automobile standards is also relevant to light truck standards.

Section 502(l)(1)(B) states:

Whenever the average fuel economy of the passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard * * *, such manufacturer shall be entitled to a credit calculated under subparagraph (C), which—

(i) shall be available to be taken into account with respect to the average fuel economy of that manufacturer for any of the three consecutive model years immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

(ii) to the extent that such credit is not so taken into account pursuant to clause (i), shall be available to be taken into account with respect to the average fuel economy of that manufacturer for any of the three consecutive model years immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard.

We note first that credits earned by a particular manufacturer are only ''available to be taken into account with respect to the average fuel economy of *that* manufacturer,'' for any of the three model years before, or after, the model year in which the credits are earned. (Emphasis added.) In the example set forth above, B is no longer a manufacturer under the Cost Savings Act. (Indeed, it is no longer a ''person'' under section 501(8).) Thus, in the absence of some provision concerning ''successors,'' any unused credits that B had earned prior to the consolidation would expire unused, since the only manufacturer to which they are available no longer exists. However, for some purposes B continues to exist as part of A, its ''successor.''

Section 501(8)'s definition of ''manufacturer'' does not provide that the term ''manufacturer'' necessarily includes any predecessor or successor but instead provides that the term does so ''to the extent provided under rules which the Secretary shall prescribe.'' This provision was added by the Automobile Fuel Efficiency Act of 1980 as a conforming amendment to the section concerning modification of local content requirements to encourage domestic production of fuel efficient automobiles and *not* to the section concerning credits. The legislative history does not provide any indication as to why the provision was added, and, to date, NHTSA's administration of the statutory provisions concerning modification of the local content requirements has not turned up a situation for which such rules would be relevant. Should rules be issued under section 501(8), NHTSA would do so by notice-and-comment rulemaking, taking account of the purposes of that section and the statutory scheme as a whole.

Notwithstanding the absence of rules, we do not believe that Congress intended to require the forfeit of a manufacturer's unused credits in a situation where that manufacturer's substance continues to exist as part of a ''successor.'' Thus, taking account of section 501(8) and the statutory scheme as a whole, we conclude that, in the example set forth above, B can be deemed as continuing to exist as part of A, from the time of succession.

This conclusion does not, however, permit the general integration of A's and B's credits and shortfalls. Under section 502(l)(1)(B), credits earned by a particular manufacturer are only ''available to be taken into account with respect to the average fuel economy of *that* manufacturer.'' Since B's existence as part of A only dates from the time of succession, B is not the same manufacturer as A prior to the time of succession. Thus, any credits earned by B would only be available to offset A's shortfalls for the model years during which B exists as part of A, since it is only at that time that the credits earned by B and applied to A can be considered to be taken into account with respect to the average fuel economy of ''that manufacturer.'' Similarly, the only credits earned by A which would be available to B would be those credits earned during the time when B exists as part of A.

The general integration of A's and B's credits would be inconsistent with the basic structure of section 502(l)(1). Assume, for example, that A and B are separate manufacturers for model years 1 through 6, and A is the successor of B for model year 7. If general integration of credits were permitted, credits earned by B in model year 4 could be applied to A's CAFÉ for model years 1–6, as well as model year 7. However, the structure of section 502(l)(1) does not permit this result. Under paragraph (B)(i), any credits earned by B in model year 4 are available to be carried back with respect to B's CAFÉ for any of model years 1, 2 and 3. To the extent that such credits are not so used, paragraph (B)(ii) makes those credits available to be carried forward with respect to B's CAFÉ for any of model years 5, 6 and 7. In order for credits earned by B in model year 4 to be applied to A's CAFÉ for model years 1–6, B's credits would first have to be carried forward to model year 7 (the model year where A is B's successor) and then be carried back to model years 1–6 (for application to A's CAFÉ), a process which has no statutory basis.

We will now apply the general analysis discussed above to the particular facts cited in Chrysler's letter. Prior to MY 1987, Chrysler and AMC were two separate manufacturers. Chrysler acquired AMC during MY 1987, and became the ''successor'' to AMC at that time. Under section 502(l)(1)(B), credits earned by a particular manufacturer are only ''available to be taken into account with respect to the average fuel economy of that manufacturer.'' Since AMC's existence as part of Chrysler only dates from MY 1987, AMC was not the same manufacturer as Chrysler prior to MY 1987. Thus, any credits earned by AMC would only be available to Chrysler to offset CAFÉ shortfalls incurred in the model years during which AMC exists as part of Chrysler, *i.e.,* MY 1987 and thereafter, since it is only at that time that the credits earned by AMC and applied to Chrysler can be considered to be taken into account with respect to the average fuel economy of ''that manufacturer.'' Similarly, the only credits earned by Chrysler which would be available to AMC would be those credits earned during the time when AMC exists as part of Chrysler, *i.e.,* credits earned in MY 1987 and thereafter.

The issue of the extent to which Chrysler could use AMC's credits was subsequently raised in the context of an enforcement proceeding brought by NHTSA staff concerning Chrysler's apparent violation of the light truck CAFÉ standard for MY 1984. On January 8, 1992, DOT Chief Administrative Law Judge John J. Mathias issued an Initial Decision and Order (I.D.) in which he stated that he agreed with the substance of NHTSA Complaint Counsel's position but concluded that the Complaint should be dismissed because NHTSA had not prescribed rules pursuant to section 501(8) of the Act (since recodified at 49 U.S.C. 32901(a)(13)(A)) that define the extent to which the term ''manufacturer'' includes any predecessor or successor of a manufacturer of automobiles. *CHRYSLER CORPORATION (NHTSA—Fuel Economy Standards Enforcement),* U.S. Dep't. of Transportation, Office of Hearings, Washington, D.C., Docket 47414 (January 8, 1992). Later, NHTSA's Administrator set aside the I.D. and issued an order directing that the agency commence a proceeding to prescribe such rules. *In re CHRYSLER CORPORATION; Corporate Average Fuel Economy Enforcement Proceeding,* U.S. Dep't. of Transportation, National Highway Traffic Safety Administration, Docket No. 47414 (March 31, 1992).

II. Proposal

A. Introduction

Our initial purpose in developing this proposal was to define the extent to which predecessors and successors of manufacturers of automobiles should be included within the term "manufacturer." However, during the development of the proposal, we decided to expand that purpose. We recognized that a number of the issues concerning how credits may be used between predecessors and successors also arise in the context of other changes in corporate relationships, *e.g.,* changes in control. While we could handle issues related to changes in control by interpretation of the statute, we believe it would be helpful for both the industry and the agency to have a regulation in place which provides guidance in this area.

In developing this proposal, we have attempted to achieve two key goals. First, we would like the regulation to be as faithful as possible to the purpose of the statute and the overall statutory scheme. Second, we would like the regulation to be as simple as possible, while still providing the necessary guidance for the agency and the industry to use in determining how changes in corporate relationships are to be considered in determining compliance with fuel economy standards.

The purpose of Chapter 329 is, of course, energy conservation. As to the overall statutory scheme, we believe there are several aspects that are relevant to how we should treat changes in corporate relationships.

First, to promote flexibility, Congress decided to allow compliance with fuel economy standards to be determined over a multi-year period. In particular, a manufacturer may offset a shortfall for any given model year by using credits it has earned or will earn in the three prior model year or three succeeding model years.

Second, Congress limited the use of credits to the manufacturer which earned them; credits may not be bought or sold.

Third, average fuel economy is measured, and compliance with fuel economy standards determined, for groups of companies within a control relationship rather than for individual companies.

We believe that each of these aspects of the statutory scheme needs to be reflected in the regulation concerning the rights and responsibilities of manufacturers in the context of changes in corporate relationships.

As to our desire to keep the regulation as simple as possible, we are concerned that an effort to comprehensively address all of the various ways corporate relationships may change over time could get the agency bogged down in defining endless situations that it would probably never have to deal with in practice. At the same time, we believe there is a need for the regulation to provide the necessary guidance for the agency and the industry to use in determining how changes in corporate relationships are to be considered in determining compliance with fuel economy standards. We are proposing a regulation that we believe would accomplish this. A discussion of the proposed regulation follows.

B. The Proposed Regulation

The proposed regulation is relatively short. It begins by setting forth definitions of several key terms, including predecessor, successor and control relationship. It includes a section which specifically addresses several situations concerning predecessors and successors which have either already occurred or might reasonably be expected to occur. Examples, in the form of specific factual situations, are provided for purposes of clarity. It also includes a section which specifically addresses several potential situations regarding changes in control relationships. The details of the proposed regulation are discussed below. We specifically request comments on whether the regulation should specifically address any additional types of changes in corporate relationships, or provide additional examples in the form of factual situations and, if so, how. To the extent that a situation arose that was not directly addressed by the regulation, the agency would make necessary determinations based on interpretation of the statute and the principles reflected in the regulation.

We note that the proposed regulation would adopt the same positions concerning predecessors and successors as we did in our 1990 letter to Chrysler.

1. Definitions

The proposed regulation includes four definitions.

Control relationship. "Control relationship" is defined to mean the relationship that exists between manufacturers that control, are controlled by, or are under common control with, one or more other manufacturers. This definition reflects the provision at 49 U.S.C. 32901(a)(4) which specifies that the automobiles manufactured by a manufacturer include automobiles manufactured by a person that controls, is controlled by, or is under common control with the manufacturer.

Successor. "Successor" is defined to mean "a manufacturer which has become vested with the rights and assumed the burdens of another manufacturer." This definition reflects the ordinary corporate law meaning of the term "successor."

Predecessor. "Predecessor" is defined to mean "a manufacturer whose rights have been vested in and whose burdens have been assumed by another manufacturer." This definition reflects the ordinary corporate law meaning of the term and mirrors the proposed definition for "successor."

Identity. Under the proposed regulation, "identity" is defined to mean "the relationship between a predecessor and a successor during the time in which the successor owns 50 percent or more of the assets, based on valuation, that had belonged to the predecessor." This is the time when we believe it is reasonable to view the predecessor manufacturer as continuing to exist as part of the successor. The proposed limitation with respect to owning 50 percent or more of the assets is to address a possible situation where one company might purchase another, become the successor, but then quickly sell the assets to a third company. As discussed below, we use the concept of identity, in the context of predecessors and successors, as part of specifications to ensure that credits are only used by a manufacturer which can reasonably be considered to have earned them.

2. Predecessors and Successors

The proposed regulation has four specifications which define the extent to which predecessors and successors of manufacturers of automobiles are included within the definition of "manufacturer," for purposes of the automotive fuel economy program. Examples, in the form of specific factual situations, are provided for purposes of clarity.

Specification (a). The first proposed specification provides that ''(s)uccessors are responsible for any civil penalties that arise out of fuel economy shortfalls incurred by predecessors.'' We recognize that this specification could be considered unnecessary in the sense that it simply states what follows directly from corporate law: the assumption of the burdens of a predecessor corporation, as well as the vesting of the rights of that corporation, is an inherent part of being a successor under corporate law. However, we believe that any regulation which specifies the extent to which predecessors and successors of manufacturers of automobiles are included within the definition of ''manufacturer,'' for purposes of the automotive fuel economy program, should make this clear at the outset.

Specification (b). The second specification provides that ''(i)f one manufacturer becomes the successor of another manufacturer during a model year, all of the vehicles produced by those manufacturers during the model year are treated as though they were manufactured by the same manufacturer.'' It also provides that ''(a) manufacturer is considered to have become the successor of another manufacturer during a model year if it is the successor on September 30 of the corresponding calendar year and was not the successor for the preceding model year.''

As we discussed in our 1990 letter to Chrysler, fuel economy standards apply to passenger automobiles manufactured by a manufacturer, for a particular model year, and average fuel economy is calculated based on the total number of passenger automobiles manufactured in a given model year by a manufacturer. We recently reiterated that view in a January 13, 2000 letter to Volvo Cars of North America. Since fuel economy standards apply to particular model years as a whole and not to separate parts of a model year, we believe that if one manufacturer acquires another during a model year, they should be deemed the same manufacturer, with a single CAFE value, for that model year.

In a 1990 letter to Ford, we concluded that, for purposes of deciding the model year in which one manufacturer acquires another, the ''traditional model year,'' starting approximately October 1, is the appropriate frame of reference. The second sentence in specification (b) reflects this interpretation.

Specification (c). The third proposed specification provides that ''(c)redits earned by a predecessor may be used by a successor for those model years in which there is an identity between the predecessor and successor, subject to availability of the credits and the general three-year restriction on carrying credits forward.''

As we discussed in our letter to Chrysler, the statute provides that credits are available only to the manufacturer which earned them. Therefore, in the absence of some regulatory provision concerning successors, any unused credits of a predecessor would simply expire unused.

However, we continue to believe that Congress did not intend to require the forfeit of a manufacturer's unused credits in a situation where that manufacturer's substance continues to exist as part of a ''successor.'' We are therefore proposing that credits earned by a predecessor may be used by a successor for those model years in which there is identity between the predecessor and successor.

Credits earned by a predecessor could not, however, be used by a successor for model years in which there was no identity between the predecessor and successor. We believe that, in such a situation, the credits could not reasonably be considered to be used by the manufacturer which had earned them.

The following example helps illustrate how this provision would work in practice:

A purchases B in model year x and becomes the successor of B. A's CAFE in model year x (which includes the combined production of what had been A and B) is less than the applicable CAFE standard for that model year. B had credits at the time of the acquisition because it exceeded the applicable fuel economy standard in the previous model year. The credits of B (the predecessor) could be used by A in model year x, model year x+1 and model year x+2, because there would be an identity between B and A in those model years. However, the credits of B could not be used to offset any shortfall incurred by A in model year x-1 or before, since there was no identity between B and A during those model years.

As indicated above, we believe that the use of B's credits (the predecessor's credits) by A (the successor) for model years x-1 or before (model years before the acquisition) could not reasonably be considered to be use by the manufacturer which had earned them. There was no relationship between A and B model year x-1 and before; they were two completely different manufacturers.

Moreover, as we discussed in our 1990 letter to Chrysler, the statute does not provide for the same credits being carried both forward and backward; *e.g.,* forward to A from before the time it acquired B and then backward to A for the model years prior to the acquisition when A had shortfalls.

Finally, it would be inappropriate to allow A (the successor) to succeed to rights with respect to B's credits that are greater than B had at the time of the acquisition. As of the time of the acquisition, the only right B had with respect to carrying its existing credits backward was the right to apply them to its own fleet; it did not have the right to apply them to the fleets of other manufacturers or to sell them to be applied to such fleets.

Specification (d). The fourth proposed specification provides that ''(c)redits earned by a successor during model years in which there is an identity between the successor and predecessor may be used to offset a predecessor's shortfall, subject to availability of the credits and the general three-year restriction on carrying credits backward.''

Under the statute, a manufacturer that experiences a shortfall which it cannot offset by using credits it has earned during the past three model years has three additional model years to earn offsetting credits. However, given that the statute provides that credits may only be used by the manufacturer that earned them, there would be no way of offsetting a predecessor's remaining shortfalls in the absence of a regulatory provision.

We do not believe that Congress intended to require the forfeiture of a manufacturer's ability to offset CAFE shortfalls by earning future credits simply because it was acquired by another manufacturer; i.e., in a situation where that manufacturer's substance continues to exist as part of a ''successor.'' We are therefore proposing that credits earned by a successor during model years in which there is an identity between the successor and predecessor may be applied to a predecessor's shortfall.

Specifications (c) and (d), taken together, give the successor all the rights the predecessor had with respect to credits, both as to the use of existing credits *and* the ability to earn future credits to offset existing shortfalls. We are aware that some manufacturers would like the successor to somehow have greater rights than those enjoyed by the predecessor. For example, while AMC's rights to its MY 1984 credits, as of the time of its acquisition in MY 1987, were to apply them to its own fleet in MY 1981–1983 and 1985–1986 (since it had no successor in that time period) and to apply them to itself (as part of Chrysler) in MY 1987, Chrysler, as successor to AMC, wanted to be able to apply AMC's 1984 credits to offset shortfalls incurred by its own (Chrysler's) pre-MY 1987 fleet. However, such use of AMC's credits could not reasonably be considered a use by the manufacturer which had earned them and therefore would be inconsistent with the statute.

We also note that permitting such use of credits would discourage energy conservation. For example, to the extent that a successor had been planning to exceed standards in the future to earn credits that could be carried back to cover pre-acquisition shortfalls, permitting the successor to use the predecessor's previously earned credits to cover those shortfalls would remove the incentive to exceed those standards.

3. Manufacturers within Control Relationships

The proposed regulation has eight specifications concerning the rights and responsibilities of manufacturers within control relationships. These specifications are generally based on the same principles we considered in developing the proposed specifications concerning predecessors and successors. A discussion of the eight specifications follows.

Specification (a). The first proposed specification provides that ''(i)f a civil penalty arises out of a fuel economy shortfall incurred by a group of manufacturers within a control relationship, each manufacturer within that group is jointly and severally liable for the civil penalty.'' This specification follows directly from the statutory provisions which provide that average fuel economy is measured, and compliance with fuel economy standards determined, for groups of companies within a control relationship rather than for individual companies. However, we believe that any regulation which specifies the rights and responsibilities of manufacturers within control relationships should make this clear at the outset. As a practical matter, we would initially seek payment of any civil penalties arising from the fuel economy performance of a group of manufacturers within a control relationship from whoever that group designated as being responsible.

Specification (b). The second proposed specification provides that ''(a) manufacturer is considered to be within a control relationship for an entire model year if and only if it is within that relationship on September 30 of the calendar year in which the model year ends.'' This specification corresponds directly to the proposed specification (b) for predecessors and successors, and reflects the same rationale.

Specification (c). The third proposed specification provides that ''(t)o the extent that a manufacturer within a control relationship was outside that relationship for a previous model year and not within any other control relationship, credits earned by the manufacturer during such model year may be used by the group of manufacturers within the control relationship for those model years in which the manufacturer is within that relationship, subject to the agreement of the manufacturer, the availability of the credits, and the general three-year restriction on carrying credits forward.''

This specification is very similar to the proposed specification (c) for predecessors and successors. If a previously independent manufacturer has been purchased or otherwise brought within a control relationship, its credits do not expire but can continue to be used by it under the same conditions as before. For model years in which it is now part of a group of manufacturers, application of its credits to itself would mean application to the entire group of manufacturers since average fuel economy is measured, and compliance with fuel economy standards determined, for groups of companies within a control relationship rather than for individual companies.

We note that one difference between this proposed specification and the corresponding one we are proposing for predecessors and successors is the statement that use of the credits is subject to the agreement of the manufacturer which earned them. In the case of a predecessor/successor situation, the predecessor no longer exists and the successor has assumed all of its rights and duties. In this situation, however, the previously independent company continues to exist and could have different interests than the group of manufacturers. We therefore believe it is appropriate to make use of the credits subject to the agreement of that company. Similar provisions are included in several of the other proposed specifications for manufacturers within control relationships.

Specification (d). The fourth proposed specification provides that ''(t)o the extent that a manufacturer within a control relationship was outside that relationship for a previous model year and not within any other control relationship, shortfalls incurred by the manufacturer for such model year may be offset by credits earned by the group of manufacturers within the control relationship for subsequent model years in which the manufacturer is within the relationship, subject to the agreement of the other manufacturers, the availability of the credits, and the general three-year restriction on carrying credits backward.''

This specification is very similar to the proposed specification (d) for predecessors and successors.

Specifications (e) through (h). The final four proposed specifications for manufacturers within control relationships address situations in which a manufacturer which is controlled by another manufacturer is sold or otherwise spun off. We note that, given the general trend toward consolidation in the auto industry, this situation appears less likely to arise than the ones discussed earlier. Nonetheless, we believe that there is sufficient possibility that spin-offs may occur that it is reasonable to address spin-offs in the proposed regulation.

The proposed specifications generally provide that a company which has been spun off may use credits that were earned while it was part of a group of manufacturers, subject to the agreement of the other manufacturer or manufacturers in the group. They also generally provide that credits which the spun-off company earns may be carried back to the group of manufacturers for model years in which it was part of the group, subject to the spun-off company's approval.

We recognize that in situations where a manufacturer which is controlled by another manufacturer is sold to a third manufacturer, there is a possibility that the manufacturers might wish to transfer a greater number of credits than can reasonably be considered to be related to the transaction at issue. The following example illustrates such a possibility:

> A, a very large manufacturer with a large credit balance, controls B, a very small manufacturer which only produces vehicles with low fuel economy, by virtue of owning B's stock. A sells B to C, a very large manufacturer with a large credit deficit. C would like to get as many credits as possible in this transaction.

In this situation, we believe it would be reasonable to permit B to take some credits with it. It was part of the group of manufacturers which earned the credits. Moreover, B might be able to argue that it did not improve its fuel economy in the past because it was part of a group of manufacturers that together exceeded the CAFE standard.

However, given that the statute does not permit the selling of credits, we do not believe it would be reasonable to permit B to take with it a greater number of credits than it could use if it had become independent. B has not produced any vehicles which exceed the fuel economy standard, and, if we permitted a large-scale transfer of credits, the sale of B might be nothing more than a disguised transaction to transfer credits. We have therefore included provisions in the proposed specifications to limit the transfer of credits in this and similar types of situations to numbers that can reasonably be considered to be directly related to the sale of the company at issue.

4. Changes in Corporate Relationships Not Directly Addressed by the Proposed Regulation

We believe the proposed regulation addresses the types of changes in corporate relationships that are most likely to occur. Moreover, we are requesting comments on whether the regulation should specifically address any additional types of changes in corporate relationships, or provide additional examples in the form of factual situations and, if so, how. Depending on the comments, we may include provisions in the final rule addressing additional types of changes in corporate relationships and/or additional examples in the form of factual situations. Since we do not believe it would be possible to comprehensively address every conceivable situation that could arise, the proposed regulation includes a provision stating that to the extent that the regulation does not directly address an issue concerning the rights and responsibilities of manufacturers in the context of a change in corporate relationships, the agency will make determinations based on interpretation of the statute and the principles reflected in the regulation.

C. Supplementary Fuel Economy Reports

One of our regulations, 49 CFR Part 537, Automotive Fuel Economy Reports, requires automobile manufacturers to submit to the agency reports concerning their plans to comply with fuel economy standards. While we are not proposing any changes to Part 537, we would note that successors must submit supplementary reports if required by section 537.8 of that regulation.

III. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document is not economically significant. It was reviewed by the Office of Management and Budget under E.O. 12866, ''Regulatory Planning and Review.'' The rulemaking action has been determined to be significant under the Department's regulatory policies and procedures, given the public interest in the automotive fuel economy program.

The proposed regulation would not create any new obligations. It would adopt the same positions concerning predecessors and successors as we have previously taken in interpretation letters.

As discussed earlier in this notice, if we did not adopt regulations governing the use of CAFE credits by predecessors and successors, a predecessor's unused credits would simply expire, since the only manufacturer which could use them would no longer exist. Similarly, there would be no way of offsetting a predecessor's remaining CAFE shortfalls in the absence of some provision concerning successors. The successor would thus be required to pay the predecessor's penalties, a responsibility which it assumed with the rest of the predecessor's obligations, but would have no ability to earn future credits to offset the predecessor's shortfalls.

To address this inequity, the proposed rule, like our prior interpretation, would give the successor all the rights the predecessor had with respect to the use of preexisting credits and the ability to earn future credits.

The proposed provisions concerning the rights and responsibilities of manufacturers in other situations where there have been changes in corporate relationships, e.g., changes in control, are essentially a statement of our interpretation of the statute and reflect the same principles as the provisions relating to predecessors and successors.

B. Regulatory Flexibility Act

We have considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*) I hereby certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required for this action. As discussed above, the proposed regulation would not create any new obligations but would simply adopt the same positions concerning predecessors and successors as we have previously taken in interpretation letters. Similarly, the proposed provisions concerning the rights and responsibilities of manufacturers in other situations where there have been changes in corporate relationships, e.g., changes in control, are essentially a statement of our interpretation of the statute and reflect the same principles as the provisions relating to predecessors and successors. Moreover, as a practical matter, the acquiring corporations most likely to be affected by this regulation are not small businesses.

C. National Environmental Policy Act

NHTSA has analyzed this proposed amendment for the purposes of the National Environmental Policy Act and determined that it would not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

The agency has analyzed this proposal in accordance with the principles and criteria set forth in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The proposed rule would have no substantial effects on the States, or on the current Federalism-State relationship, or on the current distribution of power and responsibilities among the various local officials.

E. Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 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 the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). The proposed rule would not result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually.

F. Executive Order 12778 (Civil Justice Reform)

This proposed rule does not have any retroactive effect. However, we would, as a practical matter, consider the regulation in any enforcement action regarding predecessors and successors that involved conduct that occurred before the regulation became effective.

As discussed earlier, the proposed regulation would not create any new obligations but would adopt the same positions concerning predecessors and successors as we have previously taken in interpretation letters. If we did not adopt special provisions governing the use of CAFE credits by predecessors and successors, a predecessor's unused credits would simply expire, since the only manufacturer which could use them would no longer exist. Similarly, there would be no way of offsetting a predecessor's remaining CAFE shortfalls in the absence of some provision concerning successors.

The proposed rule, like our prior interpretation, would address this inequity and give the successor all the rights the predecessor had with respect to credits. Thus, to the extent we considered and followed the approach of the proposed rule in any enforcement action regarding predecessors and successors that involved conduct that occurred before the regulation became effective, any effect on the amount of penalties would be beneficial for the manufacturers.

We would similarly consider the regulation in any enforcement action regarding other situations where there have been changes in corporate relationships, e.g., changes in control, that involved conduct that occurred before the regulation became effective. However, the proposed provisions are essentially a statement of our interpretation of the statute.

States are preempted from promulgating laws and regulations contrary to the provisions of this rule. The rule does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

G. Paperwork Reduction Act

This rulemaking action does not include any collections of information.

H. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

I. 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 NPRM.

J. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. This regulatory action does not meet either of those criteria.

K. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards [2] in its regulatory activities unless doing so would be inconsistent with applicable law (e.g., the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical. This requirement is not relevant to this rulemaking action.

IV. Submission of 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, 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

[2] Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as "performance-based or design-specific technical specifications and related management systems practices." They pertain to "products and processes, such as size, strength, or technical performance of a product, process or material."

comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management 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 on the Internet. To read the comments 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–1998–1234," you would type "1234." After typing the docket number, click on "search."

(4) On the next page, which contains docket summary information for the 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 534

Fuel economy, Motor vehicles.

In consideration of the foregoing, we propose to amend chapter V of title 49 of the Code of Federal Regulations by adding a new part 534 to read as follows:

PART 534—RIGHTS AND RESPONSIBILITIES OF MANUFACTURERS IN THE CONTEXT OF CHANGES IN CORPORATE RELATIONSHIPS

Authority: 49 U.S.C. 32901; delegation of authority at 49 CFR 1.50.

§ 534.1 Scope.

This part defines the rights and responsibilities of manufacturers in the context of changes in corporate relationships for purposes of the automotive fuel economy program established by 49 U.S.C. chapter 329.

§ 534.2 Applicability.

This part applies to manufacturers of passenger automobiles and light trucks.

§ 534.3 Definitions.

(a) *Statutory definitions and terms.* All terms used in 49 U.S.C. chapter 329 are used according to their statutory meaning.

(b) As used in this part—

Control relationship means the relationship that exists between manufacturers that control, are controlled by, or are under common control with, one or more other manufacturers.

Identity means the relationship between a predecessor and a successor during the time in which the successor owns 50 percent or more of the assets, based on valuation, that had belonged to the predecessor.

Predecessor means a manufacturer whose rights have been vested in and whose burdens have been assumed by another manufacturer.

Successor means a manufacturer which has become vested with the rights and assumed the burdens of another manufacturer.

§ 534.4 Predecessors and successors.

For purposes of the automotive fuel economy program, "manufacturer" includes "predecessors" and "successors" to the extent specified in paragraphs (a) through (d) of this section.

(a) Successors are responsible for any civil penalties that arise out of fuel economy shortfalls incurred by predecessors.

Example: A purchases B in model year x and is generally invested with the rights and duties of B. B had a fuel economy shortfall two model years before (model year x-2) for which credits are not available and is subject to civil penalties which have not yet been paid. A is responsible for those civil penalties.

(b) If one manufacturer has become the successor of another manufacturer during a model year, all of the vehicles produced by those manufacturers during the model year are treated as though they were manufactured by the same manufacturer. A manufacturer is considered to have become the successor of another manufacturer during a model year if it is the successor on September 30 of the corresponding calendar year and was not the successor for the preceding model year.

(c) Credits earned by a predecessor may be used by a successor for those model years in which there is an identity between the predecessor and successor, subject to availability of the credits and the general three-year restriction on carrying credits forward.

Example: A purchases B in model year x and becomes the successor of B. A's CAFE in model year x (which includes the combined production of what had been A and B) is less than the applicable CAFE standard for that model year. B had credits at the time of the acquisition because it exceeded the applicable fuel economy standard in the previous model year. The credits of B (the predecessor) could be used by A in model year x, model year x+1 and model year x+2, because there would be an identity between B and A in those model years. However, the credits of B could not be used to offset any shortfall incurred by A in model year x-1 or before, since there was no identity between B and A during those model years.

(d) Credits earned by a successor during model years in which there is an identity between the successor and predecessor may be used to offset a predecessor's shortfall, subject to availability of the credits and the general three-year restriction on carrying credits backward.

Example: A purchases B in model year x and becomes the successor of B. B had a fuel economy shortfall two model years before (model year x-2). Any credits earned by A in model year x and model year x+1 could be applied to B's shortfall, since there is an identity between A and B in model year x and model year x+1. However, credits earned by A in any model year before model year x could not be applied to B's shortfall, since there was no identity between A and B in model year x-1.

§ 534.5 Manufacturers within control relationships.

(a) If a civil penalty arises out of a fuel economy shortfall incurred by a group of manufacturers within a control relationship, each manufacturer within that group is jointly and severally liable for the civil penalty.

(b) A manufacturer is considered to be within a control relationship for an entire model year if and only if it is within that relationship on September 30 of the calendar year in which the model year ends.

(c) To the extent that a manufacturer within a control relationship was outside that relationship for a previous model year and not within any other control relationship, credits earned by the manufacturer during such model year may be used by the group of manufacturers within the control relationship for those model years in which the manufacturer is within that relationship, subject to the agreement of the manufacturer, the availability of the credits, and the general three-year restriction on carrying credits forward.

(d) To the extent that a manufacturer within a control relationship was outside that relationship for a previous model year and not within any other control relationship, shortfalls incurred by the manufacturer for such model year may be offset by credits earned by the group of manufacturers within the control relationship for subsequent model years in which the manufacturer is within the relationship, subject to the agreement of the other manufacturers, the availability of the credits, and the general three-year restriction on carrying credits backward.

(e) If a manufacturer which is controlled by another manufacturer is sold or otherwise spun off so that it is no longer within that control relationship and is not within any other control relationship, it may use credits that were earned by the group of manufacturers within the control relationship while the manufacturer was within that relationship, subject to the agreement of the other manufacturers, the availability of the credits and the general restriction on carrying credits forward.

(f) If a manufacturer which is controlled by another manufacturer is sold or otherwise spun off so that it is no longer within that control relationship but is within another control relationship, it may use credits that were earned by the group of manufacturers within the former control relationship while the manufacturer was within that relationship, subject to the agreement of the other manufacturers, the availability of the credits, and the general restriction on carrying credits forward, and subject to a demonstration by the manufacturer, and approved by the Administrator, that the credits to be used are no more than the manufacturer could use if it were not within another control relationship.

(g) If a manufacturer which is controlled by another manufacturer is sold or otherwise spun off so that it is no longer within that control relationship and is not within any other control relationship, credits earned by that manufacturer may be used by the manufacturer or group of manufacturers previously within the control relationship for model years in which the manufacturer was within that relationship, subject to the agreement of the previously controlled manufacturer, the availability of the credits and the general restriction on carrying credits backward.

(h) If a manufacturer which is controlled by another manufacturer is sold or otherwise spun off so that it is no longer within that control relationship but is within another control relationship, credits earned by manufacturers within the latter control relationship for model years in which the manufacturer is within that relationship may be used by the manufacturer or group of manufacturers within the former control relationship for model years in which the manufacturer was within that relationship, subject to the agreement of the group of manufacturers within the latter control relationship, the availability of the credits, and the general restriction on carrying credits backward, and subject to a demonstration by the manufacturer, and approved by the Administrator, that the credits to be used are no more than the manufacturer would have earned if it were not within another control relationship.

§ 534.6 Situations not directly addressed by this regulation.

To the extent that this regulation does not directly address an issue concerning the rights and responsibilities of manufacturers in the context of a changes in corporate relationships, the agency will make determinations based on interpretation of the statute and the principles reflected in the regulation.

Issued on: January 10, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–1524 Filed 1–19–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 554, 573, and 576

[Docket No. NHTSA 2001–8677; Notice 1]

RIN 2127–AI25

Standards Enforcement and Defect Investigation; Defect and Noncompliance Reports; Record Retention

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

ACTION: Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: This document requests comments on ways that the National Highway Traffic Safety Administration (NHTSA) may implement the ‘‘early warning reporting requirements’’ of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. The TREAD Act directs NHTSA to publish a rule requiring vehicle and equipment manufacturers to report claims data and other information, whether originating in the United States or in a foreign country, that may assist in identifying defects related to motor vehicle safety in vehicles or equipment in the United States. The Act further authorizes NHTSA to require the reporting of other information. These manufacturers must also report to us all incidents, of which they receive notice, involving fatalities or serious injuries which are alleged or proven to have been caused by a possible defect in their products, whether in the United States or abroad, when the possible defective vehicle or equipment is identical or substantially similar to a vehicle or equipment offered for sale in the United States. We intend to issue a notice of proposed rulemaking (NPRM) later in 2001 to amend our procedural regulations on standards enforcement and defect investigation, reporting requirements, and recordkeeping, on the basis of comments we receive in response to this ANPRM.

DATES: Comment closing date: Comments must be received on or before March 23, 2001.

ADDRESSES: All comments on this notice should refer to the docket and notice number set forth above and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. The docket room hours are from 9:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, contact George Person, Office of Defects Investigation, NHTSA (phone: 202–366–5210). For legal issues, contact Taylor Vinson, Office of Chief Counsel, NHTSA (phone: 202–366–5263).

SUPPLEMENTARY INFORMATION:

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