have limited personnel and financial resources. The exceptions for small business provides them with some relief of any recordkeeping and reporting costs.

31. As noted, the ACA asks for a generally ''streamlined'' FCC Form 395–A. As explained in the *3R&O,* the Commission's annual employment reports must follow section 634 of the Act and the standards issued by the Office of Management and Budget for classifying data on race and ethnicity.

Report to Congress

32. The Commission will send a copy of the *3R&O,* including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A). In addition, the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *3R&O,* including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the 3R&O and FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

Ordering Clauses

33. Pursuant to the authority contained in sections 1, 4(i), 4(k), 303(r), 334, 403, and 634 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(k), 303(r), 334, 403, and 554, this *3R&O is adopted*, and part 73 and 76 of the Commission's rules *are amended.*

34. The new rules and amendments set forth, and the information collection requirements contained in these rules, will be submitted to OMB for approval and are not effective until approved by OMB. The Commission will publish a notice in the **Federal Register** announcing the effective date following OMB approval.

List of Subjects in 47 CFR Parts 73 and 76

Cable television, Equal employment opportunity.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 73 and 76 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

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

■ 2. Section 73.3612 is revised to read as follows:

§ 73.3612 Annual employment report.

Each licensee or permittee of a commercially or noncommercially operated AM, FM, TV, Class A TV or International Broadcast station with five or more full-time employees shall file an annual employment report with the FCC on or before September 30 of each year on FCC Form 395–B.

Note to § 73.3612: Data concerning the gender, race and ethnicity of a broadcast station's workforce collected in the annual employment report will be used only for purposes of analyzing industry trends and making reports to Congress. Such data will not be used for the purpose of assessing any aspect of an individual broadcast licensee's compliance with the equal employment opportunity requirements of § 73.2080.

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 3. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302a, 303, 303a, 307, 308, 309, 312, 317, 325, 338, 339, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, and 573.

■ 4. Section 76.1802 is revised to read as follows:

§ 76.1802 Annual employment report.

Each employment unit with six or more full-time employees shall file an annual employment report on FCC Form 395–A with the Commission on or before September 30 of each year.

Note to § 76.1802: Data concerning the gender, race and ethnicity of an employment unit's workforce collected in the annual employment report will be used only for purposes of analyzing industry trends and making reports to Congress. Such data will not be used for the purpose of assessing any aspect of an individual employment unit's compliance with our EEO rules for multi-channel video program distributors.

[FR Doc. 04–14120 Filed 6–22–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 573 and 577

[Docket No. NHTSA–2004–18341]

RIN 2127–AG27

Defect and Noncompliance Responsibility and Reports, Defect and Noncompliance Notification

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) is amending several provisions of its regulations pertaining to its enforcement of those sections of 49 U.S.C. chapter 301 that require manufacturers of motor vehicles and items of motor vehicle equipment to notify their dealers and distributors when they or NHTSA decide that vehicles or equipment items contain a defect related to motor vehicle safety or do not comply with a Federal motor vehicle safety standard. The amendment requires manufacturers to furnish dealers and distributors with notification of a safety-related defect or noncompliance in accordance with a schedule that is to be submitted to the agency with the manufacturer's defect or noncompliance information report required by 49 CFR 573.6. The notification to dealers must be provided within a reasonable time after the manufacturer decides that the defect or noncompliance exists. If the agency finds that the public interest requires dealers and distributors to be notified at an earlier date than that proposed by the manufacturer, the manufacturer must provide the required notification in accordance with the agency's directive. The amendment also sets forth the required content of the dealer notification and the manner in which such notification is to be accomplished.

DATES: *Effective date:* The amendments made by this final rule are effective on October 21, 2004.

Any petitions for reconsideration must be received by NHTSA no later than August 9, 2004.

ADDRESSES: ''Petitions for Reconsideration.'' Any petitions for reconsideration must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Administrator, National Highway Traffic Safety Administration (NHTSA), 400 Seventh Street, SW., Washington, DC 20590. It is requested, but not

required, that two copies of the petition be provided.

FOR FURTHER INFORMATION CONTACT: Mr. George Person, Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Room 5319, Washington, DC 20590. Telephone: (202) 366–5210.

SUPPLEMENTARY INFORMATION:

Background

On September 27, 1993, NHTSA published a Notice of Proposed Rulemaking (NPRM) proposing several amendments to its regulations (49 CFR parts 573 and 577) implementing the provisions of 49 U.S.C. chapter 301 concerning manufacturers' obligations to provide notification and remedy without charge for motor vehicles and items of motor vehicle equipment found to contain a defect related to motor vehicle safety or a noncompliance with a Federal motor vehicle safety standard (58 FR 50314). On April 5, 1995, we issued a final rule addressing most aspects of that NPRM (60 FR 17254), and on January 4, 1996, we amended several provisions of that final rule after receiving petitions for reconsideration (61 FR 274). However, we decided to delay issuance of the final rule on the subject of dealer notification because we had not resolved all the issues raised by the comments on that subject that were submitted in response to the NPRM. On May 19, 1999, we issued a supplemental notice of proposed rulemaking (SNPRM) in order to seek additional public comment on several significant proposed revisions to the proposal that we had originally set out in the NPRM (64 FR 27227).

We had originally proposed to require manufacturers to notify their dealers and distributors [1] of safety defects and noncompliances that had been determined to exist in their products within five days after notifying the agency of the determination pursuant to 49 CFR part 573. In the SNPRM, however, rather than specify a particular time period, we proposed to require manufacturers to notify dealers in accordance with a schedule that is to be submitted to the agency with the manufacturer's defect or noncompliance information report required by 49 CFR 573.6 (this section was codified as § 573.5 prior to August 9, 2002). Under the SNPRM, if the agency were to find that the public interest requires dealers to be notified at an earlier date than that proposed by the manufacturer, the manufacturer would have to notify its dealers in accordance with the agency's directive. The SNPRM also proposed to require that the dealer notification contain certain information (including language about manufacturer and dealer obligations under 49 U.S.C. 30116 and 30120(i)) and described the manner in which such notification is to be accomplished. We received comments on the SNPRM from the Alliance of Automobile Manufacturers (AAM)/ Association of International Automobile Manufacturers (AIAM); Atwood Mobile Products (Atwood); Ford Motor Company (Ford); the Juvenile Products Manufacturers Association (JPMA); Meritor Automotive (Meritor); the Motor and Equipment Manufacturers Association (MEMA); the Motorcycle Industry Council (MIC); the National Automobile Dealers Association (NADA); the Recreational Vehicle Industry Association (RVIA); the Specialty Equipment Market Association (SEMA); and the Truck Manufacturer's Association (TMA).

We have fully considered the comments submitted in response to the SNPRM. In general, the commenters supported the revised approach taken in the SNPRM. We will discuss all relevant comments; however, to the extent that these comments repeated discussions of positions that we addressed in the SNPRM, we will not repeat our prior responses.

For the most part, the final rule adopted today follows the regulatory language proposed in the SNPRM and is based on the same rationale set forth in that Notice, which we incorporate here by reference. As described below, we have decided to make several revisions to the supplemental proposal on the basis of comments we received. We have also made a number of minor technical changes prompted by our own review, including changes to the ''Scope'' section of part 573. In addition, some of the section numbers have been changed to reflect other intervening amendments to parts 573 and 577.

Changes to the Supplemental Proposed Rule

Authority

The authority citations for part 573 and part 577 have been changed by adding a reference to 49 U.S.C. 30116 and by deleting the references to 49 U.S.C. 30112 and 30167.

Schedule for Dealer Notification in Part 573 Reports

Pursuant to 49 CFR part 573, manufacturers that have determined that a defect or noncompliance exists in their products must submit to NHTSA a report that contains certain specified information (part 573 report). Pursuant to § 573.6(c)(8)(ii), the part 573 report must include the estimated date on which the manufacturer will begin sending notifications to owners that a defect or noncompliance exists and that a remedy without charge will be available. Consistent with our revised approach to dealer notification, we are amending § 573.6(c)(8)(ii) to require manufacturers also to identify the date(s) on which they plan to notify their dealers and distributors of the defect or noncompliance. This will allow us to consider whether a manufacturer's proposed schedule for dealer notification is reasonable.

We are incorporating this requirement into paragraph (c)(8)(ii), rather than adding a new paragraph (c)(8)(iii) as we had proposed in the SNPRM, to avoid the need to add additional paragraphs addressing the duties of a manufacturer that files or plans to file a petition for an exemption from recall requirements on the basis that the defect or noncompliance is inconsequential to motor vehicle safety. Existing paragraphs (c)(8)(iii) and (iv) will apply to both owner and dealer notification.

As with other information required to be reported under part 573, if the manufacturer has not determined a schedule for dealer notification at the time that it submits its initial part 573 report, it must provide the information as soon as it is available. See § 573.6(b).

Lists of Notified Dealers and Distributors

In their comments on the SNPRM, AAM/AIAM, MIC, and JPMA recommended that we specify that manufacturers must maintain a list of the names and addresses of dealers and distributors to which a defect or noncompliance notification is sent for five years from the date the manufacturer submits a defect and noncompliance information report to the agency. In fact, § 573.8(c), which is applicable to equipment manufacturers, already contains such a five-year retention requirement. To apply the same responsibility to vehicle manufacturers, we are revising § 573.8(a), which currently requires vehicle manufacturers to maintain lists owner names and addresses. Of course,

[1] 49 U.S.C. 30118, 30119, and 30120 refer to notification to ''dealers,'' without referring to ''distributors.'' However, under 49 U.S.C. 30116, manufacturers of motor vehicles and motor vehicle equipment have certain responsibilities toward their distributors after it is determined that a product contains a safety-related defect or a noncompliance. Therefore, the notification requirements established by today's final rule will apply to both dealers and distributors. However, throughout the remainder of this preamble, we will refer to dealers and distributors as ''dealers,'' except where differentiation is required.

vehicle manufacturers already maintain lists of their dealers, so this will not impose any additional burden upon them.

Time and Manner of Notification

The time and manner of notification to dealers is addressed in a new paragraph (c) of § 577.7. As requested by AAM/AIAM, TMA, and Meritor, we revised proposed paragraph (c)(1) to require that the agency consider the views of the manufacturer when making a determination to require dealer notification on a specific date. The wording of this new requirement is comparable to that in subparagraph (a)(1) concerning notification of owners. Proposed subparagraph (c)(1) is also being modified to identify two additional factors that will be considered by the agency when deciding whether to require dealer notification on a specific date. These two factors are: (1) Availability of an interim remedial action by the owner and (2) the time frame in which the defect may manifest itself. AAM/AIAM recommended that these two factors, which were discussed in the preamble of the SNPRM, be included in the regulatory text.

We are revising proposed § 577.7(c)(2)(i) to identify examples of what will be considered to be verifiable electronic means of notification, such as receipts or logs from electronic mail or satellite distribution systems. AAM/AIAM and MIC recommended this change in order to clarify the meaning of verifiable electronic means. However, the examples referenced are not the only types of verifiable electronic means that would be permissible, since other technology that provides comparable information may become available.

Proposed § 577.7(c)(2)(ii) is being split into two subparagraphs, (c)(2)(ii) and (iii). The first sentence had proposed to require manufacturers of replacement equipment or tires to notify ''all retailers, dealers, and purchasers of such equipment for purposes of re-sale.'' SEMA and MEMA objected on the basis that this language indicated that manufacturers could be held responsible for assuring notification to each entity at every level of the distribution chain even though the manufacturer generally only has knowledge of the identity of its customers. These organizations also argued that such a requirement exceeded NHTSA's statutory authority. To address these concerns, new paragraph (c)(2)(ii) states that notification will only be required to dealers and distributors that are known to the manufacturer.

The second sentence of proposed paragraph (c)(2)(ii) (new paragraph (c)(2)(iii)) applies in those cases in which a manufacturer sold the recalled product to a central office of a retail network, such as an auto supply chain or a department store chain, which then distributed the product to its retail outlets. The new language, which will now apply to both vehicles and equipment, clarifies that the manufacturer will not have to notify each retail outlet individually, since notification to the central office will be deemed to be notice to all dealers and distributors within that group. It will be the responsibility of the purchaser (through its central purchasing office or otherwise) to assure that its retail outlets comply with all applicable statutory and regulatory requirements, such as the duty not to sell vehicles or items of equipment that are covered by a defect or noncompliance determination unless they have been remedied.

Several commenters objected to proposed § 577.7(c)(2)(iii), which addressed situations in which a manufacturer provides motor vehicles or motor vehicle equipment items to another entity, such as an independent distributor, which then provides them to independent dealers. The SNPRM proposed to allow the manufacturer to provide the required information to the distributors, ''if those distributors agree to transmit it to all applicable retail dealers within five additional working days.'' The proposed language expressly stated that the manufacturer would retain the legal responsibility for assuring that its dealers received the information in a timely manner.

AAM/AIAM, Atwood, JPMA, MEMA, and SEMA requested that the agency better define the extent to which the manufacturer is legally responsible for the actions of its dealers and distributors in this context. Several commenters were concerned that manufacturers might be held legally responsible for the actions of distributors at the third or fourth distribution stage that are independent entities over which the manufacturer has no effective control.

In recognition of these concerns, we are taking a somewhat different approach in this final rule. Under new § 577.7(c)(2)(iv), in cases in which a manufacturer sells or arranges for the delivery of vehicles or equipment to or through independent distributors that subsequently sell or arrange for the delivery of the vehicles or equipment items to independent retail outlets, the manufacturer will be required to provide the distributors with the required notification. However, in addition to the information included in standard notifications to dealers, the notification to such distributors must also instruct the distributors to provide copies of the notification to all entities further along the distribution chain within five working days of its receipt. (As a practical matter, this requirement would only affect equipment recalls, since vehicle manufacturers generally communicate directly with their dealers rather than through a distribution network.) We expect that the distributors will be able to verify that they transmitted the notifications to the appropriate entities with which they do business. However, manufacturers would not have the legal responsibility to assure that each lower tier, independent dealer is notified.

We recognize that under this approach it is possible that some lower tier, independent dealers may not receive notification of defects or noncompliances, particularly if there is more than one level of independent distributors. If we become aware of widespread inadequate notification to dealers by distributors, we may revisit this aspect of the regulation.

Content of Dealer Notification

Proposed § 577.11, as revised, will now be designated as § 577.13 because of intervening amendments to part 577. We are revising proposed subsections (a) and (d) to clarify that the section applies to notifications to distributors as well as to dealers. This will conform this section to other sections of this final rule.

Proposed § 577.11(b) would have required language reminding dealers that they are prohibited (by 49 U.S.C. 30120(i)) from selling or leasing new motor vehicles or new motor vehicle equipment items until the defect or noncompliance is remedied. TMA and MEMA recommended that this language be changed to permit the sale or lease of recalled vehicles and motor vehicle equipment items, but prohibit the delivery of the vehicle or equipment item to the owner or lessee until the recall work has been completed. The agency is adopting this recommendation in new § 577.13(b), which is consistent with the language of section 30120(i).

We are making one additional minor change to this subsection to reflect 49 U.S.C. 30120(j), which was enacted as part of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act in November 2000, after issuance of the SNPRM. Section 30120(j), which largely parallels, and in part overlaps, section 30120(i), prohibits the sale or lease of all motor vehicle equipment (including a

tire) that has been determined to contain a defect or noncompliance under section 30118 unless the defect or noncompliance has been remedied before delivery under the sale or lease. See 49 CFR 577.12. Thus, the language required by § 577.13(b) will apply to all equipment (new and used), but only to new motor vehicles.

Proposed § 577.11(c) would have helped to implement 49 U.S.C. 30116 by requiring manufacturers to offer to repurchase defective or noncompliant motor vehicle equipment items that remained in a dealer's or a distributor's inventory under the terms specified in section 30116(a)(1). The proposal was not intended to prevent manufacturers from negotiating alternative repurchase terms with their dealers. In accordance with the recommendation of AAM/AIAM the agency is modifying this section by adding wording that would permit the negotiation of alternative, mutually agreeable repurchase terms, with the listed repurchase terms serving as a minimum requirement in the absence of negotiated alternative repurchase terms.

MEMA and SEMA argued that proposed subsection (c) was overly restrictive in that it required repurchase of recalled equipment items in dealer inventory and did not allow the items to be repaired or replaced. However, this language accurately tracks the language of 49 U.S.C. 30116(a)(1). Section 30116(a)(2) allows manufacturers of *vehicles* to provide parts needed to repair defective or noncompliant vehicles in dealer or distributor inventory, but this repair option is clearly limited to vehicles. (For the reasons discussed in more detail below, we have decided that there is no need to address section 30116(a)(2) or section 30116(b) in this final rule.)

We are aware that 49 U.S.C. 30120(a)(1)(B) authorizes equipment manufacturers to remedy defects or noncompliances ''by repairing the equipment or replacing the equipment with identical or reasonably equivalent equipment.'' However, the primary application of section 30120 is to the remedy of items in the hands of retail purchasers. Given the specific language of section 30116(a)(1), we do not agree with the commenters' contention that the remedies authorized by section 30120(a)(1)(B) apply to equipment that remains in dealer or distributor inventory.

Comments to the SNPRM That Will Not Be Incorporated Into the Final Rule

As described below, we are not adopting several recommendations made by some commenters.

TMA and Meritor recommended that subparagraph (c)(1) of § 577.7, *Time and manner of notification,* be changed to specify a procedure for presenting the manufacturer's views concerning dealer notification on a specific date to the agency. Meritor also recommended that an appeal mechanism be established to challenge an adverse ruling by NHTSA concerning dealer notification. We do not believe that such a revision is needed. Based on past experience, we anticipate that there will be extraordinarily few occasions on which we will have to direct a manufacturer to accelerate its proposed schedule for dealer notification. In almost all previous cases in which we have concluded that dealer notification was warranted at a date earlier than originally planned by the manufacturer, the manufacturer has promptly agreed to immediately provide such notification to its dealers. However, in those rare cases in which there is a disagreement, we need the ability to act quickly without being encumbered by formalized procedures that would lengthen the process. The views of the manufacturer, if presented to the agency in a timely manner, will be fully considered.

MIC recommended that § 577.7(c)(2)(i) be changed to allow manufacturers to send notifications to dealers via first class mail. The statute (49 U.S.C. 30119(d)(4)) specifies that dealers are to be notified ''by certified mail or quicker means if available.'' While we have authorized the use of various means of notification, we have required that the manufacturer be able to verify that the notifications were sent to and received by each dealer. Since there is no way to verify receipt of first class mail, we have rejected this suggestion.

NADA recommended that proposed § 577.11(b) be expanded to include language informing dealers of the statutory right to reimbursement specified in 49 U.S.C. 30116(b). That provision requires that motor vehicle manufacturers reimburse motor vehicle dealers and distributors that install parts or equipment to remedy a defect or a noncompliance in a motor vehicle in dealer or distributor inventory for the reasonable value of the installation plus other amounts associated with delays in correcting the problem. As discussed above, new § 577.13 requires manufacturers of *motor vehicle equipment* to include language in the notification to their dealers that refers to the reimbursement provisions of section 30116(a)(1), primarily to assure that those dealers that might not be aware of their rights under that section (such as those dealers for whom motor vehicle equipment represents only a small portion of their retail sales) will be assured that they will not suffer any financial hardship by complying with the duty not to sell noncompliant or defective items. Otherwise, they might have a financial incentive to ignore their statutory obligations. We explained in the SNPRM that similar concerns do not apply to *vehicle* dealers, who are much more likely to be aware of their rights under section 30116. Moreover, with respect to the particular issue raised by NADA, all vehicle dealers are well aware of their right to be reimbursed by manufacturers for recall repair work.

Meritor offered four general criticisms of the SNPRM. Because each of these comments has previously been addressed in earlier rulemaking notices, our discussion of these comments will be brief. Meritor's first comment is that there is no need to regulate dealer notification, since the current system functions effectively. Meritor's second comment is that manufacturers are in a better position than NHTSA to determine the appropriate dealer notification date. We agree that in most cases the current dealer notification process has been effective and that the manufacturer is generally in the best position to determine an appropriate dealer notification date. However, there have been some instances in recent years in which safety considerations warranted immediate dealer notification and the recalling manufacturer would not cooperate with the agency. In such cases, we need the explicit authority to compel manufacturers to notify dealers on a specific date.

Meritor's third comment is that manufacturers and their dealers could be subject to severe financial hardships if NHTSA misjudges the need for early dealer notification. As previously stated, we intend to utilize our authority to accelerate dealer notification only in rare cases, and only after consultation with the manufacturer, so such ''misjudgments'' are unlikely. Meritor's fourth comment is that dealers may create their own home-made recall remedies to correct recalled vehicles in dealer inventory in order to be able to deliver these vehicles to a purchaser or lessee. We believe that this is highly unlikely. In general, dealers are not able to design remedies or to fabricate the necessary parts. And, if a dealer were to follow this course of action, it would face the possibility of manufacturer sanctions, as well as potential tort liability if the ''remedy'' did not function properly.

Rulemaking Analyses and Notices

1. Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures, and determined that it is not a ''significant regulatory action'' within the meaning of Sec. 3 of E.O. 12866 and is not ''significant'' within the meaning of the Department of Transportation regulatory policies and procedures.

Manufacturers are currently required by statute to notify their dealers and distributors of safety defects and noncompliances. 49 U.S.C. 30116, 30118(b) and (c), and 30119(d)(4). Dealer notification must be within a ''reasonable time.'' 49 U.S.C. 30119(c)(2). This final rule restates that requirement, adding only that in the event that NHTSA disagrees with the manufacturer's assessment of what time period is reasonable, the agency's determination will control.

The agency anticipates, based on past experience, that there will be few disagreements on this issue. In any event, an agency directive requiring a manufacturer to accelerate its dealer notification will not impose any additional costs directly on the manufacturer, since the notification would eventually have to be made anyway.

NHTSA recognizes that an embargo on dealer deliveries of defective or noncompliant vehicles following the receipt of a notification from a manufacturer can impose costs, and that these costs could be relatively high if many vehicles are affected or if there is a significant delay in developing and implementing a remedy for the defect or noncompliance. (This would not apply in the context of recalled equipment, since that equipment must be repurchased pursuant to 49 U.S.C. 30116(a)(1).) However, these costs would ultimately be borne by the manufacturers, either through contractual provisions or pursuant to 49 U.S.C. 30116(b), which requires manufacturers to provide, among other things, ''reasonable reimbursement of at least one percent a month of the price paid prorated from the date of notice of noncompliance or defect to the date the motor vehicle [is remedied].''

To the extent that agency actions pursuant to this rule impose additional costs, those costs would be outweighed by the safety benefit of ensuring that dealers do not deliver new motor vehicles or items of replacement equipment containing safety-related defects or noncompliances before the defect or noncompliance has been remedied, as required by 49 U.S.C. 30120(i) and (j). Moreover, any impacts are likely to be minimal, because manufacturers will have an incentive to develop and provide a remedy as soon as possible.

2. Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities.

The new regulatory requirements would apply directly only to manufacturers of motor vehicles and items of motor vehicle equipment that conduct safety recalls, which for the most part are not small businesses. Moreover, manufacturers are already required by statute to notify their dealers of defects and noncompliances in their products. In rare cases, manufacturers may be required to send notification to dealers earlier than the manufacturer had proposed. Since manufacturers will generally have all of the required information at the time the notification is required, such a requirement will not impose a significant burden on manufacturers.

As noted above, a notification could have an adverse effect on dealers, most of whom are small businesses, in that the dealers would be prohibited from delivering defective or noncompliant new vehicles or equipment items in their inventory until they have been remedied. However, for the reasons described above, the costs associated with such a delay would almost certainly be borne by the manufacturer. In any event, such costs are the result of requirements imposed by 49 U.S.C. 30120(i) and (j), not this rule. Moreover, any impacts are likely to be minimal, because manufacturers will have an incentive to develop and provide a remedy as soon as possible. Finally, any such impacts would be offset by the safety benefits associated with preventing the delivery of defective or noncompliant vehicles or equipment items.

3. National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, the agency has analyzed the environmental impacts of this rulemaking action and determined that implementation of this action would not have a significant impact on the quality of the human environment. The new notification requirements will not introduce any new or harmful matter into the environment.

4. Paperwork Reduction Act

This rule contains provisions which are considered to be information collection requirements as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320.

Pursuant to the Paperwork Reduction Act of 1995 (PRA), and OMB's regulation at 5 CFR 1320.5(b)(2), NHTSA will seek approval from OMB for an amendment to a previously approved information collection requirement (OMB control number 2127–0004).

Pursuant to the OMB regulations, the agency had issued a notice seeking public comment on the PRA burdens of the requirements that had been proposed in the original NPRM. See 62 FR 63598 (December 1, 1997). Since many of the provisions of the final rule are significantly different from those in the original NPRM, we have prepared and sent to the **Federal Register** another notice seeking comments on PRA burdens associated with the revised provisions.

5. Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and we have determined that the rulemaking does not have sufficient federalism implications under that order.

6. Unfunded Mandates Reform

This rule will not impose any unfunded mandates under the Unfunded Mandates Reform Act of 1995 or under Executive Order 12875. It does not result in costs of $100 million or more to either State, local or tribal governments, in the aggregate, or to the private sector; and is the least burdensome alternative that achieves the objective of the proposed rule.

7. Civil Justice Reform Act

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

List of Subjects

49 CFR Part 573

Defect and Noncompliance Responsibility and Reports.

49 CFR Part 577

Defect and Noncompliance Notification.

■ In consideration of the foregoing, parts 573 and 577 of title 49 of the Code of Federal Regulations are amended to read as follows:

PART 573—DEFECT AND NONCOMPLIANCE RESPONSIBILITY AND REPORTS

■ 1. The authority citation for part 573 is revised to read as follows:

Authority: 49 U.S.C. 30102, 30103, 30116–30121, 30166; delegation of authority at 49 CFR 1.50.

■ 2. Section 573.1 is revised to read as follows:

§ 573.1 Scope.

This part:

(a) Sets forth the responsibilities under 49 U.S.C. 30116–30121 of manufacturers of motor vehicles and motor vehicle equipment with respect to safety-related defects and noncompliances with Federal motor vehicle safety standards in motor vehicles and items of motor vehicle equipment; and

(b) Specifies requirements for—

(1) Manufacturers to maintain lists of owners, purchasers, dealers, and distributors notified of defective and noncomplying motor vehicles and motor vehicle original and replacement equipment,

(2) Reporting to the National Highway Traffic Safety Administration (NHTSA) defects in motor vehicles and motor vehicle equipment and noncompliances with motor vehicle safety standards prescribed under part 571 of this chapter, and

(3) Providing quarterly reports on defect and noncompliance notification campaigns.

■ 3. Section 573.6 is amended by revising paragraph (c)(8)(ii) to read as follows:

§ 573.6 Defect and noncompliance information report.

* * * * *

(c) * * *

(8) * * *

(ii) The estimated date(s) on which it will begin sending notifications to owners, and to dealers and distributors, that there is a safety-related defect or noncompliance and that a remedy without charge will be available to owners, and the estimated date(s) on which it will complete such notifications (if different from the beginning date). If a manufacturer subsequently becomes aware that either the beginning or the completion dates reported to the agency for any of the notifications will be delayed by more than two weeks, it shall promptly advise the agency of the delay and the reasons therefore, and furnish a revised estimate.

* * * * *

■ 4. Section 573.8 is amended by revising the title of the section and by revising paragraph (a) to read as follows:

§ 573.8 Lists of purchasers, owners, dealers, distributors, lessors, and lessees.

(a) Each manufacturer of motor vehicles shall maintain, in a form suitable for inspection such as computer information storage devices or card files, a list of the names and addresses of registered owners, as determined through State motor vehicle registration records or other sources or the most recent purchasers where the registered owners are unknown, for all vehicles involved in a defect or noncompliance notification campaign initiated after the effective date of this part. The list shall include the vehicle identification number for each vehicle and the status of remedy with respect to each vehicle, updated as of the end of each quarterly reporting period specified in § 573.7. Each vehicle manufacturer shall also maintain such a list of the names and addresses of all dealers and distributors to which a defect or noncompliance notification was sent. Each list shall be retained for 5 years, beginning with the date on which the defect or noncompliance information report required by § 573.6 is initially submitted to NHTSA.

* * * * *

PART 577—DEFECT AND NONCOMPLIANCE NOTIFICATION

■ 5. The authority citation for part 577 is revised to read as follows:

Authority: 49 U.S.C. 30102, 30103, 30116–30121, 30166; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

■ 6. Section 577.1 is revised to read as follows:

§ 577.1 Scope.

This part sets forth requirements for manufacturer notification to owners, dealers, and distributors of motor vehicles and items of replacement equipment about a defect that relates to motor vehicle safety or a noncompliance with a Federal motor vehicle safety standard.

■ 7. Section 577.2 is amended by adding a new sentence at the end to read as follows:

§ 577.2 Purpose.

* * * It is also to ensure that dealers and distributors of motor vehicles and items of replacement equipment are made aware of the existence of defects and noncompliances and of their rights and responsibilities with regard thereto.

■ 8. Section 577.7 is amended by adding new paragraphs (c) and (d) to read as follows:

§ 577.7 Time and manner of notification.

* * * * *

(c) The notification required by §577.13 shall—

(1) Be furnished within a reasonable time after the manufacturer decides that a defect that relates to motor vehicle safety or a noncompliance exists. The notification shall be provided in accordance with the schedule submitted to the agency pursuant to 49 CFR 573.6(c)(8)(ii), unless that schedule is modified by the Administrator. The Administrator may direct a manufacturer to send the notification to dealers on a specific date if the Administrator finds, after consideration of available information and the views of the manufacturer, that such notification is in the public interest. The factors that the Administrator may consider include, but are not limited to, the severity of the safety risk; the likelihood of occurrence of the defect or noncompliance; the time frame in which the defect or noncompliance may manifest itself; availability of an interim remedial action by the owner; whether a dealer inspection would identify vehicles or items of equipment that contain the defect or noncompliance; and the time frame in which the manufacturer plans to provide the notification and the remedy to its dealers.

(2) Be accomplished—

(i) In the case of a notification required to be sent by a motor vehicle manufacturer, by certified mail, verifiable electronic means such as receipts or logs from electronic mail or satellite distribution system, or other more expeditious and verifiable means to all dealers and distributors of the vehicles that contain the defect or noncompliance.

(ii) In the case of a notification required to be sent by a manufacturer of replacement equipment or tires, by certified mail, verifiable electronic means such as receipts or logs from electronic mail or satellite distribution system, or other more expeditious and verifiable means to all dealers and distributors of the product that are known to the manufacturer.

(iii) In those cases where a manufacturer of motor vehicles or items

of motor vehicle equipment provided the recalled product(s) to a group of dealers or distributors through a central office, notification to that central office will be deemed to be notice to all dealers and distributors within that group.

(iv) In those cases in which a manufacturer of motor vehicles or items of motor vehicle equipment has provided the recalled product to independent dealers through independent distributors, the manufacturer may satisfy its notification responsibilities by providing the information required under this section to its distributors. In such cases, the manufacturer must also instruct those distributors to transmit a copy of the manufacturer's notification to known distributors and retail outlets along the distribution chain within five working days from its receipt.

(d) Notwithstanding paragraph (c)(1) of this section, where the recall is being conducted pursuant to an order issued by the Administrator under 49 U.S.C. 30118(b), notification required by §577.13 shall be given on or before the date prescribed in the Administrator's order.

■ 9. A new § 577.13 is added to read as follows:

§ 577.13 Notification to dealers and distributors.

(a) The notification to dealers and distributors of a safety-related defect or a noncompliance with a Federal motor vehicle safety standard shall contain a clear statement that identifies the notification as being a safety recall notice, an identification of the motor vehicles or items of motor vehicle equipment covered by the recall, a description of the defect or noncompliance, and a brief evaluation of the risk to motor vehicle safety related to the defect or noncompliance. The notification shall also include a complete description of the recall remedy, and the estimated date on which the remedy will be available. Information required by this paragraph that is not available at the time of the original notification shall be provided as it becomes available.

(b) The notification shall also include an advisory stating that it is a violation of Federal law for a dealer to deliver a new motor vehicle or any new or used item of motor vehicle equipment (including a tire) covered by the notification under a sale or lease until the defect or noncompliance is remedied.

(c) For notifications of defects or noncompliances in items of motor vehicle equipment (including tires), the notification shall contain the manufacturer's offer to repurchase the items that remain in dealer or distributor inventory at the price paid by the dealer or distributor, plus transportation charges and reasonable reimbursement of at least one per cent a month, prorated from the date of notification to the date of repurchase, or as otherwise agreed to between the manufacturer and the dealer or distributor.

(d) The manufacturer shall, upon request of the Administrator, demonstrate that it sent the required notification to each of its known dealers and distributors and the date of such notification.

Issued on: June 16, 2004.

Jeffrey W. Runge,

Administrator.

[FR Doc. 04–14072 Filed 6–22–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 061604A]

Atlantic Highly Migratory Species; Bluefin Tuna Catch Limit Adjustments

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Adjustment of Angling and Charter/Headboat retention limits.

SUMMARY: NMFS adjusts the daily retention limit for the recreational fishery for Atlantic bluefin tuna (BFT) for the 2004 fishing year that began June 1, 2004, and ends May 31, 2005. Vessels permitted in the Atlantic Highly Migratory Species (HMS) Angling and the Atlantic HMS Charter/Headboat categories are eligible to land BFT under the BFT Angling category quota. The seasonal adjustments to the daily retention limit for BFT are specified in the **DATES** and **SUPPLEMENTARY INFORMATION** sections of this document. This action is being taken to enhance recreational BFT fishing opportunities for all geographic areas.

DATES: Effective June 21 through July 21, 2004, inclusive, the daily recreational retention limit, in all areas, for vessels permitted in the Atlantic HMS Angling category is two BFT per vessels per day/trip; for vessels permitted in the Atlantic HMS Charter/Headboat category the limit is three BFT per vessel per day/trip. These BFT must measure between 27 to less than 73 inches (69 to less than 185 cm) curved fork length (CFL).

Effective July 22, 2004 through May 31, 2005, inclusive, the daily recreational retention limit, in all areas, for all vessels fishing under the Angling category quota (i.e., both HMS Angling and Charter/Headboat vessels) is one BFT measuring 27 to less than 73 inches (69 to less than 185 cm) CFL per vessel per day/trip.

FOR FURTHER INFORMATION CONTACT: Brad McHale, (978) 281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Conservation and Management Act (16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among various domestic fishing categories.

Implementing regulations for the Atlantic tuna fisheries at § 635.23 set the daily retention limits for BFT and allow for adjustments to those limits in order to provide for maximum utilization of the quota over the longest period of time. NMFS may increase or decrease the retention limit for any size class BFT or change a vessel trip limit to an angler limit or vice versa. Such adjustments to the retention limits may be applied separately for persons aboard specific vessel types, such as private vessels, headboats and charter boats.

Angling Category Retention Limit

A recommendation of ICCAT requires that NMFS limit the catch of school BFT to no more than 8 percent by weight of the total domestic landings quota over each four-consecutive-year period. NMFS is implementing this ICCAT recommendation through annual and inseason adjustments to the school BFT retention limits, as necessary, and through the establishment of a school BFT reserve (64 FR 29090, May 28, 1999; 64 FR 29806, June 3, 1999).

The ICCAT recommendation allows for interannual adjustments for overharvests and underharvests, provided that the 8 percent landings limit is not exceeded over the applicable four consecutive-year period. The 2004 fishing year is the second year in the current accounting period. This multi-year block quota approach provides NMFS with the flexibility to enhance