that Ford and Chrysler provided reimbursement without any time limitation (and provided it before the statutory requirement to do so) further demonstrates that a desire to reduce the cost of potential reimbursements is not a factor that would cause manufacturers to improperly delay defect or noncompliance determinations.

5. Other Concerns

PC/CAS contend that as a result of its tying ''reasonable time'' to the agency's investigative processes, the reimbursement rule is unnecessarily complex and consumers will be unaware of the reference point for the reimbursement period. As we stated in the preamble to the final rule, we find it unnecessary for consumers to know how ''reasonable time'' is determined or have an intimate knowledge of NHTSA's investigative process. *See* 67 FR at 64052. Under the rule, manufacturers must provide the specific dates for the period of reimbursement in their reimbursement plans and provide appropriate notice to consumers. *See* 49 CFR 577.11(d)(3).

PC/CAS raise a narrow issue involving the start of the reimbursement period when the recall was based on a noncompliance with a FMVSS. They assert that tying reimbursement to the '' 'date of the [manufacturer's] initial test failure or the initial observation of a possible noncompliance' confers upon manufacturers virtually unrestricted leeway to define a reimbursement period, latitude that would likely be advantageous to manufacturers at the expense of consumers.''

As explained in the preamble to the NPRM, the observation of a possible noncompliance through testing or observation is a critical point in the initiation of a recall because, while not determinative of a noncompliance, it is the triggering event for OVSC or a manufacturer to conduct an investigation into the potential noncompliance. *See* 66 FR at 64078–64079; *see also* 67 FR at 64051–64052. Thus, we based the start of the reimbursement period for recalls related to noncompliances with a FMVSS on the date of the observation of an apparent failure. Before that time, consumers will have no reason to believe that a noncompliance exists, and will be unlikely to seek a remedy based on a concern about safety.

We also disagree that this provision will allow manufacturers to manipulate the reimbursement period. The date of the initial observation of a possible noncompliance is identified by the manufacturer in its Part 573 report to the agency (*see* 49 CFR 573.6(c)(7)) and is objectively determinable.

PC/CAS also argue that the agency could have adopted one of two bright-line rules to determine ''reasonable time'' in the rulemaking. PC/CAS first suggest a bright line derived from consumer law, *i.e.*, one based on the discovery rule. According to PC/CAS, the applicable period of time to seek recovery would run from the date the consumer discovers the defect recall remedy, which is the date of the receipt of the manufacturer's recall notice, and would continue until barred by a state law statute of limitations.

PC/CAS's petition itself reveals a basic flaw in its discovery rule approach, which renders it irrelevant. It states that it is based on consumer law; it does not purport to be based on Section 6(b) of the TREAD Act. The discovery rule approach is not in accord with the Act, because it does not provide for reimbursement of an owner or purchaser who incurred the cost of the remedy within a reasonable time in advance of the manufacturer's notification. It provides for reimbursement of costs incurred within an unlimited time before a manufacturer's notification. Also, this approach, which depends on state laws, which may differ or may not exist, does not produce a bright line.

The second, and better approach according to PC/CAS, is to adopt the 10-year/5-year time frame for a free repair provided by section 30120(g)(1) as the reasonable time frame for reimbursement. As discussed above, this is neither required by, nor consistent with, Section 6(b).

End Date for Reimbursement

PC/CAS also seek reconsideration of the end dates for the reimbursement period established in the final rule. This is apparently based on a misunderstanding of the rule.

The end date for the reimbursement period is the last date on which a consumer may incur costs that are eligible for reimbursement. We established such a date because Section 6(b) is designed to assure coverage of the reimbursement of remedy costs that are incurred in advance of the manufacturer's notification. Once a consumer receives a recall notice, any subsequent remedial action should be in accordance with the terms of the recall.[7]

PC/CAS seem to believe that the end date in the rule limits the period during which consumers may submit a claim for reimbursement for the costs of a pre-notification remedy. In fact, manufacturers are not allowed to establish a cut-off date for the submission of reimbursement claims. While in the NPRM we originally proposed to allow manufacturers to establish a cut-off date (*see* 66 FR at 64083), for reasons explained in the preamble to the final rule, we decided not to do so (*see* 67 FR at 64059).

Therefore, based upon the above, we are denying PC/CAS's petition for reconsideration of the reimbursement rule.

### III. Rulemaking Analyses

NHTSA set forth its rulemaking analyses in the preamble to the final rule. This supplements those statements. Under the Paperwork Reduction Act of 1995, and OMB's regulation at 5 CFR 1320.5(b)(2), on June 9, 2004, NHTSA received approval from OMB for an amendment to a previously-approved information collection requirement (OMB control number 2127–0004) that includes the reimbursement rule.

Issued on: August 9, 2004.

**Jeffrey W. Runge,**

*Administrator.*

[FR Doc. 04–18485 Filed 8–11–04; 8:45 am]

**BILLING CODE 4910–59–P**

[7] Pursuant to 49 U.S.C. 30120, the manufacturer initially determines the type of remedy available to the consumer after notification of a noncompliance or safety defect.

## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

## 49 CFR Part 579

**[Docket No. NHTSA 2001–8677; Notice 11]**

**RIN 2127–AI25**

## Reporting of Information and Documents About Potential Defects; Correction

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

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains a correction to the final early warning reporting rule, which initially was published on July 10, 2002 (67 FR 45822).

**DATES:** This final rule is effective August 12, 2004.

**FOR FURTHER INFORMATION CONTACT:** Jonathan White, Office of Defects Investigation, NHTSA (phone: 202–366–5226).

**SUPPLEMENTARY INFORMATION:** On July 10, 2002, NHTSA published a final rule

implementing the early warning reporting (EWR) provisions of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, 49 U.S.C. 30166(m) (67 FR 45822). At the same time, we reorganized 49 CFR part 573. As a result of that reorganization, 49 CFR 573.5 was renumbered as 49 CFR 573.6.

One section of the EWR regulations, 49 CFR 579.5(a), currently references 49 CFR 573.5(c)(9). In view of the reorganization of part 573, this reference was incorrect. The correct reference is 49 CFR 573.6(c)(9) because, as noted above, section 573.5 was renumbered as section 573.6 in 2002.

Today's amendment corrects this error.

**List of Subjects in 49 CFR Part 579**

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

■ Accordingly, 49 CFR part 579 is corrected by making the following correcting amendment.

## PART 579—REPORTING OF INFORMATION AND COMMUNICATIONS ABOUT POTENTIAL DEFECTS

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

**Authority:** Sec. 3, Pub. L. 106–414, 114 Stat. 1800 (49 U.S.C. 30102–103, 30112, 30117–121, 30166–167); delegation of authority at 49 CFR 1.50.

### Subpart A—General

■ 2. Revise paragraph (a) of § 579.5 to read as follows:

**§ 579.5 Notices, bulletins, customer satisfaction campaigns, consumer advisories, and other communications.**

(a) Each manufacturer shall furnish to NHTSA a copy of all notices, bulletins, and other communications (including those transmitted by computer, telefax, or other electronic means and including warranty and policy extension communiques and product improvement bulletins) other than those required to be submitted pursuant to § 573.6(c)(9) of this chapter, sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser, in the United States, regarding any defect in its vehicles or items of equipment (including any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications), whether or not such defect is safety-related.

* * * * *

Issued on: August 6, 2004.

**Kenneth N. Weinstein,**

*Associate Administrator for Enforcement.*

[FR Doc. 04–18353 Filed 8–11–04; 8:45 am]

BILLING CODE 4910–59–P