

TC-5

Information Kit on TREAD Act Reporting

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Phone: (248) 358-3570 • Fax: (248) 358-3253

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FOREWORD

This document was developed by the AIAG Materials Management TREAD Work Group to help motor vehicle and motor vehicle equipment manufacturers clarify some of the key milestones, deliverables and action steps for achieving the objectives of the Transportation Recall Enhancement, Accountability and Documentation (TREAD) Act. Specifically, this paper has been designed to serve only as an educational reference for companies to use as they align the roles and responsibilities of their people, processes and systems with the National Highway Traffic Safety Administration (NHTSA's) Early Warning Reporting requirements.

For additional information regarding TREAD Act legislation and early warning reporting requirements, there are a number of online resources available.

The TREAD Act	http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_bills&docid=f:h5164enr.txt.pdf
Early Warning Reporting Provisions of the TREAD Act Final Rule:	http://dmses.dot.gov/docimages/pdf82/178915_web.pdf
Notice 4 Amendments to the Final Rule	http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/pdf/03-9199.pdf
Notice 5 Amendments to the Final Rule	http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/pdf/03-14702.pdf
Notice 6 Amendments to the Final Rule	http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/pdf/03-14703.pdf
NHTSA Early Warning Reporting Requirements:	http://www-odi.nhtsa.dot.gov/ewr/ewr.cfm
Foreign Recall Reporting Rule	http://www.nhtsa.dot.gov/cars/rules/rulings/Tread/MileStones/67FR63295DefectsinForeignCountriesfinalrule.htm
AIAG Web Site:	http://www.aiag.org

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This document is intended to be informational only, and is not intended as legal or compliance advice. It cannot repeat all of the qualifications and exceptions contained in the TREAD Act rules relating to the specific facts of an individual manufacturer. Manufacturers should read and understand the TREAD Act Reporting Rule, (49 CFR 579), and consult a qualified attorney for any interpretation as to the specific reporting requirements applicable to them.

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Dean Arnold	IQS
Niran Audimoolam	ArvinMeritor, Inc.
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John Druskinis	Avery Dennison
Dawn Dunn	Citation Corporation
Marianne Grant	Syncata Corporation
Bill Hoffman	Intermec Technologies Corporation
Gayla Houser	Miller, Canfield, Paddock and Stone, P.L.C.
Don Jahncke	Ford Motor Company
Robert W. Jansen III *	VIA Information Tools
Lyndon Lie	General Motors
Michael McSunas	Chambliss, Bahner & Stophel, P.C.
Kevin Mixer	Syncata Corporation
Forrest Morgeson	Telesis Technologies, Inc.
Don Myers	Haldex Brake Products
Stephen Ott	Miller, Canfield, Paddock and Stone, P.L.C.
Joe Reiss	General Motors
Kerry Sarder	Harley-Davidson Motor Company
Stephen E. Selander	Warner Norcross & Judd, LLC
Ed Weber	ToolWorx Information Products
Richard Weber	Elesys North America, Inc.
Brian Westenberg	Miller, Canfield, Paddock and Stone, P.L.C.

* Chairperson

** Vice-Chairperson and Document Manager

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EXECUTIVE SUMMARY

Due to a series of automotive related safety issues, the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act was enacted on November 1, 2000. Senator John McCain (R-Arizona) drafted the original TREAD Act. Representative Billy Tauzin (R-Louisiana) drafted the House version of the Bill. While the acronym (TREAD) suggests an exclusive focus on tires, its influence spans a much broader spectrum.

NHTSA derives its authority for its safety standards and most of its regulations, including those governing recalls and the certification of vehicles and equipment, from the Vehicle Safety Act, which was originally enacted in 1966 and, recodified in 1994. The TREAD Act enhances NHTSA's powers in a number of significant ways.

For example, the Act increases civil penalties for a failure to perform a required act to \$5,000 per day, up to \$15,000,000 for a series of related violations. Criminal penalties for those companies that knowingly mislead the Secretary of Transportation about safety defects that cause an injury or death can result in a fine and/or imprisonment up to 15 years.

The TREAD Act give NHTSA the power to require Manufacturers of Motor Vehicles (MMVs) or Replacement Equipment Manufacturers (REMs) to accelerate their programs for remedying a defect or noncompliance if there is a serious injury or death. The MMVs and REMs must also reimburse owners who have incurred costs for remedy prior to being notified of a recall by the manufacturer. In addition, the TREAD Act prohibits the sale of motor vehicle equipment (including a tire), for installation on a motor vehicle if the equipment is the subject of a defect or noncompliance recall that has not been performed. The Act also requires improved information on tire labeling and rollover testing, and improved tire safety and child restraint standards.

The TREAD Act contains a number of provisions requiring motor vehicle manufacturers and all motor vehicle equipment manufacturers to periodically report to NHTSA. Specifically, this document focuses on these reporting requirements:

- a wide variety of information that could indicate the existence of a potential safety defect;
- all foreign safety recalls and other safety campaigns; and
- all customer satisfaction campaigns, consumer advisories, recalls and other similar activities.

The Early Warning Reporting (EWR) data requirements will have a significant impact on all vehicle manufacturers' and many suppliers' data reporting processes and systems. Not only is it important for vehicle manufacturers and suppliers to understand the TREAD Act reporting requirements, but it is also important to quickly and cost-effectively comply with them.

Many companies also conduct their day-to-day operations by following such standards as ISO, QS or TS. While much time, effort and cost has gone into the implementation of these standards, compliance with them does NOT ensure compliance with the TREAD Act. Although there may be many similarities, there are a significant number of differences between quality certification requirements and TREAD Act legal requirements. Accountability and Documentation, two of the main concepts that NHTSA is enforcing with this Act, go far beyond the requirements of quality standards.

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1.0 INTRODUCTION

On November 1, 2000, President Clinton signed the Transportation Recall Enhancement, Accountability and Documentation Act, better known as “The TREAD Act.” While the TREAD Act covers numerous areas, one critical area addressed by the Act is “Early Warning Reporting Requirements.” Although the specific EWR Requirements vary between vehicle and motor vehicle equipment manufacturers, the TREAD Act applies to all motor vehicle and motor vehicle equipment manufacturers. It covers all motor vehicles and motor vehicle equipment that have been offered for sale, sold, or leased in the U.S. by the manufacturer and identical or substantially similar vehicles and equipment that have been offered for sale, sold or leased in a foreign country by the manufacturer. “Manufacturer” is broadly defined to include any parent corporation, any subsidiary or affiliate of the manufacturer, or any subsidiary or affiliate of any parent corporation.

Compliance with the EWR Requirements by the fabricating manufacturer, the importer, the brand name owner, or a parent or U.S. subsidiary of such fabricator, importer, or brand name owner of the motor vehicle or motor vehicle equipment, shall be considered compliance by all persons. However, **both the vehicle manufacturer and the Original Equipment Manufacturer (OEM) MUST report information on all deaths** for which they have received claims or notices in the U.S. or claims only in foreign countries. While NHTSA recognizes the possibility of some redundancy in reporting deaths (i.e., that an incident involving death could be reported by a vehicle manufacturer and an OEM supplier), they are willing to have this redundancy in order to ensure that all the available information that is required on death incidents are reported.

To simplify its explanation of the TREAD Early Warning Reporting Requirements, NHTSA has divided motor vehicle and motor vehicle equipment manufacturers into two groups **Group 1** and **Group 2**. NHTSA is requiring the **Group 1** manufacturers to supply much more early warning information than the **Group 2** manufacturers. To illustrate this distinction, a breakdown of the two groups is shown below.

1.1 Group 1

This group consists of manufacturers of vehicles that manufactured for sale, imported, offered for sale, sold, or leased 500 or more vehicles in a category, outlined in the paragraph below, in the United States in the reporting year or either of the two prior calendar years; and all manufacturers of child restraint systems and tires.

Group 1-vehicle manufacturers must report separately on four categories of vehicles:

- light vehicles
- medium-heavy vehicles, (including all buses)
- trailers
- motorcycles

For any vehicle category that manufacture fewer than 500 vehicles, the **Group 1** manufacturer would report under **Group 2** reporting requirements for that category.

1.2 Group 2

This group consists of manufacturers of motor vehicles that manufactured for sale, imported, offered for sale, sold, or leased fewer than 500 vehicles in any category and manufacturers of motor vehicle equipment – other than child restraints and tires.

Group 2 includes:

- Manufacturers of Equipment that is installed in or on a motor vehicle at the time of its delivery to a dealer or distributor for distribution. (These manufacturers are considered OEMs under the regulations).
- Manufacturers of Equipment that is installed by the dealer or distributor with the express authorization of the Manufacturer of the Motor Vehicle, (These manufacturers are also considered OEMs under the regulation).
- Manufacturers of Replacement Equipment including:
 - Equipment intended to replace original equipment
 - Accessory equipment
 - Off-vehicle equipment (such as jacks)

(These manufacturers are considered REMs under the regulations)

The following table shows key dates for TREAD Act reporting for 2003 and 2004. Quarterly reports for 2005 and beyond are due 30 days after the end of the reporting period. **NOTE: These dates are subject to change based upon NHTSA rulings.**

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Key Dates

Date	What's Occurring	Information Kit Section
Foreign Recall Reports	Reports to NHTSA within 5 days of decision to recall identical or "substantially similar" vehicles in a foreign country	4.0
December 12, 2002	Manufacturers should have reported any previously unreported foreign safety campaigns or recalls where the decision by the manufacturer or receipt of written notification of a government determination occurred between November 1, 2000 and November 12, 2002	4.0
February 27, 2003	Annual list of "substantially similar" foreign motor vehicles for 2003 due to NHTSA	
July 1, 2003	First Quarterly 2003 Reporting Period Begins (third quarter 2003)	3.1
July 7, 2003	First Monthly Submission of Documents under §579.5(b) is due. Note: Companies should have been providing documents under §579.5(a), on a monthly basis, since before the TREAD Act was passed.	2.0
September 30, 2003	First Quarterly 2003 Report Period Ends	
October 1, 2003	Second Quarterly 2003 Reporting Period Begins (fourth quarter 2003)	
November 1, 2003	Since the first required EWR is due <u>no later than</u> December 1, then November 1 is the last possible date for the manufacturer to, in writing: ○ Provide contact information ○ Request a reporting ID and Password ○ Request approval for graphic compression protocol (e.g. .jpg, .tif, .pdf) If a company chooses to file the EWR early, it needs to request its reporting ID and password <u>at least</u> 30 days prior to submitting the report.	3.3.2
November 3, 2003	Annual list of "substantially similar" foreign motor vehicles due to NHTSA.	4.0
December 1, 2003	First Quarterly 2003 Reports Due to NHTSA	3.1
December 31, 2003	Second Quarterly Reporting Period Ends	
December 31, 2003	TREAD Historical Report Due (Group 1 Mfrs Only) Note: NHTSA may move this date to January 15, 2004	3.2
January 1, 2004	First Quarterly 2004 Reporting Period Begins. Beginning of first quarter for which copies of field reports are required for Group 1 manufacturers, except tires.	
March 1, 2004	Second Quarterly 2003 Reports Due to NHTSA	3.1
March 31, 2004	First Quarterly 2004 Reporting Period Ends	
April 1, 2004	Second Quarterly 2004 Reporting Period Begins	
June 1, 2004	First Quarterly 2004 Reports Due.	3.1

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Date	What's Occurring	Information Kit Section
June 30, 2004	Second Quarterly 2004 Reporting Period Ends.	
July 1, 2004	Third Quarterly 2004 Reporting Period Begins. Copies of first quarter field reports due.	3.1
July 31, 2004	Second Quarterly 2004 Reports Due	
August 31, 2004	Copies of second quarter field reports due.	3.1
September 30, 2004	Third Quarterly 2004 Reporting Period Ends	
October 1, 2004	Fourth Quarterly Reporting Period Begins	
October 31, 2004	Third Quarterly 2004 Reports Due	3.1
November 2, 2004	Annual list of "substantially similar" foreign motor vehicles due to NHTSA	4.0
November 30, 2004	Copies of third quarter field reports due.	3.1
December 31, 2004	Fourth Quarterly 2004 Reporting Period Ends	
January 1, 2005	First Quarterly 2005 Reporting Period Begins	
January 31, 2005	Fourth Quarterly 2004 Reports Due	3.1
March 1, 2005	Copies of fourth quarter field reports due.	3.1
Quarterly reports for 2005 and beyond are due 30 days after the end of the reporting period.		

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2.0 MONTHLY REPORTING REQUIREMENTS

NHTSA requires all manufacturers of motor vehicles and motor vehicle equipment to submit a variety of data regarding any defects in their vehicles or items of equipment on a monthly basis. These data must contain information about any known defect, regardless of whether the defect was safety related or not. Specifically, these monthly reporting requirements include, but are not limited to, the information contained in:

- 49 CFR 579.5: Notices, bulletins, customer satisfaction campaigns, consumer advisories, and other reports. These reports MUST be filed within 5 working days after the end of the month in which the communication was issued. NHTSA will accept hardcopies of consumer advisories, recalls, and activities involving the repair or replacement of vehicles and equipment and specified field reports.

§579.5 (a) is not a new reporting responsibility. This previously was 49 CFR 573.8. The final rule moved the Monthly Reporting requirements to §579.5 (a) and deleted them from §573.8.

§579.5 (a) requires a manufacturer to provide a copy of all notices, bulletins and other communications, other than those required under §573.5 (c)(9),

- Sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner or purchaser.
- In the U.S.
- Regarding any defect in its vehicles or items of equipment, whether or not such defect is safety related.
- Defect includes “any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications.”

§579.5 (b) is a new reporting responsibility. It requires a manufacturer to supply NHTSA with a copy of each communication relating to a customer satisfaction campaign, consumer advisory, recall, or other safety activity involving the repair or replacement of motor vehicles or motor vehicle equipment,

- That the manufacturer issued to or made available to, more than one dealer distributor, lessor, lessee, other manufacturer, owner, or purchaser
- In the U.S.

§579.6 physically send notices, bulletins, customer satisfaction campaigns, consumer advisories, and other communications required under §579.5 to:

- Associate Administrator for Enforcement
National Highway Traffic Safety Administration (NHTSA)
400 7th Street, SW.
Washington, D.C. 20590

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3.0 EARLY WARNING REPORTING REQUIREMENTS

In addition to monthly reporting requirements, NHTSA also requires certain vehicle and equipment manufacturers to submit quarterly and one-time historical reports for vehicles and equipment that are produced and sold in the U.S. or those substantially similar to products sold in the U.S.

NHTSA has contracted with the Volpe Transportation Center to develop a database (called Artemis) to handle all data NHTSA receives that may relate to defects and/or non-compliances. This includes the EWR data. Transmissions of the EWR will be made to Artemis. See section 3.4 for more details.

While both **Group 1** and **Group 2** manufacturers have to submit quarterly reports to NHTSA, only **Group 1** has to submit one-time historical reports.

3.1 QUARTERLY REPORTING REQUIREMENTS

3.1.1 GROUP 1 MANUFACTURERS

Motor Vehicle Manufacturers must report on vehicles for the current model year and the nine previous model years. Child Restraint Systems (CRS) and Tire Manufacturers must report on the current model year and the previous four model years.

NHTSA has divided the required information into two reports. The first report will provide aggregate numbers of production, property damage claims, consumer complaints, warranty adjustments, and the number of field reports. The second report will contain death/injury incident information regarding claims or notices of death or injury. The second report will NOT be accepted by NHTSA if it is filed prior to the first report.

Group 1 manufacturers will have to report on:

- **Group 1** manufacturers must also report year-to-date production volumes for current model year, and total volume produced for previous model years (nine previous years for Vehicle Manufacturers and four previous years for Tire manufacturers and manufacturers of CRS). Data is to be presented alphabetically by make, then alphabetically by model within make and chronologically by model year with model.

Group 1 manufacturers are required to report broken-down-by-system or component category:

- Number of **Property Damage** claims occurring in the U.S., regardless of the monetary amount (CRS manufacturers excluded);
- Number of **Consumer Complaints** in the U.S., includes complaints that are not “safety related” (CRS manufacturers report combined number of consumer complaints and warranty claims), (Tire manufacturers excluded);
- CRS manufacturers report combined number of consumer complaints and warranty claims:
 - Tire manufacturers excluded