

the rule and the agency's ability to conduct effective defect investigations would be undermined if we were to limit the record retention requirements to documents related to vehicles offered for sale in the United States.

Finally, we have reviewed our regulation on tire record keeping, 49 CFR Part 574. Section 574.6(d) and Section 574.10 require, respectively, tire manufacturers and motor vehicle manufacturers to maintain records of new tires they produce, and tires on new vehicles and the names and addresses of the first purchaser of the vehicles for not less than three years after the date of purchase. In light of the statutory amendment increasing the period from three to five years for free remedy of tires, and our conforming change to Part 576, we proposed adopting conforming amendments to Sections 574.6(d) and 574.10 under which these records will also be held for five years. There were no comments on the proposal, and Sections 574.6(d) and 574.10 are being adopted as proposed.

IX. Administrative Amendments to 49 CFR Part 573 To Accommodate Final Rules Implementing 49 U.S.C. Sections 30166(l) and (m)

For many years, we have required manufacturers to furnish us with a copy of all notices, bulletins, other communications including warranty and policy extension communiques and product improvement bulletins regarding defects, whether or not safety related (49 CFR 573.8). Currently, this requirement is located in our regulation on defect and noncompliance reporting, 49 CFR Part 573. Given our adoption of a new regulation, Part 579 *Reporting of Information and Communications About Potential Defects*, it seems appropriate to transfer the subject matter of Section 573.8 to Part 579. We proposed a Section 579.5(a) which is identical to Section 573.8. There were no comments on that proposal. The final rule achieves the transfer with the removal of Section 573.8 and the adoption of Section 579.5(a).

There currently exists a regulation at 49 CFR Part 579, *Defect and Noncompliance Responsibility* (2001). This regulation sets forth the responsibilities of various types of manufacturers for safety-related defects and noncompliances. As such, we feel that it would be appropriate for its specifications to be moved to Part 573. Accordingly, we are also amending Part 573 to incorporate these specifications as part of this rulemaking document. These are reflected in amendments to the scope, purpose, and definitions of Part 573, and the addition of the

substantive requirements of former Section 579.5 as a new Section 573.5, with other sections of Part 573 renumbered accordingly.

X. Rulemaking Analyses

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

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

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

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

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

We have considered the impact of this rulemaking under Executive Order 12866 the Department of Transportation's regulatory policies and procedures. This rulemaking has been determined to be significant by the Office of Management and Budget under Executive Order 12866 because of congressional interest. For the same reason, this action has also been determined to be significant under DOT's regulatory policies and procedures. A detailed discussion of impacts can be found in the Final Regulatory Evaluation (FRE) that the agency has prepared for this rulemaking and filed in the docket. This action does not impose requirements on the design or production of motor vehicles or motor vehicle equipment; it only requires reporting of information in the possession of the manufacturer.

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980 (5 U.S.C. § 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations and small governmental jurisdictions. Business entities are defined as small by standard industry classification for the purposes of receiving Small Business

Administration (SBA) assistance. One of the criteria for determining size, as stated in 13 CFR 121.201, is the number of employees in the firm; another criteria is annual receipts. For establishments primarily engaged in manufacturing or assembling automobiles, light and heavy duty trucks, buses, motor homes, new tires, or motor vehicle body manufacturing, the firm must have less than 1,000 employees to be classified as a small business. For establishments manufacturing many of the safety systems for which reporting will be required, steering, suspension, brakes, engines and power trains, or electrical system, or other motor vehicle parts not mentioned specifically in this paragraph, the firm must have less than 750 employees to be classified as a small business. For establishments manufacturing truck trailers, motorcycles, child restraints, lighting, motor vehicle seating and interior trim packages, alterers and second-stage manufacturers, or re-tread tires the firm must have less than 500 employees to be classified as a small business.

In Section VII.D, *Periodic Review*, above, we noted that there is some uncertainty about the number of small businesses who may be subject to reporting requirements beyond incidents involving death. Below we estimate that there could be as few as 15 or as many as hundreds that produce more than 500 vehicles. Because of the uncertainty, we are conducting a review of this industry to determine how many small businesses would be subject to more extensive reporting, which is expected to be completed by mid-2005.

There may also be some uncertainty about the impacts. In our view, the more extensive reporting required of these small businesses will not impose a cost burden on them that is significantly different from the burden on those producing fewer than 500 vehicles. The costs of reporting are directly related to the volume of reportable communications submitted to manufacturers. Even though some small businesses would be reporting on more categories of information and at more frequent intervals, the total number of reportable communications would probably be low enough that the company would be able to use its existing computers with commercially available software to prepare its reports, without having to invest in a new computer system. However, we will want to confirm this as part of our review.

Based on the best information available to us at this time, I certify that this final rule will not have a significant