

August 26, 2002

The Honorable Jeffrey Runge, MD
Administrator
National Highway Traffic Safety Administration
Docket Management, Room PL-401
400 Seventh Street, S.W.
Washington, D.C. 20590

Re: Final Rule Regarding Reporting of Information and Documents About Potential Defects: Retention of Records That Could Indicate Defects (67 Fed. Reg. 45824, July 10, 2002) Docket No. NHISA 2001-8677, Notice 3; and

Re: Request for Public Comment on Proposed Collection of Information (67 Fed. Reg. 42843, June 25, 2002) Docket No. NHISA 2001-8677, Notice 2

**PETITION FOR RECONSIDERATION SUBMITTED BY
THE RECREATION VEHICLE INDUSTRY ASSOCIATION**

Dear Dr. Runge:

The Recreation Vehicle Industry Association ("RVIA") hereby submits the following Petition for Reconsideration of the final rule adopted in the above-referenced notice ("Petition"). This final rule adopts regulations implementing early warning reporting requirements of the Transportation Recall Enhancement, Accountability, and Documentation ("TREAD") Act. This submission also will respond to NHISA's request for public comments on the recordkeeping and reporting burdens associated with these rules, pursuant to the Paperwork Reduction Act.

RVIA is a national trade association that represents manufacturers and component part suppliers of recreation vehicles ("RVs"), including motorhomes, travel trailers, fifth wheel trailers, folding camping trailers and truck campers, as well as conversion vehicle manufacturers who upfit vans, pickup trucks and sport utility vehicles ("CVs"). RVIA's members produce over 95% of all RVs (including 99% of all motorhomes) and approximately 90% of all CVs sold in the United States. At present, RVIA represents 38 motorhome manufacturers, with an estimated aggregate annual production of 49,200

motorhome units in 2001; 51 RMA members that manufacture RV trailers, with an estimated aggregate annual production of over 197,700 trailer units in 2001; and 43 CV members, with an estimated aggregate annual production of approximately 64,200 CV units in 2001. Finally, RMA also represents 248 supplier members that provide equipment, component parts and services to the RV industry.

In December 2001, NHTSA published in the Federal Register (66 FR 66190) a Notice of Proposed Rulemaking ("NPRM") for regulations implementing the TREAD early warning reporting requirements. In response to the NPRM RMA submitted extensive comments to NHTSA on February 4, 2002. These comments focused on several issues deemed to be of critical importance to the RV industry. Paramount among these concerns was RMA's explanation that the vast majority of RV and CV manufacturers were small business and small volume manufacturers. Consequently, it was also explained that the expected man-hour and financial costs that will result from RV and CV manufacturer attempts to comply with these regulations could likely be disproportionately burdensome. Because of this likelihood, along with the fact that the superior safety performance of recreation vehicles can be demonstrated using historical data from NHTSA itself, RMA suggested that it would be appropriate to only require RV and CV manufacturers to comply with the minimum reporting requirements for small volume producers. RMA also asked NHTSA to take into account the fact that RVs are complex multistage vehicles that carry different warranties from several different manufacturers, and may even have different model years applied to the chassis and coach portions of the vehicles, making it almost impossible for a final stage manufacturer to have access to all the data required for reporting. The typical RV has several different warrantors for chassis components (e.g. the chassis frame, the engine, the transmission, etc.) and several dozen warrantors of the many household components in the non-vehicular living quarters. Finally, RMA asked NHTSA to exclude the "house" portions of RVs from the systems required to be reported under the regulations since these functions were not vehicular and, we believe, outside the mandate of TREAD. Regrettably, none of RMA's requests were incorporated into the final rule.

The main body of this Petition will address two topics in detail that RMA believes NHTSA should reconsider. First, RMA requests reconsideration and urges that the threshold vehicle production number that qualifies a small volume manufacturer for reduced reporting requirements be changed from 500 to 5,000 vehicles. The 5,000 vehicle figure is consistent and in harmony with similar NHTSA and other federal regulations. Second, RMA requests reconsideration and urges that only RV vehicular systems be included in the data gathered pursuant to these regulations, and that the living facilities of RVs be specifically excluded. In addition, RMA restates and requests reconsideration of all of the comments it submitted on February 4, 2002 pursuant to the NPRM and endorses and joins the Petitions for Reconsideration

submitted by the Alliance of Automobile Manufacturers, the Association of International Automobile Manufacturers and other affected manufacturers.

RVIA requests reconsideration and urges that the threshold number of vehicles produced that qualifies a small volume manufacturer for reduced reporting requirements be set at 5,000 vehicles, to be consistent with similar NHTSA and other federal regulations.

RVIA respectfully requests reconsideration of the 500 vehicle production threshold, below which a small volume manufacturer would be subject to reduced reporting requirements under the regulations. RVIA contends that the appropriate threshold should instead be set at 5,000 vehicles produced, a number that is in harmony with similar NHTSA and other federal regulations. By setting this threshold at 5,000, NHTSA will not only be maintaining consistency with similar thresholds in Federal Motor Vehicle Safety Standards ("FMVSS"), but also with definitions of small volume manufactures that appear in regulations issued by the Environmental Protection Agency. A consistent threshold will allow small companies with limited resources to plan for proper compliance both now and in the future, and better demonstrates NHTSA's consideration of the disproportionate burden such regulations place upon small businesses.

In the past, NHTSA has traditionally tried to harmonize definitions that overlap different standards, regulations and/or CFR parts. The 500 vehicle per year limit for small or low volume manufacturers in this final rule is a clear departure from that position. For instance, small volume manufacturers have recently been defined as those producing less than 5,000 vehicles per year in the Advanced FMVSS 208 regulations, Section 14.1(d), and in the Preamble issued December 18, 2001 (66 Fed. Reg. No. 243 at 65400-65401). A similar 5,000 vehicle per year limit appears in the new FMVSS 138, issued June 5, 2002, at Section 7.6. This figure is also consistent with Environmental Protection Agency definitions, which use a definition of 15,000 vehicles per year for qualification as a small volume manufacturer, along with a subcategory of 5,000 vehicles per year for maximum exemption benefits (see 40 CFR Part 86.1845-04(b)(3) and Table S04-06). Establishing a 5,000 vehicle per year definition for small volume manufacturers in these final rules will maintain consistency and harmonization with current FMVSS and across agency boundaries.

The majority of RV and CV manufacturers are small businesses that produce a limited number of vehicles each year, compared with the huge automobile manufacturing corporations. There are vast differences in available resources between major motor vehicle manufacturers such as Ford Motor Company or General Motors Corporation and the small, specialized, low

volume manufacturers that typify the RV and CV industries. The major corporations have many tens of thousands of employees, produce hundreds of thousands of vehicles and gross billions of dollars in sales revenue. Almost all of the RV and CV manufacturers (with few exceptions) are low volume manufacturers and “small entities” as defined in the Small Business Administration’s Small Business Size Regulations, 13 CFR §121.201 (2000). No CV manufacturer has more than 500 employees and nearly all RV manufacturers have less than 1,000 employees, which are the limits prescribed by the SBA regulations. The largest CV manufacturer has fewer than 300 employees, while the smallest manufacturers employ less than 20. Although the largest RV manufacturers employ several thousand people, most companies have less than 500 employees, with the smallest manufacturer employing less than 35 people. Consequently, RV and CV manufacturers do not have anywhere close to the levels of personnel or monetary resources available for compliance with costly regulatory requirements. Moreover, such expenses cannot be distributed over millions of vehicles, as they can in the automotive industry.

These facts are contrary to NHTSA’s assertion in its Paperwork Reduction Act Submission to the Office of Management and Budget (July 1, 2002) that the information collection intended under this final rule will not have a significant impact on a substantial number of small entities.

It should also be noted that raising the small volume manufacturer trigger for reduced reporting requirements to 5,000 vehicles per year will not compromise vehicle safety. As noted in RVIA’s February 4, 2002 comments to the NPRM, NHTSA’s own Fatal Analysis Reporting System (“FARS”) data show RVs to be among the safest types of vehicles on the road, if not the safest. From 1996 through 1999, FARS data indicates that there were an average of 97 fatal accidents per year in the United States in which a motorhome was involved (these numbers include all accidents in which a motorhome was involved regardless of who was responsible for the accident; under these parameters, a drunk driver of a car who is killed when his car crosses over a yellowline and hits a motorhome head on would be included in the motorhome fatal accident category). This translates to .0011 fatalities for every 100,000 miles traveled in a motorhome.¹ In comparison, according to the FARS data, from 1996 through 1999 there were an average of 21,696 fatalities in which automobiles were involved. This translates to .00143 fatalities for every 100,000 miles traveled in an automobile.²

¹ Based on industry data, RVIA estimates that in each of the years 1996 through 1999 an average of 1,700,000 motorhomes were registered in the United States and were each driven an average of 5,400 miles per year. 1,700,000 (average number of motorhomes registered in the United States) multiplied by 5,400 (average number of miles each motorhome is driven each year) = 9,180,000,000 (total combined estimated miles driven by all motorhomes per year). Divide this into 97 (average number of fatalities per year) = .0000001056 (number of fatalities per mile). Multiply .0000001056 by 100,000 to determine the number of fatalities per 100,000 vehicle miles traveled = .0011.

² Based on Federal Highway Administration data, in each of the years from 1996 through 1999 an average of 130,936,907 cars were registered in the United States and were each driven an average of 11,627 miles per year. 130,936,907 (average number of cars registered in the United States) multiplied by 11,627 (average number of miles each car is driven each year) = 1,522,415,044,689 (total combined estimated miles driven

Similar statistics apply to RV towable products. According to the FARS data, from 1994 through 1999 there were an average of 441 fatal accidents per year in the United States in which a boat trailer, horse trailer, moving trailer, utility trailer or RV trailer was involved (FARS information does not differentiate among these types of trailers; it is certain that a great many of these accidents did not involve RV trailers). During that same period, FARS data shows there were an average of 3,885 fatal accidents per year in the United States involving all types of trailing units.

While admittedly there are fewer motorhomes and RV trailers on the road than there are passenger vehicles, the number of fatal accidents is remarkably low and evidences a regulatory system that is already working well for consumers and has demonstrably led to the production of safe vehicles by the RV industry.

For all of the reasons stated herein, RMA requests that the final rules be amended to define a small volume manufacturer as one producing up to 5,000 vehicles per year, and that the reduced early warning reporting requirements be applied to all such qualifying manufacturers. In the alternative, RMA requests that the 5,000 vehicle per year figure be explicitly applied to RV and CV manufacturers, and that such qualifying RV and CV manufacturers be subject to the reduced early warning reporting requirements. Such application of reduced requirements is justified by both the unduly burdensome affect these regulations will have on the predominantly small business RV and CV manufacturers and the proven track record of greater safety these vehicles have established vis-à-vis automobiles.

RVIA requests reconsideration and urges that only the vehicular systems of RVs be included in the data gathered pursuant to these regulations, and that the living facilities of RVs be specifically excluded.

RMA respectfully requests reconsideration of the omission in the final rules of any provisions explicitly limiting application of the early warning reporting requirements to the chassis and related automotive systems of motorhomes and travel trailers. As a consequence of this omission, these rules will require RV manufacturers to intermingle data on the non-vehicular living facilities of these units along with the relevant vehicular systems information. Such a result, we believe, is beyond the purview of the TREAD Act, will place additional and difficult reporting burdens on RV

by all cars per year). Divide this into 21,696 (average number of fatalities per year) = .0000001425 (number of fatalities per mile). Multiply .0000001425 by 100,000 to determine the number of fatalities per 100,000 vehicle miles traveled = .00143

manufacturers, and will be of little utility in providing early warning of possible automotive defects.

RVs are basically houses on wheels. Consequently, they contain a unique mixture of both vehicular and living quarters systems. These systems, although present in the motorhome or travel trailer, are not a part of the vehicular system and are not used in any vehicular function. The intent of the Tread Act is -- as it should be -- focused on the vehicular attributes of vehicles. RV housing amenities should not be covered and, we believe, were not intended by Congress to be covered by TREAD. Including coverage of living facility components in the early warning requirements is unduly burdensome on RV manufacturers, and also threatens to distract NHTSA from fulfilling its mission by unleashing a confusing flood of data about non-vehicular things such as kitchen appliances or large-screen televisions (that may overbroadly be included by NHTSA under the "electrical system" category as stated in the rules), shower stall walls ("structure"), 15 watt interior closet lights ("lighting"), cabinet door handles ("latches") and the like.

Of particular concern in this regard is the definition of "fire" that appears in the final rule (67 Fed. Reg. No. 132 at 45875):

"Fire means combustion or burning of any material in a vehicle as evidenced by, but not limited to, flame, smoke, sparks, or smoldering."

RMA acknowledges NHTSA's response to its original comment (67 Fed. Reg. No. 132 at 45832) in which the agency said, "We note that the Vehicle Safety Act provides that 'motor vehicle safety' includes 'nonoperational safety of a motor vehicle' 49 U.S.C. 30102(a)(8)." However, we believe that this interpretation of the term "nonoperational safety," when applied to RVs instead of more typical vehicles, is overly broad and exceeds the intent of TREAD. As an example, fires in the vehicle may be non-vehicular related. If an RV owner parks a motorhome at a campground where it remains stationary for two weeks, and the owner negligently causes a fire by spilling a little bacon grease in the RV one morning ... that incident, if it is reported to the dealer and/or manufacturer by the consumer, would count as a "vehicle" fire under the current rules. If the warming element of an automatic coffeemaker in a parked RV has a fault and releases a wisp of smolder before shutting down completely ... that incident would also count as a reportable vehicle fire. RMA believes these are household concerns, not vehicular problems. As such, their regulation should be, and is, covered by the Consumer Product Safety Commission. At the very least, the definition of "fire" as it appears in the final rule should be modified to correct this currently inherent problem of unintended overbreadth.

It is already recognized that manufacturers likely will incur significant time and expense in complying with the requirements related to automotive early warning reporting. If these obligations are combined with additional and unnecessary reporting requirements for RV household components, the resulting burden on RV manufacturers will be overwhelming. It is important to note that while NHTSA recognizes there are some 14,000 parts and components in a passenger car, this figure is dwarfed when added to the household parts and components found in the typical RV. Even if there was some value to NHTSA in receiving data on RV household components, a point very much in doubt, such reporting requirements would inevitably lead to double and triple (or more) reporting of incidents because of the number of warrantors for each vehicle. The typical RV has several dozen warranties from completely separate warrantors applicable to various household appliance items.

Many states recognize that motorhomes are unique vehicles and, as a result, take these unique characteristics reasonably into account under certain motor vehicle statutes. For example, in those states where motorhomes are included in the states' motor vehicle lemon laws, the overwhelming majority of these statutes only cover the motorhome chassis; the vehicle's living facilities are specifically excluded. RMA recommends that a similar approach be adopted for the early warning requirements by explicitly stating that the coverage of such requirements is limited to motorhome or trailer chassis and their related automotive systems.

To the extent issues are not specifically addressed in this Petition, RVIA restates and respectfully requests reconsideration of all of its comments as submitted on February 4, 2002 pursuant to the NPRM. In addition, RVIA hereby endorses and joins the Petitions for Reconsideration submitted by the Alliance of Automobile Manufacturers, the Association of International Automobile Manufacturers and other affected manufacturers.

Rather than provide NHTSA with redundant information, RMA has focused its Petition on those issues uniquely critical to the RV and CV industries, with particular emphasis on the small volume manufacturer and RV living quarters concerns. However, RMA also requests that NHTSA revisit and reconsider all of its comments that were submitted on February 4, 2002 pursuant to the NPRM. Finally, although RMA has not specifically commented on other issues such as the burden associated with the proposed one-time historic report, confidentiality concerns, or definitional ambiguities, on these topics and others RMA supports the comments and concerns raised by the Alliance of Automobile Manufacturers, the Association of International Automobile Manufacturers and other affected manufacturers.

RMA appreciates having this opportunity to participate in this rulemaking process to provide the foregoing comments on this final rule. Further, RMA respectfully requests that NHTSA take into consideration the issues here raised, the unique differences between RVs and virtually all other vehicles, and the disproportionate burden that small RV and CV businesses will experience in complying with the early warning requirements.

Sincerely,

Bruce A Hopkins
Vice President, Standards and Education