



Analysis of Companies' Technical Information for Vehicles and Equipment (ACTIVE) Program

(also commonly referred to as "Information Gathering")

Policy Paper

Informal consultation 2021



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Please refer to the email attachment for the Appendices:

Appendix A – Comparison between TC, NHTSA and Health Canada

Appendix B – Safety evaluations list (SEL)

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Appendix F – Descriptions / policy intent regarding the main concept

1. Introduction

The purpose of this document is to present the policy intent related to Transport Canada's new Analysis of Technical Information for Vehicles and Equipment (ACTIVE) program.

In 2018, Transport Canada (TC) introduced Bill S-2 and amendments to the Motor Vehicle Safety Act (MVSA), which included a new “information gathering” provision to strengthen Multimodal and Roads Safety’s enforcement and compliance regime to further protect the safety of Canadians.

ACTIVE’s policy intent is to improve TC’s knowledge of potential safety issues and defects, and to increase the automotive industry’s awareness and accountability for the safety performance of their products. It was determined that the best way to achieve our policy intent was through the development of regulations, which would also ensure that thorough consultations take place with the industry.

Amendments are proposed to the Motor Vehicle Safety Regulations (MVSR), the Motor Vehicle Tire Safety Regulations (MVTSR), and the Motor Vehicle Restraint Systems and Booster Seat Safety Regulations (RSSR). The restraint systems and booster seats are referred to as “child car seat” in this document.

Amendments would require companies to collect, maintain, and share with TC specific information in a prescribed manner about the safety performance of vehicles and equipment manufactured for sale, imported or sold in Canada, and of those identical or substantially similar to ones in Canada but sold in a foreign country.

1.1 Reference Documents

It is intended that the following reference materials be used in conjunction with this document:

- [Motor Vehicle Safety Act \(MVSA\)](#)
- [Motor Vehicle Safety Regulations \(MVSR\)](#)
- [Motor Vehicle Tire Safety Regulations \(MVTSR\)](#)
- [Motor Vehicle Restraint Systems and Booster Seats Safety Regulations \(RSSR\)](#)
- [Let’s Talk Transportation – Updating regulations to modernize and strengthen motor vehicle safety for Canadians](#)

2. Background

TC conducts post-market surveillance and oversight of the regulated community through programs of compliance inspection, testing, corporate audits, the investigation of alleged safety defects, and recall¹ monitoring.

¹ For the purpose of clarity, the term ‘recall’ is the common word to describe the actions that are taken after a company issues a notice of defect or notice of non-compliance. In this document, you may see this word used broadly to describe either type of notice.

A new program, ACTIVE, was created in response to recommendations from the Office of the Auditor General of Canada (OAG) and amendments to TC's legislative authorities (Bill S-2). In 2016, the OAG conducted an audit that examined whether TC's regulatory framework and its oversight of vehicle safety defects and non-compliance were adequate to respond to emerging safety risks in a timely manner. The report² concluded that while some aspects were performed adequately, some improvements were needed. More specifically, the OAG recommended that TC's oversight could be improved if companies provided information on their internal investigations into ongoing safety-related issues with their vehicles. In 2018, Bill S-2 introduced the following provision that will come into force once regulations are in place:

Motor Vehicle Safety Act (MVSA)

Compliance by companies of prescribed class (not yet in force)

5 (2) No company of a prescribed class shall apply a national safety mark to any vehicle or equipment, sell any vehicle or equipment to which a national safety mark has been applied or import into Canada any vehicle or equipment of a prescribed class unless the company acquires and maintains, as provided for in the regulations and in relation to a vehicle or equipment that is substantially similar to that vehicle or equipment, records related to prescribed subject matters.

TC's policy intent will modernize and enhance its existing oversight activities by using data analytics on existing technical data and those shared by the automotive industry to identify potential safety issues worthy of investigation. The program also aims to increase Canadian companies' awareness of potential issues affecting the safety performance of their products, and of those abroad that are identical or substantially similar to those sold in Canada.

A similar program has existed since 2003 in the United States (US) entitled Early Warning Reporting (EWR) as a result of the *Transportation Recall Enhancement, Accountability, and Documentation Act* (TREAD). The TREAD Act requires that every company report periodically to the National Highway Traffic Safety Administration (NHTSA) information that could indicate the existence of a potential safety defect and advise NHTSA about any foreign safety recalls and other safety campaigns.

EWR requirements include information such as copies of foreign recalls, death and injury claims or notices, copies of field reports, numbers of warranty claims, consumer complaints and property damage. The TREAD Act also requires all companies to retain records on EWR information provided to NHTSA for 10 years for vehicles and five (5) years for equipment. Currently, companies must provide the information to NHTSA electronically. In 2020, NHTSA introduced a new secure web portal for companies to submit specific types of information electronically as a means to eliminate the need for paper, email, disk, and secure file transfers.

² Auditor General of Canada's [Report 4 on Oversight of Passenger Vehicle Safety \(2016\)](#) focused on TC's process of making amendments to Regulations for emerging technologies and issues, as well as the Department's oversight and analysis of public complaints, investigations and companies' recalls.

Health Canada's *Consumer Product Safety Act* (CPSA) requires that industry report, on incidents that resulted or may reasonable have been expected to result in death or serious adverse health effects and recalls.

Additional information is available in the [Let's Talk Transportation – Updating regulations to modernize and strengthen motor vehicle safety for Canadians](#).

3. Policy intent in more detail

3.1 Companies of Prescribed Class and Reporting Thresholds

Companies of prescribed class would be defined as:

Class A	Class B	Class C
Any vehicle company whose yearly volume of vehicles manufactured for sale, imported or sold in Canada is: • 10,000 or more	Any vehicle company whose yearly volume of vehicles manufactured for sale, imported or sold in Canada is: • 500 to 9,999	Any equipment company whose yearly volume of equipment manufactured for sale, imported or sold in Canada is: • Tires – 15,000 or more • Child car seats – 1 or more

Note: The reporting thresholds will apply to companies whose yearly volume of vehicles or equipment manufactured for sale, imported, or sold in Canada during the calendar year of the reporting period or during either of the prior two years.

3.2 Transport Canada's proposed information and reporting requirements

Our policy intent is to require companies of prescribed class to acquire, maintain and to share with TC, records as described below on a regular or on an ad hoc basis.

Please also refer to:

- Appendix A: for a side-by-side comparison of the information and reporting requirements of TC, NHTSA and Health Canada;
- Appendix F: for descriptions / policy intent regarding the main concept.

Prescribed Subject Matters (proposed information requirements)	Companies of prescribed class		
	Class A	Class B	Class C
Information to be acquired, maintained and shared with TC periodically			
List of safety evaluations (<i>Global</i> ³)	√		
Fatality incident reports (<i>Global</i>)	√	√	√
Injury incident reports (<i>Canada</i>)	√	√	√
Fire incident reports (<i>Canada</i>)	√	√	
Foreign recall reports (<i>foreign</i> ⁴)	√	√	√
List of substantially similar vehicles (<i>foreign</i>)	√		
List of forecasted and actual number of products manufactured for sale, imported or sold in in Canada	√		
Information to be acquired, maintained and shared with TC upon request (ad hoc basis)			
Internal and external communications (<i>Canada</i>)	√	√	√
Field Reports (<i>Canada</i>)	√	√	
List of forecasted and actual number of products manufactured for sale, imported or sold in Canada		√	√
List of legal claims (<i>Canada</i>)	√	√	√

3.3 Implementation period

Once the regulations are in place, companies would be required to come in compliance with the requirements within 90 days.

3.4 Records' retention period

The proposed amendments to subsection 10(1) of the MVSR and subsection 106(1) of the RSSR would require that vehicle and child car seat companies maintain records for 10 years rather than five (5) years. These proposed records' retention periods would be the same for ACTIVE.

This amendment will enable TC to better support its information gathering and oversight activities such as defect investigations on issues involving vehicles that are five (5) to 10+ years old, and to align with the U.S.

³ Global means worldwide including Canada.

⁴ Foreign means countries other than Canada.

4. Protection of information collected by Transport Canada

Transport Canada is a public body governed by the *Privacy Act*, RSC 1985, c P-21 (“**Privacy Act**”), and *Access to Information Act*, RSC 1985, c A-1 (“**ATIA**”), and must collect, use and disclose information in accordance with those acts. Therefore the information submitted as part of this consultation will be protected under those acts and therefore the Department will take all reasonable measures to ensure the information provided is protected.

5. Contacts

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