

APR 13 2004

Erika Z. Jones, Esquire  
Mayer, Brown, Rowe & Maw, LLP  
1909 K Street, N.W.  
Washington, D.C. 20006-1101

Re: Requests for Interpretation of Part 579

Dear Ms. Jones:

This is in reply to your letter dated January 5, 2004, seeking two interpretations of 49 CFR Part 579, "Reporting of Information and Communications About Potential Defects." Both requests for interpretation involve reporting consumer complaints related to child restraints pursuant to the early warning reporting (EWR) requirements.

In particular, you seek guidance on how to report consumer complaints that erroneously identify the production year of the affected child restraint as a year in which the identified make/model restraint was not manufactured. In addition, you seek a clarification of the definition of "consumer complaint" with respect to communications related to safety recalls. You ask the agency to confirm your understanding that the agency does not expect manufacturers to record calls to request a repair kit or ask about participation in a safety recall as "consumer complaints" for purposes of EWR.

In response to your first request, I note that the agency addressed a similar concern raised by the Juvenile Product Manufacturers Association (JPMA) in a request for reconsideration of the EWR rule. See 68 Fed. Reg. 35132 (June 11, 2003). JPMA had asked how to report consumer complaint/warranty claim information when the production date is illegible. We responded that when a manufacturer is confronted with a reportable item that does not include the production year of the child restraint, the manufacturer should enter the number "9999" in the template. See 68 Fed. Reg. at 35136. Child restraint manufacturers should report similarly when they receive a consumer complaint that specifies a year in which the model was not produced.

Your second request asks the agency to confirm your understanding that the agency does not expect manufacturers to record communications "to request a repair kit that is being offered pursuant to a safety recall, or to ask about participation in a safety recall" as "consumer complaints" for the purposes of EWR.

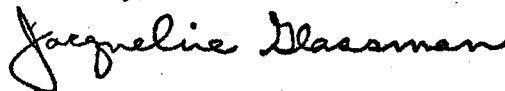
The definition of "consumer complaint" includes a communication made by a consumer "expressing dissatisfaction with a product, ... or any actual or potential defect in a product..." 49 CFR § 579.4. With respect to communications about recall remedies, the preamble to the final rule explained that:

Our proposed definition would also include communications in which the owner of a vehicle or item of equipment that is subject to a defect or noncompliance recall asserted that the remedy failed to correct the defect or noncompliance.

67 Fed. Reg. 45822, 45847 (July 10, 2002). The agency intended to receive communications relating to failures of a recall remedy that allow a defect to continue, not communications seeking information about the recall itself. Thus, we confirm your understanding that general communications requesting a repair kit or to participate in a safety recall campaign are not "consumer complaints" for the purposes of EWR.

If you have any questions, you may phone Andrew DiMarsico of my staff at (202) 366-5263.

Sincerely,



Jacqueline Glassman  
Chief Counsel