

JUL 24 2003

Mr. Lance Tunick
Vehicle Services Consulting, Inc.
P.O. Box 23078
Santa Fe, NM 87502-3078

Re: Request for Interpretation of 49 CFR 579.21 and 579.27

Dear Mr. Tunick:

This is in reply to your FAX of June 15, 2003, revising your request of June 9 for an interpretation of certain provisions of the early warning reporting (EWR) regulations issued by the National Highway Traffic Safety Administration (NHTSA), which are set out at Subpart C of 49 CFR Part 579.

Before addressing your specific questions, I would like to point out that you have raised several specific issues that had not been raised during the rulemaking proceeding that led to the EWR regulations. In this letter, I will provide an interpretation of what is required under the current regulatory language. However, we may revisit some or all of these issues when we conduct our promised review of the regulations after they have been in effect for some time.

You presented the following hypothetical facts as the context for your questions: (1) a manufacturer of light motor vehicles produces fewer than 500 vehicles in calendar year (CY) 2003 and therefore would report under §579.27 for CY 2003 (i.e., it would only have to report claims and notices involving deaths associated with its vehicles); and (2) during the first quarter of CY 2004 the same manufacturer produces more than 500 light vehicles and thus must report under §579.21 (i.e., it would have to provide comprehensive data about warranty claims, consumer complaints, property damage claims, and field reports) for that quarter and the rest of CY 2004.

Although your hypothetical scenario assumes that the manufacturer in question produced over 500 vehicles in the first quarter of CY 2004, I want to point out that NHTSA expects vehicle manufacturers to make good faith estimates of their expected annual production when deciding whether to report under §§579.21-24 or §579.27. For example, if a manufacturer of light vehicles produces 150-200 light vehicles in the first quarter of

any calendar year, and expects to continue production at similar levels throughout the year, it must report under §579.21, rather than §579.27. It may not wait until the quarter that it actually surpasses the 500-vehicle threshold.

You first asked us to confirm your view that:

1. [A manufacturer] must report full §579.21 information only as regards a past model year within the ‘nine-prior-model-years’ if such model year either:
 - a. Had production “built for sale in the US” that exceeded 499 units; or
 - b. Fell within a calendar year that had: vehicle production “built for sale in the US,” that exceeded 499 units; and
2. As regards model years during the “nine-prior-model-years” that do not meet either (a) or (b) above, [the manufacturer] must supply only §579.21(b) (incidents involving death) information.

Your suggested interpretations are inconsistent with the language of the regulation. The introductory text of §579.21 specifies that its reporting requirements apply to “a manufacturer whose aggregate number of light vehicles manufactured for sale, offered for sale, imported, or sold, in the United States, during the calendar year of the reporting period . . . is 500 or more” In any CY in which a manufacturer produces 500 or more light vehicles for sale in the United States, the manufacturer must report under §579.21, regardless of how many vehicles it produced in prior CYs. Moreover, the text goes on to say that any manufacturer reporting under that section must submit the comprehensive information required under §579.21(a) and (c) for the vehicles produced during the model year of the reporting period “and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.” Thus, under the rule, comprehensive submissions are required from such a manufacturer for vehicles produced during the prior nine model years, regardless of whether the manufacturer was previously required to provide that information with respect to the vehicles produced in those earlier years.

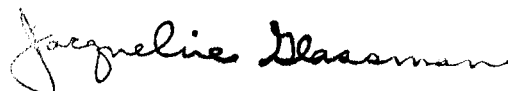
You also asked us to confirm your view that:

A large volume manufacturer that has been reporting under 579.21 but who then downsizes, would, once two calendar years have passed without its crossing the 500-unit mark, no longer have to supply full 579.21 information for the nine-prior-model-years (as it would be reporting under 579.27).

We agree that under the current regulatory language, any manufacturer that reports under §579.27 (because at least two years have passed without it producing 500 or more vehicles of any category), does not have to submit the comprehensive information required under §579.21, regardless of the number of vehicles it produced during the preceding model years. However, we expect it to retain the information required under §579.21.

If you have any additional questions, you may call Taylor Vinson (202-366-5263).

Sincerely,

A handwritten signature in black ink that reads "Jacqueline Glassman". The signature is written in a cursive style with a large initial "J".

Jacqueline Glassman
Chief Counsel