

APR 11 2003

Mr. Robert S. Strassburger
Vice President
Vehicle Safety and Harmonization
Alliance of Automobile Manufacturers, Inc.
1401 H Street, NW, Suite 900
Washington, D.C. 20005

Dear Mr. Strassburger:

This is in reply to your letter of January 13, 2003, asking two questions with respect to the final rules set forth in 49 CFR Part 579.

Your first question cited a portion of the early warning reporting final rule, Section 579.21(b), which applies to "all light vehicles less than ten calendar years old at the beginning of the reporting period." Under subsection (b)(1), a manufacturer must report "each incident involving one or more deaths occurring in a foreign country . . . involving a manufacturer's vehicle, if that vehicle is identical or substantially similar to a vehicle that the manufacturer has offered for sale in the United States." You asked that we concur in your understanding that the ten-year old limitation "applies *both* to the age of the vehicle in which the fatality occurred in a foreign country *and* to the offering for sale of a substantially similar vehicle in the United States." You presented a situation in which a fatality occurs in a vehicle that is substantially similar to a vehicle previously offered for sale in the United States but whose sale was discontinued more than ten years before the beginning of the reporting period. In this event, the Alliance understands that the "ten calendar year" limitation applies and that a manufacturer would not have to report the incident.

You are correct that the purpose of the regulation is to identify potential defects in vehicles in the United States. Although safety defects can and have existed in vehicles older than ten calendar years, the early warning reporting requirements are intended to be consistent with the amendment to 49 U.S.C. 30120(g) under which the period for remedy of defective and noncompliant motor vehicles without charge was increased from eight to ten years. Therefore, we confirm your understanding that a claim involving a fatality or injury occurring in a foreign vehicle need not be reported if no sales of a substantially similar vehicle have occurred in the United States for more than ten years before the beginning of the reporting period. On the other hand, in a situation in which a fatality or

injury occurs in a foreign vehicle that is more than ten years old and a substantially similar U.S. vehicle has been sold within a ten-year period before the reporting period, a related claim must be reported to us. This interpretation applies not only in the context of Section 579.21(b), but also with respect to the ten-calendar-year language of Sections 579.22(b), 579.23(b), and 579.24(b), and the five-calendar-year provisions of Section 579.25(b) and 579.26.

Your second question arises in the context of the foreign defect reporting final rule. Section 579.11(d)(2) (as originally adopted) provided that a manufacturer need not report a foreign safety recall or other campaign to NHTSA if “the component or system that gave rise to the foreign recall does not perform the same function in any vehicles or equipment sold or offered for sale in the United States.” It is your understanding that “no report would be required when a foreign campaign is conducted on a vehicle that is substantially similar to one offered for sale in the United States, but the component or system that gave rise to the foreign recall is not installed on the U.S. vehicles.”

In response to the Alliance’s petition for reconsideration of the foreign defect reporting final rule, we amended Section 579.11(d)(2) to state that a manufacturer need not report if “the component or system that gave rise to the foreign recall or other campaign does not perform the same function in any substantially similar vehicles or equipment sold or offered for sale in the United States.” 68 FR 4111, January 28, 2003. Since we have clarified that we do not require reporting if a component or system is present on a substantially similar U.S. vehicle but does not perform the same function as on a foreign vehicle, we believe that it is also clear that a manufacturer need not report to us if the system or component leading to the foreign recall or other campaign is not installed at all on the substantially similar U.S. vehicle.

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

Sincerely,

Original Signed By

Jacqueline Glassman
Chief Counsel