

APR 11 2003

Michael J. Hedeem, Esq.  
Haldeman & Associates  
308 West State Street, Suite 210  
Rockford, IL 61101-1140

Dear Mr. Hedeem:

This is in reply to your letter of November 14, 2002, asking for clarification of the "early warning reporting" final rule (49 CFR Part 579, Subpart C) on behalf of your client, E.D. Etnyre & Company ("Etnyre").

You related that Etnyre has an agreement with an entity under which it provides partially-completed trailers, which are completed by the other entity who "rebadges" the product [under its own name] for ultimate sale to its customers." In this fact situation, Etnyre is an incomplete vehicle manufacturer and not required to report comprehensive early warning information. It is required only to report claims and notices it receives on incidents involving death, as specified in Section 579.27.

Etnyre also has an agreement with another entity which supplies Etnyre with fully-manufactured trailers which it "rebadges" as an E.D. Etnyre & Company product." Etnyre issues the warranties on these trailers and administers any warranty claims. You understand that Section 579.3(b) allows the fabricating manufacturer or brand name owner to report early warning information. You then asked

Where the fabricator reports on its wholly finished products and a brand name owner reports on the "rebadged" products, is the fabricator required to count the "rebadged" products under its production numbers and as part of its aggregate number of trailers manufactured for sale under Sec. 579.24?

With respect to vehicles badged with the Etnyre name but manufactured by another entity, that entity is the "manufacturer" who must report to NHTSA; however, Section 579.3(c) permits Etnyre to assume this obligation. If the brand name owner, Etnyre, does not assume the obligation to report, the fabricating manufacturer must count the rebadged trailers in the aggregate of its own production. If Etnyre chooses to report, the fabricating manufacturer should not include the Etnyre-badged trailers as part of its production. This choice should be made on a consistent basis, and not be revised from year to year or within a given year.

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

Sincerely,

A handwritten signature in black ink, appearing to be 'JG', written in a cursive style.

Jacqueline Glassman  
Chief Counsel