

Mr. Michael E. Kastner  
Director of Government Relations  
National Truck Equipment Association  
1300 19<sup>th</sup> Street, NW, Fifth Floor  
Washington, D.C. 20036-1609

APR 11 2003

Dear Mr. Kastner:

This is in reply to your letter of October 2, 2002, requesting an interpretation of several provisions of the "early warning reporting" final rule (49 CFR Part 579, Subpart C).

You asked three sets of questions. The first of these was:

All reports . . . require the vehicle make, model, and model year. As many of the bodies and equipment manufactured by NTEA members are installed on a variety of different makes and models of trucks most body and equipment manufacturers have never needed this information nor required it to be provided in normal processing of warranties or consumer complaints. Also, the vehicle make and model year are seldom recorded in field reports because the primary focus is on the truck body or equipment. Give the "Minimal Specificity" provision outlined in 579.28(d), if the historical records do not include the vehicle make, model and model year, it is our interpretation that they are not reportable by the body or equipment manufacturer since there is no way to identify the vehicle make or model. Is this interpretation correct and would it also apply to the one-time three year historical report and the nine years of historical data to be included in the quarterly reports?

Under the Vehicle Safety Act, a manufacturer of "bodies and equipment" is a manufacturer of "motor vehicle equipment." The bodies and equipment manufactured by NTEA members are "original equipment" because they are equipment installed on a motor vehicle at the time it is delivered to its first purchaser. (This answer assumes that the "bodies and equipment" are installed on a chassis by a third person.) The only early warning reporting requirements of Part 579 that apply to manufacturers of original equipment (other than tires) are the limited reporting requirements of 49 CFR 579.27. The one-time historical report established by Section 579.28(c) is required only of manufacturers "covered by Sections 579.21 through 579.26 of this part." This does not include manufacturers covered by Section 579.27, such as manufacturers of original equipment.

If an NTEA member that is a manufacturer of original equipment receives a claim or notice of an incident involving death, the claim or notice need not be reported if it does not identify the equipment with "minimal specificity" (Section 579.28(d)). For bodies and other equipment, "minimal specificity" (as defined in Section 579.4(c)) amounts to the name of the manufacturer (and if there is a model or family of models identified on the item of equipment, the model name or model number). Even if the equipment is identified with minimal specificity, the claim or notice need not be reported if the identified equipment was manufactured prior to four calendar years before the reporting period (Section 579.27(b)).

In sum, it appears to us that NTEA members who are solely manufacturers of original equipment will have very limited reporting responsibilities under the early warning reporting rule.

NTEA's second question was as follows:

In the truck body and equipment industry, typically, a body manufacturer supplies the body to a distributor who installs it on the truck chassis. In this case, the body manufacturer would be a manufacturer of motor vehicle equipment and the distributor would be the final stage manufacturer. Distributors (the final stage manufacturer) typically complete warranty work, as it applies to the body, on a customer's vehicle and subsequently submit a warranty claim to the body manufacturer for coverage under its warranty plan. If the distributor is the final stage manufacturer of more than 500 vehicles per year, then presumably the distributor must report warranty information to NHTSA. There is the potential that both the distributor and the body manufacturer will submit warranty information to NHTSA on the same warranty claim. How is this situation to be handled?

In the example you give, the body manufacturer is subject to the reporting provisions of Section 579.27. This section requires reporting only of information regarding claims and notices of incidents involving deaths. There is no requirement that the body manufacturer report warranty claims to NHTSA, even if it receives them. However, the entity that you have characterized as the "distributor" would be a vehicle manufacturer under our statute and thus would have to submit warranty data if it produced 500 or more vehicles of a given category per year. It is possible that such claims may also be reported by the chassis manufacturer (although it probably would not have to do so), but our screeners will be able to adjust to avoid double counting.

NTEA's third question was as follows:

Some body manufacturers install the bodies on truck chassis themselves (thus becoming the final stage manufacturer) while also selling some bodies through distributors, who become the final stage manufacturers of those vehicles. Does this body manufacturer need to submit reports as both an equipment manufacturer and a motor vehicle manufacturer? Do they need to submit one form for the bodies sold

as equipment and one for the bodies they installed as the final-stage motor vehicle manufacturer? If so, should the equipment manufacturer form cover both those bodies sold via distributors and those bodies installed directly? Does the body manufacturer need to report on behalf of its independent distributors?

The body manufacturer must submit reports as both an equipment manufacturer and a motor vehicle manufacturer when circumstances dictate. However, as discussed above, only the limited reporting requirements of Section 579.27 apply to manufacturers of bodies furnished to persons who become the final stage manufacturer. If the body manufacturer becomes a final stage manufacturer of less than 500 vehicles annually, the limited reporting requirements of Section 579.27 will also apply. Each claim or notice of a death it receives as a body manufacturer and as a vehicle manufacturer must be reported separately. If the body manufacturer is the final stage manufacturer of 500 or more of any category of vehicles annually (e.g., medium heavy vehicle), it must furnish full reports as specified in the sections that apply to the type of vehicle completed.

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

Sincerely,

**Original Signed By**

Jacqueline Glassman  
Chief Counsel