

NOV 6 2003

W. Thatcher Peterson
Product Safety Manager
Oshkosh Truck Corporation
2307 Oregon Street
P.O. Box 2566
Oshkosh, Washington 54903-2566

Dear Mr. Peterson:

This responds to your letter of September 22, 2003, requesting confirmation of Oshkosh Truck Corporation's (Oshkosh) understanding of its early warning reporting (EWR) responsibilities under the TREAD Act and 49 CFR Part 579 with regard to the military and civilian heavy trucks it manufactures. Your letter provided information concerning three categories of heavy vehicles, one of which was divided into two subcategories: one subcategory for vehicles restricted to off-road use, and one subcategory for vehicles used on public streets and highways. My responses are organized according to the categories you identified.

The first category you referenced concerned trucks built exclusively for military use with no civilian counterparts. As to this category, I confirm that your understanding is correct that such trucks, designed and manufactured exclusively for military use, and with no civilian counterparts, are not subject to the EWR requirements. See letter of May 21, 2003, to Stewart & Stevenson.

The second category you referenced concerned Airport Rescue and Firefighting (ARFF) trucks and snow removal trucks. These trucks were, in turn, broken into two subcategories. The first, you explained, includes ARFF and snow removal equipment used exclusively for off-road service and almost exclusively at airports to perform such tasks as fighting airplane fires and removing snow. You stated that it is Oshkosh's understanding that it has no EWR responsibilities for such vehicles in light of their off-road use. The second, you explained, includes snow removal trucks used in on-road service to clear public roads. You stated that it is Oshkosh's understanding that it must report EWR information on these trucks because they are civilian vehicles engaged in on-road work.

Oshkosh's understanding as to both subcategories of trucks is correct, based on the descriptions that you provided. As to the first subcategory, we have previously interpreted the term "motor vehicle" to exclude vehicles designed and sold solely for off-road use, and have referenced airport runway vehicles as one example of such vehicles. See letter of June 12, 1995, to Mr. Andrew Grubb. By contrast, the snow removal trucks conducting on-road work would be considered motor vehicles for EWR purposes.

The third category you referenced included trucks designed for and used in the on-road civilian market. You gave an example of concrete placement trucks and stated Oshkosh builds approximately 700 of these trucks each year. You explained that it was Oshkosh's understanding that it would have EWR responsibilities for these trucks because they are civilian and engaged in on-road work. I confirm that your understanding is correct.

We also note that, based on the annual production information provided in your letter, Oshkosh must submit quarterly EWR information for the two categories of heavy trucks covered by the EWR regulation, as required by 49 CFR 579.22. More specifically, the determinant between full and limited reporting (i.e., as small volume manufacturer under Section 579.27) is the total *aggregate production for each reporting category of vehicle* defined by the EWR regulation. See letter of August 20, 2003, to Mr. Rod Nash. In this case, it appears Oshkosh produces an estimated 950 medium-heavy vehicles per year, and therefore qualifies as a larger volume manufacturer of medium-heavy vehicles under Section 579.22.

If you have any further questions, please contact Andrew DiMarsico of this Office (202-366-5263).

Sincerely,

Jacqueline Glassman
Chief Counsel