

Ms. Ann Wilson
Senior Vice President
Rubber Manufacturers Association
1400 K Street, NW
Washington, DC 20005

OCT 10 2003

Dear Ms. Wilson:

This is in reply to your letter of July 25, 2003, requesting an interpretation of certain provisions of NHTSA's early warning reporting (EWR) regulation, subpart C of 49 CFR Part 579. You have expressed six concerns.

Your first concern involves "Updates of deaths and injuries." If a tire manufacturer is not aware of the tire identification number (TIN) at the time an incident involving death or injury is initially reported, Section 579.28(f)(2)(i) requires the manufacturer to "submit an updated report of such incident in its report covering the reporting period in which the . . . TIN is identified." You interpret this as meaning that if a tire manufacturer receives TIN information after the close of the reporting period in which the manufacturer receives a claim or notice of death or injury, it must "provide NHTSA with the TIN in the report covering the reporting period in which the TIN information is identified by the manufacturer." However, you observed that at the public meeting conducted by NHTSA on June 18, 2003, a NHTSA employee "stated that tire manufacturers must submit the TIN by updating the entire death and injury file for the reporting period in which the original claim of death or injury was reported." You ask for clarification of this requirement.

The requirement was properly communicated at the public meeting. Pursuant to Section 579.29(a), EWR information must be submitted on templates provided on the NHTSA website. The same template that is used for the original report is used for updated reports. The initial submission would be identified as "Version 1." The first updated report would be identified as "Version 2," and so on.

You expressed concern with a statement at the June 18 public meeting that a manufacturer could not delete a claim that had been reported in a previous period, "even if the manufacturer subsequently discovered that the claim was erroneous (i.e., did not

involve the manufacturer's tire or did not involve a death or injury)." You have asked for confirmation that "this is the official interpretation of this rule."

The updating provisions of Section 579.28 do not address the issue of correction of information once the information has been reported to NHTSA. Practical considerations limit our ability to make corrections to EWR data in our data warehouse. The Office of Defects Investigation's current plan is to allow manufacturers that identify significant errors to request the opportunity to submit corrected data templates. We will respond to such requests on a case-by-case basis. Of course, any errors may be identified during the course of an investigation.

Your second concern is labeled "Scope of information on deaths and injuries." We amended Section 579.26(b) in a Federal Register notice of June 11, 2003 (68 FR 35132). The amended regulation clarifies that reporting of incidents involving deaths and injuries applies to "all tires manufactured during a production year covered by the reporting period and the four production years prior to the earliest production year in the reporting period." We also amended Section 579.4(c) to define "production year" for tires to mean "the calendar year in which the item was produced." Your members believe that reporting relative to certain production years is subject to different interpretations. You understand that NHTSA intends reporting under Section 579.29 to encompass "tires produced in the current production year and . . . tires produced in the previous *four* years." You asked for confirmation of your understanding.

Applying the EWR regulation's definition of "production year," the reporting requirement for tire manufacturers may be read to apply to all tires manufactured during a calendar year covered by the reporting period and the four calendar years prior to the earliest calendar year in the reporting period. Because EWR reporting is on a quarterly basis, there will never be more than one calendar year during a reporting period. Thus, the four calendar years prior to the earliest calendar year in the reporting period will be the four calendar years before the calendar year of the report. Thus, we confirm your understanding of this requirement.

Your third concern relates to "Tire type code." Tire manufacturers must provide the "tire type code" as part of their quarterly report on production information. The EWR regulation does not define "tire type code," but you pointed out that the preamble to the final rule indicates that "tire type code" means the third grouping of the TIN (67 FR at 45862). You asked for confirmation.

We noted in the preamble to the final rule that we would use RMA's preferred term of "tire type code," instead of "serial code" as we had proposed, and that the term "corresponds to the third grouping of identification requirements as specified in 49 CFR 574.5(c)." 67 FR at 45862. Section 574.5(c) identifies the third group as a "descriptive code;" Figure 1 thereof clearly depicts the four information groups of the "Tire Identification Number," and identifies the third group as "Tire Type Code." Thus, we confirm your interpretation.

You are next concerned with reporting “plant of manufacture” for imported tires. Section 579.26 requires a tire manufacturer to include in its reporting of information under paragraph (a) “the plant where [the tires were] manufactured.” You asserted that in most cases, with respect to tires that they import, “U.S. tire manufacturers do not know the TIN, the date of manufacture, or the plant of manufacture for such tires.” Thus, without the TIN, the manufacturer will be unable to provide NHTSA with the name of the plant where the tire was manufactured. You requested that manufacturers be allowed to provide the country of origin (and date of importation) rather than plant and date of manufacture, when the TIN is unknown. We concur in your suggestion that in the context presented, the report on country of origin and date of importation satisfies the regulation.

Your next request concerned “Production information.” You cited Section 579.26(a), which requires manufacturers to submit “cumulative warranty production” and “cumulative total production through the end of the reporting period.” However, you assert that the preamble to the amendments of June 11, 2003 “states that tire manufacturers must submit data only for the quarterly reporting period and not ‘year-to-date’ (‘YTD’) or cumulative data,” and you believe that a handout by NHTSA at the public meeting on June 18 was subject to varying interpretations.

The regulation establishes the reporting requirement, and we do not find it open to the interpretation that you suggest. Under the introductory text of Section 579.26 and paragraph (a), a tire manufacturer must report “the quarterly reporting period, the tire line, . . . the production [calendar] year, the cumulative warranty production, and the cumulative total production through the end of the reporting period.” This means, for example, that a manufacturer’s report for the third quarter of a calendar year would contain the total warranty production and the total production for a tire line for the first three quarters of the calendar year. Separately, a manufacturer would also report, for that tire line (as further delineated and subcategorized in the rule), information described in Section 579.26 that includes “the model year of tire manufactured during the reporting period and the four calendar years prior to the earliest model year in the reporting period” “Model year” is defined to mean “the year that [a tire] was produced.” See Section 579.4, 68 FR 35142. Thus, each quarterly report in a calendar year would also include the total warranty production and the total production for each of the four previous calendar years for a tire line for which information is being reported under paragraphs (a) or (c). This includes tire lines no longer in production. We contrast this with the numbers of property damage claims and warranty adjustments that a tire manufacturer must report under Section 579.26(c). These numbers are reported on a quarterly basis, and not cumulatively.

Finally, you expressed concern with “Appropriate entry code for unknown data.” Your members have been advised that they must not leave any cells blank on the EWR templates in order for their reports to be accepted. You have asked whether unknown data should be reported as “UNK,” as indicated on the EWR templates previously posted on NHTSA’s website, or “U,” as indicated at the June 18 public meeting, or in some other format.

Section 579.26(a) was amended in a June 11, 2003 Federal Register Notice, to add the requirement that if a manufacturer is not certain whether a particular group of tires is used as original equipment on a motor vehicle, it shall state "U" in the reporting field (68 FR at 35144). In reporting incidents involving deaths or injuries under Section 579.26(b), a manufacturer must use code 99 if no component of the tire is specified in the claim or notice (i.e., if the relevant component is unknown to the manufacturer). In reporting under Section 579.26(c), the regulation specifies that no reporting is necessary if the system or component involved is not specified in the codes (i.e., the final template should not contain a blank cell since no reporting is required).

If you have further questions, you may phone Andrew DiMarsico of this Office (202-366-5263).

Sincerely,

Original Signed By
Jacqueline Glassman
Chief Counsel