

OCT 22 2003

Lawrence F. Henneberger, Esq.
Arent Fox Kintner Plotkin & Kahn, PLLC
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339

Dear Mr. Henneberger:

This is in response to your August 26, 2003 letter on behalf of the Recreational Vehicle Industry Association (RVIA) and Monaco Coach Company (Monaco), addressed to Mr. Kenneth N. Weinstein of this agency, in which you raised issues dealing with the submission of field reports under the National Highway Traffic Safety Administration's Early Warning Reporting (EWR) regulations. As you are aware, these issues were previously discussed during an August 5, 2003 meeting between NHTSA officials and representatives of RVIA and Monaco.

You asked whether Pre-Delivery Inspection (PDI) forms, Dealer Acceptance forms (DAF), and any other pre-retail sale documents "related to recreational vehicles which are still in the direct control of the manufacturer or dealer" fall under the definition of "field reports" and therefore subject to the requirements of the EWR regulations. In your letter, you explained that recreational vehicle manufacturers, prior to retail sale of a recreational vehicle, typically require dealers to complete and provide back to the manufacturer what are known in the industry as PDIs, DAFs and similar materials. You further clarified that these "form documents . . . are essentially checklists for dealer completion which are intended to detect and correct, under warranty, any product deficiencies prior to retail sale of a recreational vehicle."

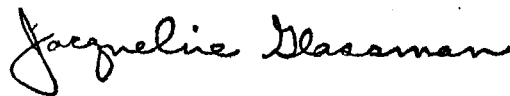
As we explained in the preamble to the EWR Final Rule, the term "field report" was not intended to cover every dealer-to-manufacturer communication. See 67 Fed. Reg. 45,855 (July 10, 2002). In response to requests to clarify the Final Rule, we amended the definition of "field report" in an April 15, 2003 Final Rule to exclude vehicles that are still within the control of the manufacturer. As amended, a "field report" is defined as "[a] communication in writing, including communications in electronic form . . . with respect to a vehicle or equipment that has been transported beyond the direct control of the manufacturer . . . regarding the failure, malfunction, lack of durability, or other performance problem of a motor vehicle or motor vehicle

equipment, or any part thereof, produced for sale by that manufacturer, regardless of whether verified or assessed to be lacking in merit . . .” 49 C.F.R. § 579.4(c), 68 Fed. Reg. 18,136 at 18,142 (April 15, 2003).

Based upon your description of the documents identified in your letter, we confirm your understanding that those documents do not fall within the ambit of the EWR regulatory requirements. While vehicles in the possession of dealers are considered to be “beyond the direct control of the manufacturer” for recall purposes, NHTSA does not consider documents prepared by dealers that address particular vehicle prior to their first retail sale to be field reports for purposes of the EWR regulations. We also note that deficiencies would be corrected under warranty and therefore reported to NHTSA under the EWR provision pertaining to warranty claims.

Should you have any further questions, please contact Andrew J. DiMarsico of my staff at (202) 366-5263.

Sincerely,

A handwritten signature in black ink that reads "Jacqueline Glassman". The signature is written in a cursive, flowing style.

Jacqueline Glassman
Chief Counsel