



December 11, 2009

Mr. George Person
Chief, Recall Management Division
National Highway Traffic Safety Administration
Office of Defect Investigation
1200 New Jersey Ave., SE
Washington, D.C. 20590

Subject: NHTSA Concerns with Cummins Safety Recall Administration and Execution
and Specifically NHTSA Campaign ID Number 09E-046

Via FAX (202-366-7882) and Hardcopy

Dear Mr. Person:

I am writing in response to your November 16, 2009 letter regarding Cummins administration and execution of safety recall campaigns and, specifically, Cummins notification to dealers and owners in the above-referenced recall.

Let me first state that Cummins takes its recall obligations very seriously and we are proud of our record of identifying and promptly addressing safety defects in our products. Indeed, the agency has commended Cummins in the past for its high recall completion rate. Our completion rates have typically exceeded 70 percent, reaching as high as 97 and 99 percent in two recent recalls. (See, e.g., 07E-076 – 97%; 07E-033 – 70%; 06E-063 – 77%; 06E-021 – 99%). We anticipate that this recall will be equally successful. In fact, to date we have remedied 28 percent of the vehicles covered by this campaign.

As pointed out in our Part 573 defect notice, and still to date, there have been no reports of fires or injuries related to this issue.

Cummins filed its Part 573 letter with NHTSA on July 20, 2009. We provided a draft Part 577 letter on July 23, 2009 and submitted a list of affected OEMs to the agency on July 24, 2009. It was not until August 17, 2009, following a course of discussion between you and our outside counsel, Arent Fox, that the agency approved our final Part 577 letter. By August 21, all of Cummins direct customers (which included direct OEM customers and independent distributors) were notified of this recall.¹

Cummins direct OEM customers – Daimler, Peterbilt/Kenworth/Paccar and Navistar – were notified by the responsible Cummins account representatives on July 23, August 10 and August 21, respectively. The remaining OEMs affected by this recall are not direct Cummins customers, but are serviced through several independent engine distributors. All of these independent distributors were notified by Cummins verbally on July 24, 2009 and in written follow-up correspondence sent on July 29, 2009. These distributors include: Cummins Mid-

¹ Apparently, Ferrara and Spartan were not notified until September 3 and September 11, respectively, but these OEMs are not direct customers of Cummins; as described in the next paragraph, these OEMs purchased the subject engines through independent distributors.

South, LLC, which supplied engines to Ferrara²; Cummins Bridgeway, LLC, which supplied engines to Spartan, Sutphen and HME³; Cummins Power South LLC, which supplied engines to Emergency One⁴; Cummins NPower LLC, which supplied engines to Seagrave and Pierce⁵; and Cummins Power Systems, LLC, which supplied engines to KME. Thus, we believe that all of Cummins customers were notified within a reasonable time following the defect determination.

Due to the nature of these vehicles and the scope of affected OEMs, the owner notification process for this recall was not a simple one. This recall involved a total of 13 OEMs, including five independent distributors who supplied engines to eight of these OEMs. Following notification, each OEM was required to make a determination regarding whether a safety-related defect existed in its vehicles. If the OEM decided that a defect did exist, it was then necessary to reconcile the engine serial numbers (ESNs) with vehicle identification numbers (VINs) to identify which engines were installed in emergency vehicles, and which of those emergency vehicles were equipped with a manual regeneration inhibit switch (as only this subset of vehicles was covered by this campaign). Accordingly, an unusual amount of communication was necessary to develop the owner notification list.

We acknowledge that our Part 573 letter stated that owner notifications would commence by August 1, 2009 and that notification did not formally commence until September 4, 2009.⁶ However, the agency was aware that this estimated notification date would not be met, since we were in continuing discussions with your office regarding the draft Part 577 letter beyond that date. Moreover, we advised your office of the status of notification on several occasions (by emails dated August 28, September 21 and October 19⁷). Furthermore, even before our formal notifications were issued, Cummins had informal discussions with several OEMs that led to the containment of affected units and the remedy of a substantial number of units. Cummins was taking proactive steps throughout this period to communicate with OEMs to administer this recall.

Nonetheless, we constantly evaluate our recall procedures and with the concerns you have raised, we have used this occasion to take a closer look at the flow of recall-related communications to our OEM and distributor customers and to owners. For this particular recall, Cummins relied on a decentralized communications process, whereby customer notifications were handled through Cummins customer relationship channels (with oversight by the Cummins Safety Office). We recognize, however, that decentralization of these communications can lead to potential communications delays and a lack of uniformity. Thus, going forward, Cummins will

² Ferrara's 573 letter states that it received a request for chassis VIN numbers and customer information on October 17, 2009. However, Ferrara was notified by an email from its distributor on September 3, 2009 and a reminder was sent by its distributor on October 21, 2009.

³ Although we reported that Spartan received notice of this recall on September 11, 2009, Cummins notified Spartan's supplier, Cummins Bridgeway, of this recall as early as July 24, 2009.

⁴ Emergency One was notified by its distributor on August 19, 2009.

⁵ Seagrave and Pierce were notified by their distributor on August 7, 2009.

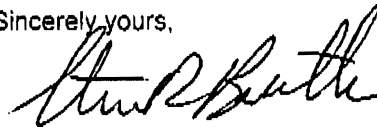
⁶ Our representative owner letter was dated September 4, 2009. However, we did not intend to suggest that all owner letters were mailed on that date.

⁷ On August 28, we advised that notification letters had not gone out yet; on September 21, we advised that the campaign had begun and that Cummins was continuing to work with its customers concerning notification of owners; and on October 19, we explained that Cummins was conducting its notification in three stages and that the September 4 notification pertained to ISB engines only. We provided representative copies of dealer communications and owner letter on October 6, 2009.

endeavor to centralize and standardize the notification process. Cummins also intends to consult with its independent distributors to remind them of their responsibility to promptly forward all safety-related communications to their OEM customers and to encourage their customers to provide vehicle and owner information as quickly as possible, so as to enable Cummins to expeditiously prepare and send owner letters. Finally, we will review our internal procedures to ensure that representative copies of all recall-related correspondence (sent to more than one customer, manufacturer, etc.) are collected and promptly transmitted to NHTSA in accordance with Part 573.6(c)(10). (We have included with this letter a "representative" copy of an electronic customer communication sent to Daimler on July 23, 2009, and follow-up correspondence on October 21, 2009.) We will continue to identify additional process improvements that will enable us to smoothly administer any future safety recalls.

Cummins hopes the foregoing adequately addresses your concerns. We would be glad to discuss any of these issues further.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Steve Butler", written over a horizontal line.

Steven R. Butler

Phone: 812-377-7313
Fax: 812-377-3265
Email: steven.r.butler@cummins.com

REPRESENTATIVE COPY

Sent via email:

From: Steven R Butler/Corp/Cummins
To: david.stanley@daimler.com
Cc: Ginger L Lirette/Ind/Cummins@Cummins, Leif E Hovin/Ind/Cummins@Cummins,
Travis Zilch/Auto/Cummins@Cummins
Date: 07/23/2009 04:07 PM
Subject: Cummins Part 573 Regeneration Inhibit on Fire Trucks

Dave, I appreciated the chance to discuss with you a recent Safety Defect that Cummins filed with NHTSA.

Attached is our Part 573 Defect Notification

I will ask our Campaign Coordinators in OEM Service and Service Engineering to supply you with a list of the impacted ESNs. You should receive that in a separate email.

Cummins will conduct the recall from our end, including quarterly reporting to NHTSA.

If you have any questions, please do not hesitate to contact me.

Steve Butler
Director - Product Safety
Cummins Inc.
Box 3005 MC 60921
Columbus, IN 47202
812-377-3713
steven.r.butler@cummins.com

Sent via email:

From: Steven R Butler/Corp/Cummins
To: david.stanley@daimler.com
Cc: Ginger L Lirette/Ind/Cummins@Cummins, Leif E Hovin/Ind/Cummins@Cummins,
Travis Zilch/Auto/Cummins@Cummins, David Dreihobl/Auto/Cummins@Cummins

Date: 10/21/2009 08:12 AM

Subject: Cummins Part 573 Regeneration Inhibit on Fire Trucks

Dave,

As Ginger and I have previously advised on July 23rd, Cummins Inc. has determined to conduct a safety recall campaign with respect to ISB CM2150 and ISC/ISL CM2150 engines produced from March 12 – June 30, 2009 and ISM CM876 and ISX CM871 engines produced from March 12 – June 22, 2009, installed in emergency vehicle applications. As you should know, we have been working with you to identify emergency vehicles (by model, model year and related vehicle population) that are subject to this campaign, in order to facilitate timely recall notification to vehicle owners and fleets.

Under the National Traffic and Motor Vehicle Safety Act and NHTSA's implementing regulations, as the vehicle manufacturer that installed these original equipment engines, you are required to make your own determination whether or not a safety recall should be conducted for these vehicles. **If you agree that vehicles equipped with the subject engines contain a safety defect, you are required to submit a Part 573 defect notice to NHTSA within five (5) working days of your determination.** If you authorize Cummins to do so, we will undertake the recall and communicate with your customers about this campaign, provided that Cummins receives adequate customer information from you. Cummins will also prepare and submit quarterly recall status reports to NHTSA, thus alleviating you of that requirement..

IMPORTANT: Some of the affected vehicles may still be in your inventory or in the inventory of your dealers. Federal law requires you or your dealers to complete the recall service on these vehicles before delivery to customers.

We would appreciate receiving a copy of your Part 573 notice. For your information, NHTSA has assigned recall number 09E-046 to the Cummins recall.

Cummins apologizes for any inconvenience resulting from this safety campaign, but we know that you share our concern for the safe operation of your vehicles and customer satisfaction with the operation of Cummins engine products.

Please contact me if you have any questions concerning this important matter.

Steve Butler
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