



U.S. Department
of Transportation

**National Highway
Traffic Safety
Administration**

1200 New Jersey Avenue SE.
Washington, DC 20590

JAN 29 2010

Via Facsimile and Mail

Mr. Roger Lackore
Director of Research and Development
Pierce Manufacturing, Inc.
2600 American Drive
Appleton, WI 54912-2017

NVS-215/jtt
09E-046/09V-389

Dear Mr. Lackore:

Thank you for your letter of December 4, 2009, sharing Pierce Manufacturing, Inc.'s (Pierce) chronology of events and understandings in relation to Cummins, Inc.'s (Cummins) safety recall 09E-046, and which led to Pierce's defect decision as to some of its emergency vehicles and safety recall 09V-389.

You asked for confirmation that a vehicle manufacturer is required to notify NHTSA and file its defect information report within five business days after its receipt of notification from a supplier that the supplier has initiated a safety recall. You explained that Pierce was under the impression that since Cummins had notified NHTSA of the defect, the five business days requirement was satisfied. You explained later in your letter that Pierce believed it needed to notify NHTSA and file its report within a reasonable amount of time from when it was notified, but not necessarily within five business days.

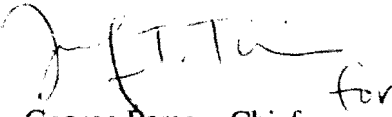
This letter serves to confirm that a vehicle manufacturer is required to notify NHTSA by filing the required information report within five business days after it decides a safety defect or noncompliance with Federal motor vehicle safety standards exists in its vehicles. In the event that the decision is based on a supplier's decision that equipment it supplied is defective or noncompliant, a manufacturer is expected to conduct its own analysis and evaluation and promptly decide whether or not that defect or noncompliance renders the vehicle product defective or noncompliant. Should the vehicle manufacturer decide its vehicles are defective or noncompliant, it must file its defect or noncompliance report as to the vehicles within five business days. 49 CFR 573.6(b).

I also want to take the opportunity in this letter to clarify that vehicle manufacturers retain ultimate responsibility for their vehicle products and any items of original equipment installed in them. 49 CFR 573.5(a). This does not change when an equipment manufacturer, including a heavy truck engine manufacturer whose trade or brand name may be recognizable to an owner or purchaser of a heavy truck, makes a defect or noncompliance decision and agrees to remedy vehicle products at no charge. An equipment manufacturer does not have the authority to make a defect or noncompliance

decision as to a vehicle manufacturer's products for which it does not have responsibility.¹ The vehicle manufacturer must still make a defect or noncompliance decision and file an information report if it decides that its vehicles are defective or noncompliant. If the safety recall campaign conducted by the equipment manufacturer is not appropriate or successful, the vehicle manufacturer may and will be held responsible for taking those actions necessary to conduct an appropriate or successful campaign as to its vehicles.

We thank you again for the information you have provided.

Very truly yours,


George Person, Chief for
Recall Management Division

¹ We recognize that under 49 CFR 573.3(e), in the case of a defect or noncompliance that exists in original equipment used on only one vehicle manufacturer's products, the vehicle or equipment manufacturer may file a notification and report that serves to fulfill the notification requirement for both. Even in that situation, however, the applicable manufacturer is rendering a decision only as to its product (vehicle or equipment, as applicable). And, in any event, the only regulatory requirement satisfied is the requirement to notify NHTSA.