



U.S. Department
of Transportation

**National Highway
Traffic Safety
Administration**

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1200 New Jersey Avenue, SE
Washington, DC 20590

Robert Strassburger, Vice President
Vehicle Safety and Harmonization
Alliance of Automobile Manufacturers
803 7th Street, NW Suite 300
Washington, DC 20001-3717

Re: Request for Interpretation

Dear Mr. Strassburger:

This responds to your November 6, 2013 letter on behalf of the Alliance of Automobile Manufacturers (Alliance) requesting clarification and guidance regarding a recent amendment to the Early Warning Reporting (EWR) regulation, as set forth in 49 CFR Part 579, subpart C. Specifically, you seek clarification regarding the updating of manufacturer reports when required to provide updates under 49 CFR 579.28(f)(2)(i) & (ii).

As background, the EWR regulation requires motor vehicle and equipment manufacturers to submit quarterly reports of early warning information: production information; information on incidents involving death or injury; aggregate data on property damage claims, consumer complaints, warranty claims, and field reports; and copies of field reports (other than dealer reports and product evaluation reports) involving specified vehicle components, a fire, or a rollover. 49 CFR Part 579, subpart C. On August 20, 2013, NHTSA published a final rule amending the EWR regulation to add new vehicle types, fuel and propulsion codes, and component codes for light vehicle reporting under 49 CFR 579.21. *See* 78 Fed. Reg. 51382, 51424-45. The amendments to the EWR rule are effective August 20, 2014. Section 579.28(f)(2) requires a manufacturer to submit an updated report on incidents involving death or injury when a vehicle manufacturer is not aware of the VIN at the time the incident is initially reported or when the component code 99 (system or component is unknown) is reported in its initial report, and the manufacturer becomes aware during a subsequent calendar quarter of the VIN, or that one or more of the specified systems or components allegedly contributed to the incident. 49 CFR 579.28(f)(2)(i) & (ii). A manufacturer need not submit an updated report if the VIN or system or component is identified by the manufacturer in a reporting period that is more than one year later than the initial report to NHTSA. *Id.*

You raise several scenarios seeking guidance on the applicability of the EWR regulation's updating requirements in light of recent amendments that I repeat below, followed by NHTSA's interpretation.

1. "A manufacturer files an EWR report for the first quarter of 2014 (as a hypothetical example) that includes a death/injury claim coded as '99' because the claim does not

specify the system or component allegedly contributing to the incident. During the 3rd quarter of 2014, the manufacturer becomes aware that the claimant is alleging that the death/injury claim involves a failure of a forward collision warning system. Must the manufacturer update the EWR report to include the new information regarding the forward collision warning system, even though the requirement to include such information did not apply when the initial report was filed?... Would the answer be different if the information is learned in the 4th quarter of 2014 (after the new reporting categories would be in effect)?”

Under the first scenario in your hypothetical, pursuant to 49 Part 579.28(f)(2)(ii), the manufacturer must update the death and injury claim in its quarterly report for the period in which it learns of the updated information. The manufacturer would not have to submit its updated report under the Forward Collision Warning component code because the component code would not be effective for that period. However, the manufacturer would have to update the death and injury claim with an applicable component code available in the third quarter reporting period. Under the second scenario in your hypothetical, the answer would be slightly different. If the manufacturer learns of the information in the fourth quarter of 2014, the manufacturer would have to report the updated report under the Forward Collision Warning component code.

2. “A manufacturer files an EWR report for the first quarter of 2014 that includes a death/injury claim coded as ‘98’ because the allegation was that the death or injury was caused by a failure of the lane departure warning system... . Must the manufacturer update this EWR report to conform the report to the new reporting categories after they take effect?”

No. NHTSA will not require a manufacturer to update all death and injury EWR reports that alleged one of the new component codes and were submitted before the effective date of the new component codes.

3. “A manufacturer files an EWR report for the first quarter of 2014 that includes a death/injury claim without a VIN. The claim is coded ‘03’ because the allegation is that the death or injury was caused by a failure of the service brake system. The manufacturer subsequently learns the VIN in the 3rd quarter of 2014, and prepares an updated EWR report to add the VIN. Must this updated report now include information about whether the service brake allegation involved foundation brakes or automatic brake controls? Must the updated report identify the vehicle type and the fuel and/or propulsion system?”

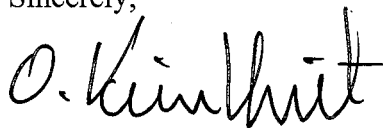
The answer to both questions is no. Pursuant to 49 Part 579.28(f)(2)(i), if a manufacturer does not know the VIN associated with an incident at the time the incident is initially reported, a manufacturer is required to submit an updated report with the VIN of such incident in the reporting period in which the VIN is identified. Under this section, no other information is required to be updated. An update is not required if the VIN is identified in a period that is one year later than the initial report to NHTSA.

4. "In addition, for these scenarios and others, it is uncertain whether updates would be provided using current templates or any new templates that may be specified by the agency. [Also], there should be flexibility for manufacturers to provide updates using any new template on a voluntary basis."

Updated reports should be submitted with the templates used when those files were first submitted. NHTSA will maintain the existing templates expressly for updated reports. We note that while the Alliance states that this is a transitional issue, there are instances where a manufacturer may need to revisit a prior EWR submission and provide an update. Accordingly, the agency will maintain the existing templates for such instances. You also ask whether manufacturers may voluntarily submit EWR reports using the new templates prior to the effective date of the amended rule. Due to the technical difficulties involved in processing and validating the huge amount of data coming in to the EWR system each quarter, NHTSA must work with only one template for the specified quarter. Manufacturers must submit reports using the template in effect for the reporting period and any subsequent revised reports must be reported with the template that was effective at the time the original report was submitted.

I hope this information adequately addresses your concerns. If you need any further assistance in this matter, please contact Andrew J. DiMarsico of my staff at (202) 355-5263 or by email at andrew.dimarsico@dot.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "O. Kevin Vincent". The signature is written in a cursive, slightly slanted style.

O. Kevin Vincent
Chief Counsel