

MAY 8 2008

Alessandro Farneschi
Product and Market Manager
Automobili Lamborghini S.p.A.
Via Modena, 12
Sant'Agata Bolognese
Italy 40019

Re: Request for Interpretation of the Early Warning Reporting Regulation

Dear Mr. Farneschi:

This responds to your December 27, 2007 letter seeking an interpretation of 49 CFR Part 579, "Reporting of Information and Communications About Potential Defects." Your request involves reporting two different types of dealer communications received by Automobili Lamborghini, S.p.A. (Lamborghini) pursuant to the early warning reporting (EWR) requirements.

In particular, you seek guidance on how to report communications that are submitted by dealers to Lamborghini through its intranet. You state that these communications are two different electronic forms. The first communication is a "Help request" that you define as "the sender is asking for technical support to carry out repair." The second communication is an "Authorization to warranty claim" that you define as "a mandatory step for everyone who is aiming to get a warranty refund and our operator can approve or reject this type of request." You also state that in both communications the sender must enter the VIN and the malfunction description.

You state that your interpretation of the Office of Defect Investigation's EWR compendium requires you to report the "Help request" communication as field report and not to report the "Authorization to warranty claim" communication as a field report because it is already reported as a warranty claim. You request that the agency confirm your understanding how to report these communications. Your concern is that if these communications were reported as field reports that Lamborghini's field report numbers would be artificially increased.

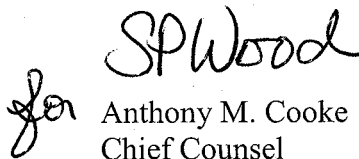
In response to your first request, based upon the information you provided, it appears that Lamborghini's "Help request" communication is an electronic form that is from a dealer regarding a performance problem of a motor vehicle. The definition of "field report" includes "a communication in writing, including communications in electronic form,

from...a dealer or authorized service facility of such manufacturer. . . to 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 and transported beyond the direct control of the manufacturer, regardless of whether verified or assessed to be lacking in merit. . . ." 49 CFR § 579.4. Based upon this definition, we confirm your interpretation that the "Help request" communication is a field report for the purposes of early warning reporting.

In response to your request for clarification on reporting the "Authorization to warranty claim" communication, your letter implies that this communication is a pre-authorization document that all dealers must submit to obtain authorization to conduct repair work under warranty. I note that the agency addressed a similar concern raised by Coachmen Industries, Inc. (Coachmen) in March 2003. See Letter from Lloyd S. Guerci, Assistant Chief Counsel for Litigation and Enforcement, NHTSA to Kathy L. Samovitz, Associate Counsel, Coachmen Industries, Inc. dated April 29, 2003. Similar to your "Authorization to warranty claim" communication, Coachmen utilizes a "prior authorization submission" that is a prerequisite for the manufacturer to approve or deny repair work under a warranty. Coachmen requested that the agency clarify whether the "prior authorization submission" must be reported as a field report. We responded that while the document may have some elements of a field report, it apparently simply identifies the problem as a foundation for a warranty claim, and the action item sought is simply a warranty authorization, which did not have to be reported. Id. at 2. In the case of a warranty authorization, if the manufacturer approves the authorization, the incident will be reflected subsequently in the manufacturer's quarterly report on warranty claims, which serves the purposes of early warning reporting. Id. Thus, Lamborghini generally does not have to report its "Authorization to warranty claim" as a field report for the purposes of early warning reporting. However, if the document contained an assessment of a performance problem to the manufacturer and was not oriented primarily toward warranty approval, it would be considered a field report.

If you have any questions, you may phone Andrew DiMarsico of my staff at (202)-366-5263.

Sincerely yours,


Anthony M. Cooke
Chief Counsel