



U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

Administrator

1200 New Jersey Avenue SE.
Washington, DC 20590

July 28, 2014

The Honorable Edward J. Markey
218 Russell Senate Office Building
Washington, DC 20510

The Honorable Richard Blumenthal
724 Hart Senate Office Building
Washington, DC 20510

Dear Senators Markey and Blumenthal:

Thank you for your July 2, 2014, letter concerning Early Warning Reporting (EWR) and defect petitions. Our mission at the National Highway Traffic Safety Administration (NHTSA) is safety, and we take these issues seriously.

Early Warning Reporting

Your letter poses two questions relating to NHTSA's administration of the Early Warning Reporting (EWR) program.

- 1.) Please describe the manner in which NHTSA evaluates EWR reporting to ensure that manufacturers are complying with its requirements.

Because your letter noted disparities in the rates at which different manufacturers appear to report death and injury claims, you raise concerns about the degree to which manufacturers are meeting their reporting obligations. NHTSA shares these concerns. I note, however, that many factors can affect the number of death and injury incidents involving particular manufacturers, including vehicle use, owner demographics, and product mix. Further, NHTSA's reporting regulations require manufacturers to report deaths or injuries identified in a "claim against and received by the manufacturer or in a notice received by the manufacturer." Some manufacturers interpret "notice" broadly and report incidents when the "notice" consists of an article published in a newspaper describing an accident.¹ Others are more conservative.

Given that the information in an EWR report is single source data, it is not possible to verify the accuracy of each piece of information submitted in early warning reporting. Nonetheless, EWRs can be useful tools in helping to determine whether a potential defect exists. Accordingly, NHTSA enforces EWR reporting requirements and pursues civil penalties as appropriate for non-compliance.

¹ NHTSA is aware that our definition of "notice" in the EWR regulations excludes media reports.

The agency uses a variety of methods to ensure that manufacturers comply with the early warning reporting requirements in 49 C.F.R. Part 579. First, EWR data is thoroughly reviewed and analyzed to determine if potential defect trends exist. This analysis will reveal changes or discrepancies in reporting. NHTSA also monitors information obtained in defect investigations for indications that manufacturers are not complying with EWR reporting requirements. If review of EWR data or consumer complaint or manufacturer information obtained in a defect investigation raises concerns about EWR reporting, NHTSA will contact the manufacturer either by telephone, email or by letter. These communications contain language advising the recipients of their reporting obligations, as well as the potential for civil penalties for non-compliance.

In the case of new manufacturers, NHTSA monitors the issuance of World Manufacturer Identification (WMI) numbers by the Society of Automotive Engineers (SAE). Among other uses, these identification numbers enable states to identify vehicles for the purpose of issuing titles. If a manufacturer has obtained a WMI number, but has not submitted early warning reporting information to NHTSA, NHTSA sends a letter to the manufacturer reminding it of its reporting obligations and the potential for civil penalties for non-compliance.

- 2.) Has NHTSA ever undertaken any enforcement action relating to a manufacturer's failure to fully or accurately report EWR claims? If so, please provide a description of the action(s) taken.

In 2007, NHTSA's examination of EWR reporting data indicated that a motorcycle manufacturer, Piaggio Group Americas, Inc. (Piaggio) had not complied with its early warning reporting obligations. The agency sent a Special Order to Piaggio requiring the company to provide information about its failure to comply with EWR and other requirements. In 2009, Piaggio paid a \$100,000 civil penalty as a result of its failure to make EWR reports, complete recalls in a timely fashion and make quarterly recall completion reports.

NHTSA is currently investigating Ferrari of North America's compliance with EWR reporting requirements. We have sent an information request to Ferrari, and its response is due on August 16, 2014.

Defect Petitions

Your letter also seeks information about NHTSA's responses to defect petitions.

Information regarding these defect petitions, including details about resulting investigations, can be found at: <http://www-odi.nhtsa.dot.gov/owners/SearchSafetyIssues>. For your convenience, I have enclosed a spreadsheet listing defect and recall petitions filed with the agency since 1990.²

² NHTSA has identified some omissions and errors in the defect and recall petition information on NHTSA's web site. Most of these pertain to petitions filed before the agency's adoption of the Artemis database system in 2003. The agency will work to correct this information on the web site. Many of these errors and omissions are corrected on the attached spreadsheet.

Details about individual petitions may be retrieved by entering the defect petition number (DP) or recall petition number (RP) on this web page.

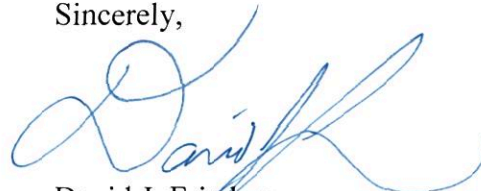
NHTSA posts defect and recall petitions to NHTSA's web site on or around the date listed in the defect or recall petition's opening resume'. In the event that a petition results in a denial, the denial is posted on NHTSA's web site on or around the date of the denial. Denials are also published in the Federal Register, where they can be located using DP and RP numbers. I note that your request seeks information relating to petitions received by NHTSA since 1990 -- before NHTSA had a web site. Information about petitions that preceded NHTSA's establishment of a web site is posted in flat file format at: <http://www-odi.nhtsa.dot.gov/downloads/>.

NHTSA reviews defect and recall petitions as part of its screening work to identify possible safety defects that warrant the opening of formal investigations. Because NHTSA receives more than 45,000 vehicle owner complaints each year, regularly reviews large quantities of manufacturer information and must act decisively to address safety problems with limited resources, it must evaluate each petition and prioritize its actions. This is a complex process, and one we take very seriously.

Many petitions do not lend themselves to quick evaluation and disposition because of their complexity. Conversely, defect petitions often do not contain sufficient data to support agency action unless more information is obtained by the agency. Defect petitions also compete for attention with other issues that may pose higher levels of risk.

Please let me know if you have any additional questions. If your staff needs any further assistance, I invite them to contact Megan Caldwell, NHTSA Congressional Affairs at (202) 366-1836.

Sincerely,

A handwritten signature in blue ink, appearing to read "David J. Friedman", with a large, stylized flourish extending from the end of the signature.

David J. Friedman
Acting Administrator

Enclosure