



U.S. Department
of Transportation

**National Highway
Traffic Safety
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

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Mr. Clarence M. Ditlow
Executive Director
Center for Auto Safety
1825 Connecticut Avenue, NW, Suite 330
Washington, DC 20009-5708

Dear Mr. Ditlow:

This responds to your May 15, 2002 letter to Dr. Jeffrey Runge, Administrator of the National Highway Traffic Safety Administration (NHTSA), in which you criticize NHTSA's policy of permitting motor vehicle manufacturers, under certain specified circumstances, to conduct safety recalls that apply only to vehicles from a particular region of the United States.

Regional recalls are rare. Since 1998, when NHTSA's current policy was established, there have been 17 such recalls out of a total of over 1,500 safety recalls (approximately one percent). Yet, under this policy, hundreds of thousands of vehicles have had safety-related defects remedied, and owners of thousands of other vehicles not directly covered by a recall have had their vehicles repaired at no charge, long after the expiration of the relevant warranty coverage. In most (if not all) of these instances, the overall nationwide failure rates were relatively low, raising serious doubts as to whether a NHTSA defect determination could be sustained. By recognizing that a defect could exist in a specified subset of vehicles subject to certain conditions, and allowing carefully tailored regional recalls, we are able to redress safety problems that occur in particular areas that might otherwise go unaddressed. Manufacturers that have resisted broad recalls on the basis that nationwide failure rates are low have acknowledged the existence of defects in vehicles in a specified geographic area and have conducted recalls to remedy those defects. Thus, we firmly believe that our regional recall policy has promoted motor vehicle safety.

I am aware that that, prior to 1998, there were several problems associated with some regional recalls, in large part due to inconsistencies in the way various manufacturers conducted them and the fact that in many instances there was no opportunity for owners of vehicles outside the region that experienced the problem to obtain any redress. However, in August 1998, I sent letters to the manufacturers of light vehicles (both directly and through industry associations) clarifying NHTSA's policy with respect to regional recalls and setting forth certain requirements that would apply to all future regional recalls. (A copy of that letter is enclosed.) Under that policy, in each instance in which a manufacturer proposes to conduct a regional recall, NHTSA's Office of Defects Investigation (ODI) reviews the nature of the defect, the proposed scope of the

recall, and the problem experience to assure that such a recall is appropriate under the particular circumstances.

In general, regional recalls fall into two categories, and somewhat different requirements apply to each category. In the first, the recall addresses a problem that can occur as the result of a short-term or single exposure to a meteorological condition (such as extreme cold or heavy snow). In the second, the recall addresses problems that only occur after long-term exposure to particular environmental conditions (such as road salts that are only applied regularly in certain states). Of particular note are the requirements applicable to vehicles outside the region. For the first category, all owners throughout the country must be notified of the problem and must be advised that they can, at their option, obtain the recall remedy at no charge. For the second category, owners of vehicles that are not covered by the recall (e.g., those located in a "border state") that experience the problem in question are entitled to have the problem repaired at no charge, even if warranty coverage had already expired. Moreover, with respect to those regional recalls that address defects related to corrosion due to exposure to road salts, to assure consistency, we have required all manufacturers to cover the same "salt belt" (i.e., 20 Northeastern states plus the District of Columbia), regardless of whether, in any specific recall, the number of corrosion-related complaints is low in one or more of those states. And, to address situations in which a vehicle originally sold and registered outside the covered region is subsequently brought into the region, we require manufacturers to issue a supplemental defect notification (usually after about two years) to all owners of vehicles registered in the covered region at that time on which the recall remedy has not been performed.

Contrary to the assertions in your letter, regional recalls are not inconsistent with the National Traffic and Motor Vehicle Safety Act (currently codified at 49 U.S.C. Chapter 301). Under the statute, manufacturers must recall vehicles that contain a defect that relates to motor vehicle safety. The number of failures need not be, and normally will not be, a substantial percentage of the total number of vehicles of the model in question that were produced. But this does not mean that the entire universe of similar vehicles always must be recalled. If, for example, a critical suspension component in a particular model and model year vehicle were made of a metal that would corrode and fail after several years of exposure to the road salts used in the Northeastern quadrant of the United States, and those failures led to control problems and crashes, it would be appropriate to conclude that a safety-related defect exists in the vehicles exposed to these conditions. But vehicles sold and continuously registered outside of the "salt belt" would not experience the corrosion problem, and therefore it would be pointless to require the manufacturer to replace the component in question in such vehicles. Even if it could be argued that the component was in some sense "defective" in a vehicle located in an area where road salts are not used because it was not made with corrosion-resistant metal, such a "defect" would not be "related to motor vehicle safety" in such a vehicle, since it would not lead to failures or crashes.

We recognize that a vehicle registered outside the "salt belt" might occasionally be driven in the Northeast; however, by definition this sort of regional recall only applies to problems associated with long-term exposure to environmental conditions. If there were a significant

number of failures outside the proposed region at the time of the defect determination, we would not permit the manufacturer to conduct a regional recall. And, if we subsequently become aware of a significant number of failures outside of the covered region, we can open a recall query investigation to consider whether to compel the manufacturer to broaden the geographic coverage of the recall.

Since 1997, we have conducted over ten recall audits and/or investigations concerning regional recalls. These were conducted to ensure that the geographic scope of the recall was appropriate, that all affected models and model years were included, and that the manufacturers complied with the statute, the regulations, and the requirements outlined in my August 1998 letter. One such example is RQ97-009, which led to the expansion of a Ford recall (No. 93V-106) to address corrosion of the sub-frames of certain model year (MY) 1986-88 Taurus, Sable, and Continental vehicles. This investigation resulted in an expansion of the recall to include ten additional states as well as several additional model years (Recall No. 98V-323). Similarly, RQ99-002, concerning a General Motors recall (No. 97V-058) of certain MY 1988-1991 W-body cars and U-body minivans in fourteen states to address corrosion of the front cradle mounting bolts resulted in the expansion of the recall to twenty states plus the District of Columbia (No. 00V-189). Most recently, ODI opened RQ02-011 to consider whether the geographic scope of Ford's recall of certain MY 1995 Windstar minivans located in certain "hot-weather" states in the South where high ambient temperatures can lead to cracks in the plastic fuel tanks (Recall No. 99V-309) should be expanded.

Nor is our regional recall policy inconsistent with our regulations. Your letter states that you "are shocked to see that [the August 1998] letter tells manufacturers they do not have to comply with 49 CFR 577.8, which prohibits disclaimers . . ." However, our letter merely clarified that, for defects involving a single or short-term exposure to a meteorological condition, manufacturers could include language in the owner notification letter that describes the likely scope of the defect, as permitted by 49 CFR 577.5(d). (That section states: "When the manufacturer determines that the defect or noncompliance may not exist in each such vehicle [covered by the recall], he may include an additional statement to that effect.") Moreover, we can and do assure that manufacturers do not include inappropriate disclaimers in owner notification letters, since they must provide a draft of every such letter to ODI for its review pursuant to 49 CFR 573.6(c)(10).

While this letter is not an appropriate forum to address each of your allegations about specific recalls, I do want to point out that your suggestion that the agency's current policy is inconsistent with its position in 1979, when it required Fiat to conduct a nationwide recall to address corrosion (Recall No. 79V-078), is based on a misunderstanding of that recall. The deterioration and failure of the undercarriage in the Fiat vehicles covered by that recall was not associated with road salts or any other regional factor; rather, it was due to Fiat's use of contaminated recycled steel. Evidently, when scrap materials vehicles were melted down during the recycling process, some of the copper wiring and other electrical components containing copper were not removed. The copper in the recycled steel caused internal galvanic action, which caused the steel to corrode. Moreover, in that case, NHTSA had received numerous

complaints about this problem in these Fiat vehicles from all areas of the country. This was not the case in the instances in which the agency has authorized regional recalls.

If you would like to discuss these issues further, please call me at (202) 366-9700.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth N. Weinstein". The signature is written in a cursive style with a long horizontal stroke at the end.

Kenneth N. Weinstein
Associate Administrator
for Enforcement

Enclosure