

From: Ruba Qashu [<mailto:rubal@libertaslaw.com>]
Sent: Monday, May 28, 2012 11:20 PM
To: Timian, Jennifer (NHTSA)
Cc: Sorg, Sarah (NHTSA); mringstad@zapworld.com; Mark Abdou; zapceo@gmail.com; RMD.ODI (NHTSA)
Subject: RE: Zap Xebra failure to comply with Federal Motor Vehicle Safety Standards

Ms. Timian,

Attached please find ZAP's response to your email below. Zap has been working on the second 573 Report but has been delayed and intends to send it to DOT by the end of this week. Please do not hesitate to contact me with any questions, comments or concerns.

Best, Ruba

RUBA QASHU
ATTORNEY



DIRECT 949-355-5405 | FAX 310-356-1922
280 S. BEVERLY DRIVE, SUITE 204 | BEVERLY HILLS, CA 90212

This email, including any attachments, is confidential and privileged. If you are not an intended recipient, please delete the email and notify the sender. We are not tax advisors and any communications by us should not be construed as tax advice or used for the purpose of (i) avoiding tax-related penalties or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

From: Jennifer.Timian@dot.gov [<mailto:Jennifer.Timian@dot.gov>]
Sent: Monday, May 21, 2012 1:41 PM
To: Ruba Qashu
Cc: sarah.sorg@dot.gov; mringstad@zapworld.com; Mark Abdou; Mark Abdou; zapceo@gmail.com; RMD.ODI@dot.gov
Subject: RE: Zap Xebra failure to comply with Federal Motor Vehicle Safety Standards

Thank you. We will start our processing of the 573 report. You can expect to receive an acknowledgment letter in the coming days of our receipt of the report with reminders of ZAP's recall obligations.

I reviewed the 573 report and its attachments and have some questions, comments, and concerns. We may have additional concerns as we process.

1. ZAP completed a recall report pertinent to equipment recalls. This, however, concerns a vehicle recall and will be processed accordingly.

2. The technical instructions you included were marked “confidential” on each page. If confidential treatment is, in fact, requested, ZAP must file an appropriate request for confidential treatment with our Office of Chief Counsel and in accordance with the procedures in 49 CFR Part 512. This must be performed immediately or we will have no choice but to consider the request waived or not applicable and will file the materials in the recalls file which is a publicly available file.
3. The dealer instructions are dated May 18. Were they in fact issued May 18 or is this the date of this draft? If these are a draft, when does ZAP intend to mail the instructions?
4. The draft owner letter you submitted is dated from January 2010. It pertains to the master cylinder recall for which you indicated a separate report would be filed, and not to this recall for failure to meet the minimum requirements for braking distance. Please submit the appropriate draft.
5. As to the draft owner letter, we only need to see a draft and for ZAP to then submit a representative copy of what was mailed after mailing. Please do not submit copies of every letter for every affected vehicle.
6. Please be reminded that current registered owners are to be notified. You may not rely on an old original purchaser list. You may be required to produce the list of owners notified.
7. If the population of vehicles being recalled in this campaign and in the other are the same, it may behoove ZAP to notify owners of both noncompliances with one letter, rather than issue separate letters which will be more costly. If ZAP chooses to go this route, it must supply a draft of that letter for our review and it must complete separate quarterly reports on both recall campaigns.
8. ZAP notes that it has 53 vehicles “in inventory” and another 9 “sold – in inventory.” What does this mean? Are all of these vehicles at ZAP or strictly within ZAP’s custody or control?
9. Please provide the country of origin of the noncompliant components addressed by this recall. If this is presently unknown, ZAP must ascertain this information and then provide it to us. Please also identify the manufacturer of the components. If unknown, identify from whom the QingQi Group Motorcycle Ltd. obtained these components.
10. ZAP says in the 573 that it will send customers a kit or have the customers send their vehicles back to ZAP for repair. The recall remedy must be free to owners. How does ZAP intend to cover the costs of labor once customers have kits? To whom is it instructing them to go and what arrangements has it made to cover the charges from those facilities? How will ZAP arrange and pay for the transport of vehicles to ZAP if that is the option an owner chooses?
11. What is the document that has the FAQ? Is this an internal script ZAP intends to use if owners or dealers contact it about the recall? There are a number of issues with this document. Namely, that it refers to the safety recall as an “upgrade,” and the failure to meet minimum federal safety standards for braking as a “technical non-compliance under federal rules.” This is inaccurate and misleading and we request you amend the document to reflect that this is a safety recall being conducted to remedy the vehicles so that they meet the minimum performance requirements for braking.

Regards,
Jennifer Timian

From: Ruba Qashu [<mailto:ruba@libertaslaw.com>]
Sent: Friday, May 18, 2012 7:46 PM
To: Timian, Jennifer (NHTSA)

Cc: Sorg, Sarah (NHTSA); mringstad@zapworld.com; Mark Abdou; Mark Abdou; zapceo@gmail.com
Subject: RE: Zap Xebra failure to comply with Federal Motor Vehicle Safety Standards
Importance: High

Ms. Timian,

Please find the 573 Report addressing breaking distance attached. Please note an additional 573 Report addressing reservoirs on the master cylinders will follow no later than the end of next week. Please do not hesitate to contact me with any questions or concerns.

RUBA QASHU
ATTORNEY



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From: Jennifer.Timian@dot.gov [<mailto:Jennifer.Timian@dot.gov>]
Sent: Friday, May 18, 2012 9:47 AM
To: Ruba Qashu; mringstad@zapworld.com; Mark Abdou; Mark Abdou; zapceo@gmail.com
Cc: sarah.sorg@dot.gov
Subject: RE: Zap Xebra failure to comply with Federal Motor Vehicle Safety Standards

Dear ZAP and counsel:

My office still has not received the 573 report that was promised some time ago. Mr. Ringstad informed me several days ago it was being wrapped up. Please send it electronically to me at this email address.

Jennifer Timian

From: Timian, Jennifer (NHTSA)
Sent: Friday, May 11, 2012 10:46 AM
To: Ruba Qashu
Cc: Sorg, Sarah (NHTSA); Mark Abdou; Michael Ringstad (mringstad@zapworld.com); Steven M. Schneider (zapceo@gmail.com); Mark Abdou
Subject: RE: Zap Xebra failure to comply with Federal Motor Vehicle Safety Standards

The requirements for a 573 report are defined by regulation, 49 CFR 573, and specifically 573.6. You need to consult and review that if you have not already done so.

We have a form that ZAP could use. In fact, I think ZAP may have used in its earlier filings. It is available on our website under the "reports" section here. <http://www.safercar.gov/Vehicle+Manufacturers>. You do not have to use it, of course. What you must do is comply with 573.

Jennifer Timian

From: Ruba Qashu [<mailto:rubashu@libertaslaw.com>]
Sent: Thursday, May 10, 2012 8:56 PM
To: Timian, Jennifer (NHTSA)
Cc: Sorg, Sarah (NHTSA); Mark Abdou; Michael Ringstad (mringstad@zapworld.com); Steven M. Schneider (zapceo@gmail.com); Mark Abdou
Subject: RE: Zap Xebra failure to comply with Federal Motor Vehicle Safety Standards

Jennifer,

There was a misunderstanding on our end and the Section 573 Report was not submitted. We will be in touch tomorrow to clarify what is required in the 573 Report and complete as soon as possible.

RUBA QASHU
ATTORNEY



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From: Jennifer.Timian@dot.gov [<mailto:Jennifer.Timian@dot.gov>]
Sent: Thursday, May 10, 2012 12:04 PM
To: Ruba Qashu
Cc: sarah.sorg@dot.gov; Mark Abdou
Subject: FW: Zap Xebra failure to comply with Federal Motor Vehicle Safety Standards

Ruba:

The letter you sent says a 573 report is attached, but you mistakenly attached 577 quarterly reports instead. Would you please send the correct attachment?

Thanks,
Jennifer Timian

From: Ruba Qashu [<mailto:rubal@libertaslaw.com>]
Sent: Wednesday, May 09, 2012 3:06 PM
To: Sorg, Sarah (NHTSA)
Cc: Mark Abdou; Steven M. Schneider; Mariya Petrovska; Michael Ringstad (mringstad@zapworld.com); Guerci, Lloyd (NHTSA)
Subject: Zap Xebra failure to comply with Federal Motor Vehicle Safety Standards

Ms. Sorg,

Attached please find a copy of ZAP's responsive letter to the DOT faxed to your attention this morning. Please do not hesitate to contact me with any questions or concerns.

Best,

Ruba Qashu

RUBA QASHU
ATTORNEY



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May 28, 2012

VIA EMAIL

Jennifer.Timian@dot.gov

U.S. Department of Transportation

Attn: Jennifer Timian

1200 New Jersey Avenue, S.E.

Washington, D.C. 20590

Re: ZAP's Section 573 Report Submitted to the U.S. Department of Transportation ("DOT") on May 18, 2012

Dear Ms. Timian:

This letter responds to the DOT's email of May 21, 2012 addressing the above referenced submission. We have reproduced the DOT's comments in bold type for your convenience and have followed the comment with ZAP's response. References in this letter to "we", "our", or "us" mean ZAP or its advisors, as the context may require.

- 1. ZAP completed a recall report pertinent to equipment recalls. This, however, concerns a vehicle recall and will be processed accordingly.**

ZAP intended to make this a vehicle recall. Please process accordingly.

- 2. The technical instructions you included were marked "confidential" on each page. If confidential treatment is, in fact, requested, ZAP must file an appropriate request for confidential treatment with our Office of Chief Counsel and in accordance with the procedures in 49 CFR Part 512. This must be performed immediately or we will have no choice but to consider the request waived or not applicable and will file the materials in the recalls file which is a publicly available file.**

ZAP, 501 Fourth Street Santa Rosa, CA 95401 USA
Tel: (707) 525-8658 * Fax: (707) 525-8692 * Web: www.zapworld.com

We are not requesting confidential treatment of the technical instructions. These technical instructions are intended to be made available to the public.

- 3. The dealer instructions are dated May 18. Were they in fact issued May 18 or is this the date of this draft? If these are a draft, when does ZAP intend to mail the instructions?**

We have not mailed the dealer instructions; this is a draft. We do not intend to mail the instructions until we receive DOT's approval. We are currently undergoing testing on the vehicle.

- 4. The draft owner letter you submitted is dated from January 2010. It pertains to the master cylinder recall for which you indicated a separate report would be filed, and not to this recall for failure to meet the minimum requirements for braking distance. Please submit the appropriate draft.**

We apologize for this error. A draft of the correct owner letter is attached hereto.

- 5. As to the draft owner letter, we only need to see a draft and for ZAP to then submit a representative copy of what was mailed after mailing. Please do not submit copies of every letter for every affected vehicle.**

We apologize for the inconvenience. We have attached a single draft of the letter for DOT's approval. We will submit a representative copy of what is mailed after we complete the mailing as well.

- 6. Please be reminded that current registered owners are to be notified. You may not rely on an old original purchaser list. You may be required to produce the list of owners notified.**

R.L. Polk & Co. ("Polk") procures, compiles, owns and maintains a proprietary database (the "Recall Database") derived from numerous data sources, including motor vehicle registration and transfer and registration renewal information. Polk is entering into a licensing agreement with ZAP whereby ZAP will have a license the use Polk's Recall Database. ZAP will use this Recall Database to compile a list of current registered owners and notify them accordingly. If ZAP is unable to locate all of the current owners of the vehicles in this manner, ZAP is hopeful that it will be able to locate all remaining owners by (i) sending a mailing out to the dealers who purchased the vehicles for resale to customers and (ii) sending a mailing out to all customers who returned their warranty cards.

7. **If the population of vehicles being recalled in this campaign and in the other are the same, it may behoove ZAP to notify owners of both noncompliances with one letter, rather than issue separate letters which will be more costly. If ZAP chooses to go this route, it must supply a draft of that letter for our review and it must complete separate quarterly reports on both recall campaigns.**

It is ZAP's intention to use only one mailing to alert our customers to the recall. The draft letter attached hereto covers both noncompliances for DOT's review. ZAP will complete separate quarterly reports on both recall campaigns.

8. **ZAP notes that it has 53 vehicles "in inventory" and another 9 "sold – in inventory." What does this mean? Are all of these vehicles at ZAP or strictly within ZAP's custody or control?**

All of these vehicles are in ZAP's custody and control. Vehicles that are "sold- in inventory" are reserved for certain customers; however, ZAP will not ship them until the noncompliances have been resolved to DOT's satisfaction.

9. **Please provide the country of origin of the noncompliant components addressed by this recall. If this is presently unknown, ZAP must ascertain this information and then provide it to us. Please also identify the manufacturer of the components. If unknown, identify from whom the QingQi Group Motorcycle Ltd. obtained these components.**

The country of origin of the noncompliant components addressed by this recall is China. The manufacturers of the components are (i) Wenzhouluxiang, LLP and (ii) other Chinese manufacturers whose names ZAP will provide to the DOT as soon as possible. ZAP is making arrangements to translate the names of these other manufacturers from Chinese to English.

10. **ZAP says in the 573 that it will send customers a kit or have the customers send their vehicles back to ZAP for repair. The recall remedy must be free to owners. How does ZAP intend to cover the costs of labor once customers have kits? To whom is it instructing them to go and what arrangements has it made to cover the charges from those facilities? How will ZAP arrange and pay for the transport of vehicles to ZAP if that is the option an owner chooses?**

ZAP is currently conducting a time study on the amount of man hours required to install the "kit". ZAP will send to the customer or to the installation technician or ZAP dealer the remedy "kit" and will pay for man hours required to complete the installation. The

installer will provide ZAP an invoice for the amount authorized and ZAP will remit the funds.

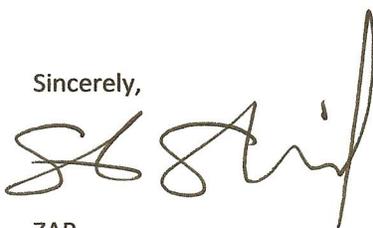
If a customer instead chooses to ship the vehicle back to ZAP, ZAP will contract with a freight company to pickup and deliver the vehicle to ZAP or an authorized dealer and return the vehicle to the customer at ZAP's sole expense.

- 11. What is the document that has the FAQ? Is this an internal script ZAP intends to use if owners or dealers contact it about the recall? There are a number of issues with this document. Namely, that it refers to the safety recall as an "upgrade," and the failure to meet minimum federal safety standards for braking as a "technical non-compliance under federal rules." This is inaccurate and misleading and we request you amend the document to reflect that this is a safety recall being conducted to remedy the vehicles so that they meet the minimum performance requirements for braking.**

This FAQ document is to be used as an internal script and will also be mailed to distributors and customers to explain the recall. ZAP has provided this draft to DOT for DOT's review and approval. ZAP will make the changes requested above as well as any other changes requested by DOT in order to be accurate and not misleading.

We hope this response fully addresses the concerns addressed in DOT's email. Please do not hesitate to contact our counsel, Ruba Qashu, Libertas Law Group Inc., Phone: 949-355-5405, Fax: 310-356-1922, 280 S. Beverly Drive, Suite 204, Beverly Hills, CA 90212, should you have additional questions or concerns.

Sincerely,



ZAP,

a California corporation

Steven M. Schneider,
Chief Executive Officer

Enclosures



SAFETY RECALL NOTICE

[DATE]

Xebra Customer

Dear 2008 ZAP XEBRA Owner:

This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act.

REASON FOR THIS RECALL NOTICE

RECALL # 09V-177

ZAP has decided that certain model year 2008 ZAP XEBRA all-electric vehicle, fails to comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 122, "Motorcycle Brake Systems." These motorcycles require longer distances to stop than the standard allows. Extended stopping distances may result in a vehicle crash. Warning: Your 2008 Xebra does not presently meet braking and brake standards. ZAP is informing you of our failures and continuing failures to have our MY2008 Xebra meet minimum safety standards

RECALL # 09V-385

It has been determined that certain model year 2008 ZAP XEBRA all-electric vehicles fail to comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 122, "Motorcycle Brake Systems." This Standard requires vehicle Master Cylinder contain a separate brake fluid reservoir for each brake circuit. Each reservoir filler opening must also have its own cover, seal and cover retention device. Your 2008 XEBRA is presently equipped with a reservoir containing a single cover, seal and cover retention device. Although we have had no reports of problems and/or failures as of this date, the vehicle recall is important and timely.

WHAT WE WILL DO TO REMEDY RECALL # 09V-177

Your ZAP/Voltage Vehicles dealer will be made ready and available to inspect and replace the brake rotors, pads, master cylinders, brake lines and install a power booster, vacuum tank and compressor as necessary, of the subject vehicles. We will insure that this work will be done completely free of charge. We will accept claims for reimbursement to owners that have

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Email: mringstad@zapworld.com

submitted their vehicles for brake repair prior to this announcement and have incurred out of pocket expense in that regard. Please contact ZAP at 1-800-251-4555 if there are complications in setting service appointments with your dealer, or for reimbursement request procedures.

WHAT WE WILL DO TO REMEDY RECALL # 09V-385

Your ZAP/Voltage Vehicles dealer will be made ready and available to inspect and replace or repair the master cylinder fluid reservoir of the subject vehicles and furnish or install the necessary warning labels. We will insure that this work will be done completely free of charge. We will accept claims for reimbursement to owners that have submitted their vehicles for this brake system repair prior to this announcement and have incurred out of pocket expense in that regard. Please contact ZAP at 1-707-525-8658 if there are complications in setting service appointments with your dealer, or for reimbursement request procedures.

WHAT YOU SHOULD DO

Please contact your ZAP/Voltage Vehicles dealer as soon as possible to arrange a service date so the dealer may order the necessary part(s) for the repair. Instructions for making this correction have been sent to your dealer and the parts will be made available.

The labor time necessary to perform this service correction is four hours. Please ask your ZAP/Voltage Vehicles dealer if you wish to know how much estimated time will be needed to schedule and process your vehicle.

Your ZAP/Voltage Vehicles dealer is best equipped to obtain parts and provide service to ensure that your vehicle is corrected as promptly as possible. If, however, you take your vehicle to your dealer on the agreed service date, and they do not remedy this condition within a reasonable time, we recommend you contact our ZAP customer service line at 1-707-525-8658.

If you are a lessor of vehicles which are equipped with affected braking systems, Federal law requires that any vehicle lessor receiving this recall notice must forward a copy of this notice to the lessee within ten days.

After contacting your dealer and the ZAP toll-free customer service line, if you are still not able to have the safety defect remedied without charge and/or within a reasonable time, you may wish to write the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590 or call 1-888-327-4236 (TTY: 1-800-424-9153); or go to <http://www.safercar.gov>.

We are sorry to cause this inconvenience; however, we have taken this action in the interest of your safety and continued satisfaction with our products.

Sincerely,
ZAP Management