



U.S. Department  
of Transportation

**National Highway  
Traffic Safety  
Administration**

1200 New Jersey Avenue SE,  
Washington, DC 20590

**OFFER OF COMPROMISE  
NOT ADMISSIBLE  
FED. R. EVID. 408**

November 19, 2014

**VIA E-MAIL & U.S. MAIL**

William Conway, Jr.  
Chief Corporate Engineer  
Forest River, Inc.  
55470 Country Road 1  
P.O. Box 3030  
Elkhart, IN 46515-3030

Re: Failure to Fully Respond to Special Order in NHTSA's Audit Query AQ14-002 of  
Forest River, Inc's EWR Reporting, Recall Notification, Recall Reporting, and  
Compliance with VIN Requirements

Dear Mr. Conway:

On October 2, 2014, the U.S. Secretary of Transportation, pursuant to a delegation of authority to the Chief Counsel of the National Highway Traffic Safety Administration ("NHTSA") directed a Special Order to Forest River, Inc. ("Forest River") in connection with the above listed Agency investigation regarding Forest River's apparent violation of its early warning reporting obligations pursuant to 49 U.S.C. § 30166(m) and 49 C.F.R. Part 579, its obligations under 49 U.S.C. § 30118 to notify owners, purchasers and dealers, and its obligations to file quarterly reports pursuant to 49 C.F.R. Part 573 after Forest River determined that there was a safety-related defect in vehicles. Forest River's response to that Special Order was due by November 1, 2014. Forest River has not fully responded and therefore is in violation of the Special Order. As stated in the Special Order, failure to respond fully or truthfully to the Special Order is subject to a civil penalty of up to \$7,000 per day. *See* 49 U.S.C. § 30165(a)(3); 49 C.F.R. § 578.6(a)(3).

Forest River did not fully respond, including by failing to produce documents as required, to over a third of the requests in the Special Order by the November 1 deadline. The Special Order specifically instructed: "You are required to respond to every request listed in this Special Order." On October 31, 2014, your legal counsel acknowledged that Forest River had not fully responded to the Special Order in a cover letter included with your response. The cover letter explained that Forest River did not know that it was not meeting its early warning reporting obligations until it received the Special Order from NHTSA and claimed that many of the documents requested by NHTSA were unavailable because of problems with the software that Forest River procured to compile early warning reports. This is unacceptable. We note that

previous to issuing the Special Order to Forest River, staff from NHTSA's Office of Defects Investigation repeatedly informed Forest River that it appeared that Forest River was not meeting its early warning reporting obligations. A purported software malfunction has no bearing on Forest River's ability to provide the information requested by the Special Order. Forest River also offers no explanation for why it does not have available the documents sought by the Special Order. Forest River also has not provided any written responses or produced any documents that would allow NHTSA to assess whether Forest River's alleged belief that it was fulfilling its early warning reporting obligations pursuant to 49 C.F.R. Part 579 was reasonable.

Forest River supplemented its response to the Special Order on November 7, 2014, by producing documents that appear to be responsive to Special Order Requests 3a and 3b and failed to indicate whether this production completed Forest River's response to these Requests. It did not. Forest River still has not provided any responses to Requests 3c and 3d. Forest River also has not provided any documents in response to Request 5.

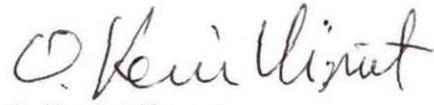
Several of Forest River's written responses to the Special Order also remain incomplete. For example, in response to Request 9, which asks Forest River to describe in *detail* its process for collecting notices, bulletins, and other communications sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser, Forest River states "[e]ach division maintains an internal document management system where documents described in 49 C.F.R. § 597.5 are stored." This response is wholly inadequate. Forest River also failed to provide responsive answers to Requests 4 and 7, which sought information about Forest River's process for determining whether certain information needed to be reported to NHTSA pursuant to 49 C.F.R. Part 579. These are just some examples of the requests to which Forest River failed to respond as of the November 1 deadline and to which Forest River still has failed to provide a substantive response.

Forest River still has failed to fully respond to the Special Order. NHTSA now hereby demands a civil penalty of \$126,000, the statutory maximum of \$7,000 a day for each day following the November 1 deadline in which Forest River failed to fully respond. This penalty demand will continue to accrue by an additional \$7,000 for each additional day in which NHTSA does not receive a complete response. To be clear, a complete response by Forest River means Forest River fully and substantively answers all questions and produces all responsive documents.

If Forest River does not fully respond to the Special Order immediately and pay all civil penalties accrued as of the date on which it does so, NHTSA may refer this matter to the U.S. Department of Justice to commence a civil action in Federal court to compel Forest River to fully respond to the Special Order and for civil penalties. *See* 49 U.S.C. §§ 30163(a)(1); 30166(h).

I look forward to your immediate compliance.

Sincerely,

A handwritten signature in black ink, appearing to read "O. Kevin Vincent". The signature is written in a cursive style with a large initial "O" and a stylized "V".

O. Kevin Vincent  
Chief Counsel

cc: Michael C. Terrell  
Taft Stettinius & Hollister LLP  
One Indiana Square  
Suite 3500  
Indianapolis, Indiana 46204