

**UNITED STATES DEPARTMENT OF TRANSPORTATION
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**

1200 New Jersey Avenue, SE
West Building, W41-326
Washington, DC 20590

In Re:)
_____)
AQ14-002)
Forest River, Inc.)
EWR Reporting, Recall Notification,)
Recall Reporting, and VIN Requirements)
_____)

**FOREST RIVER, INC.'S CONFIDENTIAL OBJECTIONS
AND RESPONSES TO NHTSA'S SPECIAL ORDER**

Forest River, Inc. ("Forest River") makes the following response to the Special Order ("Special Order") the National Highway Traffic Safety Administration ("NHTSA") issued to Forest River pursuant to 49 U.S.C. § 30166(g)(1)(A) and 49 C.F.R. §§ 510.7 and 510.8, and pursuant to a delegation of authority to the Chief Counsel of NHTSA, an Operating Administration of the United States Department of Transportation.

PRELIMINARY STATEMENT

1. Forest River's response is intended to supply only that information and documents that are not protected from disclosure pursuant to the attorney-client privilege, the work product doctrine, and/or any other applicable privilege or protection afforded by law.

2. To the extent Forest River is producing and/or refers to any documents prepared by third parties, it does not intend to authenticate such documents or parts of such documents that are in any way referenced, identified, or described in Forest River's response, or to concede their admissibility into evidence at any administrative or judicial proceeding. The production or reference to, identification, or description of any document or part thereof is not an admission by Forest River that the contents, or any portion of those contents, are necessarily true, correct, or

accurate. Forest River reserves any and all rights to contest the authenticity of, evidentiary foundation for, admissibility of, and accuracy, validity, truth, or correctness of each and every document or other item described, identified, or otherwise referenced in Forest River's response.

3. Forest River reserves the right to supplement its response in accordance with applicable law and Special Order Instruction No. 4.

4. When requested data could not be produced within the deadline set by NHTSA, Forest River has provided or will provide estimates of when it will be able to produce the requested data.

5. Forest River has attached Exhibits A and B to its response. Exhibit A is a table that identifies the NHTSA recall numbers associated with specific Bates-numbered ranges of documents produced by Forest River. Where the recall numbers are blank in Exhibit A, Forest River is working to match its internal recall number with NHTSA's recall number. Forest River will provide a supplement to this chart in early November. Exhibit B is a chart identifying the English translations of documents that are written in French.

6. The Special Order seeks, in part, the disclosure of certain confidential or proprietary information or trade secrets and/or confidential business or commercial information belonging to Forest River (collectively, "Confidential Business Information" or "CBI"). Forest River is therefore contemporaneously submitting such documents with the designation "Confidential Business Information." The information and documents that Forest River designates as "Confidential Business Information" satisfy all of the requisite conditions governing CBI claims set forth in 5 U.S.C. § 552(b)(4), 18 U.S.C. § 1905, and/or 49 C.F.R. § 512.1, et seq. Forest River requests that such information and documents designated as CBI will be provided full CBI protection by NHTSA. If NHTSA does not agree with, or has questions

regarding, the propriety of any CBI designation for certain documents or information, NHTSA should immediately contact Forest River's legal counsel: Michael C. Terrell, Taft Stettinius & Hollister LLP, One Indiana Square, Suite 3500, Indianapolis, Indiana 46204; Telephone: (317) 713-3590; Email: mterrell@taftlaw.com.

RESPONSES AND SPECIFIC OBJECTIONS

1. For a period of five years prior to the date of this letter, provide a list of all corporate entities, including any parent corporation, subsidiary, or affiliate and any subsidiary or affiliate of a parent corporation, for which Forest River, Inc. has submitted information pursuant to 49 C.F.R. §§ 579.21, 579.22, or 579.24. For each entity listed in your response provide:

- a. the name, title, business address, business email, and business telephone number of the person responsible for meeting that entity's reporting obligations pursuant to 49 C.F.R. Part 579;
- b. the name, title, business address, business email, and business telephone number of the person responsible for collecting and administering death and injury claims for that entity;
- c. the name, title, business address, business email, and business telephone number of the person responsible for collecting and administering property damage claims for that entity;
- d. the name, title, business address, business email, and business telephone number of the person responsible for collecting and compiling consumer complaints for that entity;
- e. the name, title, business address, business email, and business telephone number of the person responsible for collecting and administering warranty claims for that entity; and
- f. the name, title, business address, business email, and business telephone number of the person responsible for collecting and compiling field reports for that entity.

Response: Forest River is a subsidiary of Berkshire Hathaway, Inc. Forest River has one subsidiary, Forest River, LLC. Forest River, LLC manufactures the motor vehicles and sells

them directly to Forest River. Forest River then sells the motor vehicles to dealers. Forest River is responsible for and fulfills all reporting obligations pursuant to 49 C.F.R. §§ 579.21, 579.22, and/or 579.24.

- a. William (“Bill”) Conway, Jr.
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- b. Craig Miller
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- d. Pat Stratton
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- e. Pat Stratton
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- f. Currently, field reports are collected and compiled primarily by William Conway, Chief Corporate Engineer, Craig Miller, Risk Manager, and Pat Stratton, Manager Parts Service and Warranty. Forest River is in the process of designating one employee who will be primarily responsible for collecting and compiling all of the field reports. Forest River anticipates designating this employee by mid-November.

The Forest River representative primarily involved in providing information responsive to this request is Bill Conway. This information was last gathered on October 31, 2014.

2. For a period of five years prior to the date of this letter, provide a list of every entity with a corporate relationship to Forest River, Inc. including any parent corporation, subsidiary, or affiliate and any subsidiary or affiliate of a parent corporation, which has a reporting obligation pursuant to 49 C.F.R. Part 579 and for which Forest River has not submitted any information pursuant to 49 C.F.R. §§ 579.21, 579.22, or 579.24. For each entity listed in your response, state whether the entity submitted any information pursuant to 49 C.F.R. §§ 579.21, 579.22, or 579.24 under a corporate name other than Forest River and, if yes, state the corporate name used.

Response: None. *See also* response to Request No. 1. The Forest River representatives primarily involved in providing information responsive to this Request are Bill Conway and Joe Greenlee, Chief Financial Officer. This information was last gathered on October 31, 2014.

3. For each quarterly reporting period, as established in 49 C.F.R. Part 579, from July 1, 2009, through the present date, provide a report on each incident involving one or more deaths or injuries as specified by 49 C.F.R. §§ 579.21, 579.22, and 579.24. For each incident within the scope of your response provide:

- a. a complete copy of the initial claim or notice document(s) that notified Forest River of the incident, excluding: (a) medical documents and bill, except those showing the cause of death or injury; (b) property damage invoices or estimates; and (c) documents related to damages;
- b. a copy of any police accident report concerning the incident;
- c. Forest River's assessment of the circumstances that led to the incident including Forest River's analysis of the claim and/or notice regarding allegations of a defect; and
- d. for any lawsuit related to the incident, provide a copy of the most recent complaint and describe the current status of the lawsuit. If the lawsuit has been resolved as to Forest River, your response should indicate the date of resolution and describe the resolution.

Response: Forest River objects to this request to the extent it seeks information protected from disclosure by the attorney-client privilege and work product doctrine. Subject to and without waiving this objection, Forest River will produce responsive documents.

Forest River, however, is currently unable to produce documents in response to this request due to a software failure. Shortly before the enactment of the TREAD Act, Forest River engaged the services of a software vendor to design custom software that would automatically capture and report information to NHTSA. Forest River believed that information reportable pursuant to 49 C.F.R. Part 579 would be input into this software and included automatically in a report to NHTSA, including information regarding production, incidents involving death or injury, property damage claims, consumer complaints, and warranty claims. Following receipt of the Special Order, however, Forest River learned that this software was not operating or designed properly. While the software had been designed to capture production information and warranty information, Forest River learned that neither function worked properly. Furthermore, contrary to Forest River's belief, the software had not been designed to capture information related to customer complaints or claims involving one or more deaths or injuries. As a result of this software failure

and internal miscommunications, Forest River was unaware that reports required by 49 C.F.R. Part 579 were not being submitted to NHTSA.

Forest River is taking immediate steps to rectify these reporting problems. First, Forest River is creating a new department that will develop and implement a plan to comply with reporting requirements pursuant to 49 C.F.R. Part 759. This department will be primarily responsible for NHTSA reporting going forward. Until this new department is created, the Risk Management Department within Forest River will assume responsibility for NHTSA reporting. The Risk Management Department will manually generate NHTSA reports that will be reviewed by Bill Conway, Risk Manager, prior to submission to NHTSA.

Second, Forest River has terminated its relationship with its previous software vendor and has retained a new software vendor that will assist Forest River in implementing a new vehicle management system. Forest River will begin using Microsoft Dynamics Ax and the module Curogens to properly capture information required by 49 C.F.R. Part 579. Forest River anticipates that this program will be operational in approximately May 2015. NHTSA reports will be manually generated until this software is fully operational.

Forest River anticipates doing a rolling production of these reports beginning in November. Furthermore, Forest River anticipates that it will be able to begin a rolling production of documents in response to subparts (a) through (d) as captured and recorded in the ordinary course of Forest River's business within one week of this response.

The Forest River representatives primarily involved in providing information responsive to this request are Bill Conway, Joe Greenlee, Bruce Hill, Director – Information Technology, and Craig Miller. Responsive documents connected with the anticipated reports and responsive to

subparts (a) through (d) are being obtained from K.C. Gutman, Vice-President, Commercial Risk Management, Insurance Office of America, and were last gathered on October 31, 2014.

4. Describe in detail Forest River's process for determining whether any incident involving one or more deaths or injuries needs to be reported to NHTSA pursuant to 49 C.F.R. Part 579. State whether Forest River has made any changes to that process during the prior five years and, if yes, describe the changes.

Response: Forest River objects to this request to the extent it seeks information protected from disclosure by the attorney-client privilege and work product doctrine. Subject to and without waiving these objections, please see response to Request No. 3. The Forest River representatives primarily involved in providing information responsive to this request are Bill Conway, Joe Greenlee, Bruce Hill, Director – Information Technology, and Craig Miller. This information was last gathered on October 31, 2014.

5. For each quarterly reporting period, as established in 49 C.F.R. Part 579, from July 1, 2009, through the present date, provide separate reports on the numbers of those property damage claims, consumer complaints, warranty claims, and field reports which involve the systems and components identified in 49 C.F.R. §§ 579.21, 579.22, and 579.24.

Response: See response to Request No. 4. Contrary to Forest River's belief, Forest River's software was not properly designed to capture information sought in this request. Forest River is currently unable to produce these quarterly reports. To respond to this request, Forest River is reviewing all of its data related to property damage claims, consumer complaints, warranty claims, and field reports and will use this information to generate these reports. For example, to generate the warranty claim reports, Forest River must review all of its warranty codes and match them with the corresponding NHTSA codes. Forest River has used

approximately 4,000 warranty codes since July 1, 2009. Forest River is working diligently to review this substantial amount of information and generate the proper reports. Forest River anticipates doing a rolling production of these reports beginning in November.

The Forest River representatives primarily involved in providing information responsive to this request are Bill Conway, Bruce Hill, and Gary Koontz, Director – Software & Application Development. This information was last gathered on October 31, 2014.

6. For each quarterly reporting period, as established in 49 C.F.R. Part 579, from July 1, 2009, through the present date, provide a copy of each field report involving one or more of the systems or components identified in 49 C.F.R. §§ 579.21, 579.22, and 579.24.

Response: Forest River does not believe it has any field reports. However, the definition of “field report” is extremely broad and could potentially capture substantial written communications, including emails, among employees, dealers, and/or third-party manufacturers regarding unlimited topics. Furthermore, documents commonly generated by the recreational vehicle industry do not appear to fit neatly within the definition of “field report.” Accordingly, in an abundance of caution, Forest River is producing emails, which could potentially be classified as field reports. Forest River is willing to work with NHTSA to better understand how NHTSA defines field report in this context and will work with NHTSA to produce additional responsive documents.

The Forest River representatives primarily involved in providing information responsive to this Request are Bill Conway and Mike Coy, Director of Customer Service. This information was last gathered on October 31, 2014.

7. Describe in detail Forest River’s process for determining whether property damage claims, consumer complaints, warranty claims, and field reports involving systems and

components specified in 49 C.F.R. §§ 579.21, 579.22, and 579.24 need to be reported to NHTSA pursuant to 49 C.F.R. Part 579. State whether Forest River has made any changes to that process during the prior five years and, if yes, describe the changes.

Response: See response to Request No. 4. The Forest River representatives primarily involved in providing information responsive to this request are Bill Conway, Bruce Hill, and Gary Koontz. This information was last gathered on October 31, 2014.

8. Provide copies of all notices, bulletins, and other communications described in 49 C.F.R. § 579.5 that Forest River sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser, in the United States since July 1, 2009.

Response: Forest River has previously transmitted to NHTSA copies of all sample notices, bulletins, and communications described in 49 C.F.R. § 579.5. Forest River has also previously transmitted to NHTSA copies of all sample communications regarding customer satisfaction campaigns, consumer advisory, recalls, or other safety activity. See also response to Request No. 15. Subject to this statement, Forest River will produce responsive documents.

The Forest River representative primarily involved in providing information responsive to this request is Bill Conway. This information was last gathered on October 31, 2014.

9. Describe in detail Forest River's process for collecting notices, bulletins, and other communications described in 49 C.F.R. § 579.5 that Forest River sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser, in the United States and providing those communications to NHTSA pursuant to 49 C.F.R. § 579.5. State whether Forest River has made any changes to that process during the prior five years and, if yes, describe the changes.

Response: Forest River does not know what is meant by “process for collecting.”

Subject to this statement, Forest River responds below.

Several divisions within Forest River are responsible for collecting notices, bulletins, and other communications described in 49 C.F.R. § 579.5. Each division maintains an internal document management system where documents described in 49 C.F.R. § 579.5 are stored. Forest River does not currently anticipate altering this system. However, Forest River is currently reevaluating its NHTSA reporting processes and procedures and will examine this process as part of its NHTSA response evaluation. *See also* response to Request No. 4 above.

The Forest River representative primarily involved in providing information responsive to this request is Bill Conway. This information was last gathered on October 31, 2014.

10. Describe in detail any changes Forest River anticipates making to its process for determining whether any incident involving one or more deaths or injuries or property damage claims, consumer complaints, warranty claims, and field reports involving systems and components specified in 49 C.F.R. §§ 579.21, 579.22, and 579.24 needs to be reported to NHTSA pursuant to 49 C.F.R. Part 579. Your response should include an anticipated timeline for implementing any such changes.

Response: *See* response to Request No. 4 above. The Forest River representatives primarily involved in providing information responsive to this request are Bill Conway, Joe Greenlee, Bruce Hill, and Craig Miller. This information was last gathered on October 31, 2014.

11. Describe in detail any changes Forest River anticipates making to its process for collecting notices, bulletins, and other communications described in 49 C.F.R. § 579.5 that Forest River sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or

purchaser, in the United States and providing those communications to NHTSA. Your response should include an anticipated timeline for implementing any such changes.

Response: Forest River does not currently anticipate changing its process for collecting notices, bulletins, and/or other communications. However, Forest River is currently reevaluating its NHTSA reporting processes and procedures and will examine this process as part of its NHTSA response evaluation. *See also* response to Request No. 4 above. The Forest River representative primarily involved in providing information responsive to this request is Bill Conway. This information was last gathered on October 31, 2014.

12. For a period of five years prior to the date of this letter, provide a list of all corporate entities, including any parent corporation, subsidiary, or affiliate and any subsidiary or affiliate of a parent corporation, for which Forest River, Inc. has submitted a defect or noncompliance information report to pursuant 49 C.F.R. § 573.7.

Response: Forest River has submitted defect or noncompliance information reports pursuant to 49 C.F.R. § 573.7 on behalf of Forest River, Inc. and Forest River, LLC. The Forest River representative primarily involved in providing information responsive to this request is Bill Conway. This information was last gathered on October 31, 2014.

13. For a period of five years prior to the date of this letter, provide a list of every entity with a corporate relationship to Forest River, Inc. including any parent corporation, subsidiary, or affiliate and any subsidiary or affiliate of a parent corporation, which was required to submit a report pursuant 49 C.F.R. § 573.7 and for which Forest River did not submit the required report. For each entity listed in your response, state whether the entity submitted a report pursuant 49 C.F.R. § 573.7 under a corporate name other than Forest River and, if yes, state the corporate name used.

Response: None. The Forest River representative primarily involved in providing information responsive to this request is Bill Conway. This information was last gathered on October 31, 2014.

14. For a period of five years prior to the date of this letter, provide a copy of all notices, bulletins, and other communications as specified by 49 C.F.R. § 579.5 that Forest River has not previously provided to NHTSA. To the extent not indicated on the document, provide the date that each notice, bulletin, or other communication responsive to this request was issued.

Response: Forest River has previously provided copies of all notices, bulletins, and other communications as specified by 49 C.F.R. § 579.5 to NHTSA. The Forest River representative primarily involved in providing information responsive to this request is Bill Conway. This information was last gathered on October 31, 2014.

15. For a period of five years prior to the date of this letter, provide a copy of each defect or noncompliance notification Forest River has sent to dealers or distributors pursuant to 49 C.F.R. Part 577. For each notification:

- a. to the extent not indicated on the notification, provide the date that each notification was sent to dealers or distributors;
- b. state whether Forest River previously provided a copy of the notification to NHTSA; and
- c. provide the list of the names and addresses of all dealers and distributors specified in 49 C.F.R. § 573.8 to which Forest River sent the notification.

Response: Forest River has previously transmitted a copy of each defect and noncompliance notifications pursuant to 49 C.F.R. Part 577. Subject to this statement, Forest River will produce responsive documents.

Furthermore, regarding subparts (a) and (c), Forest River uses a mail merge to send letters to dealers and/or distributors. For each, Forest River retains a copy of the form letter and address lists in a separate excel spreadsheet. Forest River will produce available, responsive information as captured and recorded in the ordinary course of Forest River's business in response to subparts (a) and (c). Regarding subpart (b), Forest River provides a copy of all notifications to NHTSA.

The Forest River representative primarily involved in providing information responsive to this Request is Bill Conway. This information was last gathered on October 31, 2014.

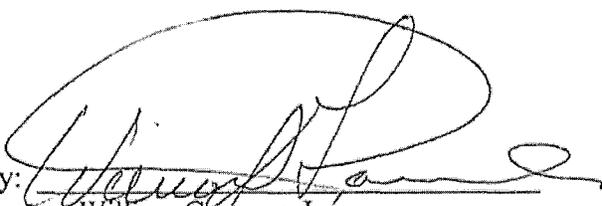
16. NHTSA has also received a complaint from a consumer alleging failure of a loading ramp on a Forest River trailer. It appears that Forest River replaced the trailer and reused the Vehicle Identification Number (VIN) (5NHULTV2XEA [REDACTED]) from the original trailer. Explain if/how use of the same VIN on the replacement trailer conforms to the requirements of 49 C.F.R. § 565.13 and § 571.7(f).

Response: At the customer's request, Forest River built a new trailer. Based upon its current investigation, Forest River believes that the VIN number from the old trailer was reused contrary to its common practices and procedures. However, Forest River's investigation into this matter is ongoing.

[Signature on the Next Page]

I affirm under the penalties of perjury that the above representations are true and accurate to the best of my knowledge, information, and belief.

Forest River, Inc.

By: 
William Conway, Jr.
Chief Corporate Engineer
Forest River, Inc.

Date: October 31, 2014