



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

NOV 09 2006

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Timothy Blubaugh
Director Government-Technical Affairs
Freightliner LLC
4747 North Channel Avenue
Portland, OR 97217

NVS-214 sjm
PE06-049

Dear Mr. Blubaugh:

This letter is to inform you that the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) has opened a Preliminary Evaluation (PE06-049) to investigate allegations of the wheel chair lift interlock system being disabled. Over 30 buses have been found where the safety interlock system's micro-switch was "zip-tied" in the closed position. This would defeat the safety system and allow the bus to be moved when the wheel chair lift is not properly stowed. The models involved in this investigation are Model Year (MY) 2006-2007 Thomas Built Minotour buses manufactured by Thomas Built Buses.

The purpose of this letter is to obtain information to evaluate the nature of the problem and its consequences. Accordingly, certain additional information is requested.

Unless otherwise stated in the text, the following definitions apply to these information requests:

- **Subject vehicles:** all MY 2006-2007 Thomas Built Class "A" manufactured for sale or lease in the United States and any other model bus that was produced using the same electrical components.
- **Freightliner:** Freightliner LLC, and Thomas Built Buses, all of its past and present officers and employees, whether assigned to its principal offices or any of its field or other locations, including all of its divisions, subsidiaries (whether or not incorporated) and affiliated enterprises and all of their headquarters, regional, zone and other offices and their employees, and all agents, contractors, consultants, attorneys and law firms and other persons engaged directly or indirectly (e.g., employee of a consultant) by or under the control of Freightliner (including all business units and persons previously referred to), who are or, in or after 2000, were involved in any way with any of the following related to the alleged defect in the subject vehicles:
 - a. Design, engineering, analysis, modification or production (e.g. quality control);
 - b. Testing, assessment or evaluation;



VEHICLE SAFETY HOTLINE
888-327-4236

- c. Consideration, or recognition of potential or actual defects, reporting, record-keeping and information management, (e.g., complaints, field reports, warranty information, part sales), analysis, claims, or lawsuits; or
- d. Communication to, from or intended for zone representatives, fleets, dealers, or other field locations, including but not limited to people who have the capacity to obtain information from dealers.

Alleged defect: any failure, malfunction, disabling, or otherwise unsatisfactory performance of the vehicle's wheel chair safety interlock system, including the mounting hardware, which could result in or contribute to the ability to move the vehicle when the wheel chair lift is not in the "stowed" position.

- **Document:** "Document(s)" is used in the broadest sense of the word and shall mean all original written, printed, typed, recorded, or graphic matter whatsoever, however produced or reproduced, of every kind, nature, and description, and all non-identical copies of both sides thereof, including, but not limited to, papers, letters, memoranda, correspondence, communications, electronic mail (e-mail) messages (existing in hard copy and/or in electronic storage), faxes, mailgrams, telegrams, cables, telex messages, notes, annotations, working papers, drafts, minutes, records, audio and video recordings, data, databases, other information bases, summaries, charts, tables, graphics, other visual displays, photographs, statements, interviews, opinions, reports, newspaper articles, studies, analyses, evaluations, interpretations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, instructions, blueprints, drawings, as-builts, changes, manuals, publications, work schedules, journals, statistical data, desk, portable and computer calendars, appointment books, diaries, travel reports, lists, tabulations, computer printouts, data processing program libraries, data processing inputs and outputs, microfilms, microfiches, statements for services, resolutions, financial statements, governmental records, business records, personnel records, work orders, pleadings, discovery in any form, affidavits, motions, responses to discovery, all transcripts, administrative filings and all mechanical, magnetic, photographic and electronic records or recordings of any kind, including any storage media associated with computers, including, but not limited to, information on hard drives, floppy disks, backup tapes, and zip drives, electronic communications, including but not limited to, the Internet and shall include any drafts or revisions pertaining to any of the foregoing, all other things similar to any of the foregoing, however denominated by Freightliner, any other data compilations from which information can be obtained, translated if necessary, into a usable form and any other documents. For purposes of this request, any document, which contains any note, comment, addition, deletion, insertion, annotation, or otherwise comprises a non-identical copy of another document, shall be treated as a separate document subject to production. In all cases where original and any non-identical copies are not available, "document(s)" also means any identical copies of the original and all non-identical copies thereof. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by Freightliner or not. If a document is not in the English language, provide both the original document and an English translation of the document.

- **Other Terms:** To the extent that they are used in these information requests, the terms "claim," "consumer complaint," "dealer field report," "field report," "fire," "fleet," "good will," "make," "model," "model year," "notice," "property damage," "property damage claim," "rollover," "type," "warranty," "warranty adjustment," and "warranty claim," whether used in singular or in plural form, have the same meaning as found in 49 CFR 579.4.

In order for my staff to evaluate the alleged defect, certain information is required. Pursuant to 49 U.S.C. § 30166, please provide numbered responses to the following information requests. Insofar as Freightliner has previously provided a document to ODI, Freightliner may produce it again or identify the document, the document submission to ODI in which it was included and the precise location in that submission where the document is located. When documents are produced, the documents shall be produced in an identified, organized manner that corresponds with the organization of this information request letter (including all individual requests and subparts). When documents are produced and the documents would not, standing alone, be self-explanatory, the production of documents shall be supplemented and accompanied by explanation.

Please repeat the applicable request verbatim above each response. After Freightliner's response to each request, identify the source of the information and indicate the last date the information was gathered.

1. State, by model year, and model, the number of subject vehicles Freightliner has manufactured for sale or lease in the United States.

Provide the table in Microsoft Access 2000, or a compatible format, entitled "PRODUCTION DATA."

2. State, by model year, and model, the number of each of the following, received by Freightliner, or of which Freightliner is otherwise aware, which relate to, or may relate to, the alleged defect in the subject vehicles. Provide a copy of each such claim:
 - a. Consumer complaints, including those from fleet operators;
 - b. Field reports, including dealer field reports;
 - c. Reports involving a crash, injury, or fatality, based on claims against the manufacturer involving a death or injury, notices received by the manufacturer alleging or proving that a death or injury was caused by a possible defect in a subject vehicle, property damage claims, consumer complaints, or field reports;
 - d. Property damage claims;
 - e. Third-party arbitration proceedings where Freightliner is or was a party to the arbitration; and
 - f. Lawsuits, both pending and closed, in which Freightliner is or was a defendant or codefendant.

For subparts "a" through "d," state the total number of each item (e.g., consumer complaints, field reports, etc.) separately. Multiple incidents involving the same vehicle are to be counted separately. Multiple reports of the same incident are also to be counted separately.

(i.e., a consumer complaint and a field report involving the same incident in which a crash occurred are to be counted as a crash report, a field report and a consumer complaint).

In addition, for items "c" through "f," provide a summary description of the alleged problem and causal and contributing factors and Freightliner's assessment of the problem, with a summary of the significant underlying facts and evidence. For items e and f, identify the parties to the action, as well as the caption, court, docket number, and date on which the complaint or other document initiating the action was filed.

3. Separately, for each item (complaint, report, claim, notice, or matter) within the scope of your response to Request No. 2, state the following information:
 - a. Freightliner's file number or other identifier used;
 - b. The category of the item, as identified in Request No. 2 (i.e., consumer complaint, field report, etc.);
 - c. Vehicle owner or fleet name (and fleet contact person), address, and telephone number;
 - d. Vehicle's VIN;
 - e. Vehicle's make, model, model year, and engine;
 - f. Vehicle's mileage at time of incident;
 - g. Incident date;
 - h. Report or claim date;
 - i. Whether property damage is alleged;
 - j. Number of alleged injuries, if any;
 - k. Number of alleged fatalities, if any;
 - l. Summary description of the complaints; and,
 - m. Freightliner's opinion/assessment of the incidents.

Provide this information in Microsoft Access 2000, or a compatible format, entitled "REQUEST NUMBER TWO DATA."

4. Produce copies of all documents related to each item within the scope of Request No. 2. Organize the documents separately by category (i.e., consumer complaints, field reports, etc.) and describe the method Freightliner used for organizing the documents.
5. Provide Freightliner's opinion as to whether it is reasonable to believe that an issue such as, removing a "Zip-Tie." would not normally generate a warranty claim.
6. State, by model year, model and engine, a total count for all of the following categories of claims, collectively, that have been paid by Freightliner to date that relate to, or may relate to, the alleged defect in the subject vehicles:
 - a. Warranty claims;
 - b. Extended warranty claims;
 - c. Claims for good will services that were provided;
 - d. Field, zone, or similar adjustments and reimbursements; and

- e. Warranty claims or repairs made in accordance with a procedure specified in a technical service bulletin or customer satisfaction campaign.

Separately, for each such claim, state the following information:

- a. Freightliner's claim number;
- b. Vehicle owner or fleet name (and fleet contact person) and telephone number;
- c. VIN; Repair date;
- d. Vehicle mileage at time of repair;
- e. Repairing dealers or facility's name, telephone number, city and state or ZIP code;
- f. Labor operation number;
- g. Problem code;
- h. Replacement part number(s) and description(s);
- i. Concern stated by customer;
- j. Provide a copy of any document including the claim or repair order;
- k. Comment, if any, by dealer/technician relating to claim and/or repair; and.
- l. Freightliner's assessment.

Provide this information in Microsoft Access 2000, or a compatible format, entitled "WARRANTY DATA."

- 7. Describe in detail the search criteria used by Freightliner to identify the claims identified in response to Request No. 6, including the labor operations, problem codes, part numbers and any other pertinent parameters used. Provide a list of all labor operations, labor operation descriptions, problem codes, and problem code descriptions applicable to the alleged defect in the subject vehicles. State, by make and model year, the terms of the new vehicle warranty coverage offered by Freightliner on the subject vehicles (i.e., the number of months and mileage for which coverage is provided and the vehicle systems that are covered). Describe any extended warranty coverage option(s) that Freightliner offered for the subject vehicles and state by option, model, and model year, the number of vehicles that are covered under each such extended warranty.
- 8. Describe how Freightliner first became aware of the alleged defect and state the date on which Freightliner first became aware of the possibility of the alleged defect
- 9. Produce copies of any/all service bulletins, warranty, and other documents that relate to, or may relate to, the alleged defect in the subject vehicles, that Freightliner has issued to any dealers, regional or zone offices, field offices, fleet purchasers, or other entities. This includes, but is not limited to, bulletins, advisories, informational documents, training documents, or other documents or communications, with the exception of standard shop manuals. Also include the latest draft copy of any communication that Freightliner is planning to issue within the next 120 days.

10. For each such document provide in responding to question 9, provide a detail explanation as to what precipitated the issuance of the service bulletin/document and its relevancy to the alleged defect.
11. Describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively, "actions") that relate to, or may relate to, the alleged defect in the subject vehicles that have been conducted, are being conducted, are planned, or are being planned by, or for, Freightliner. For each such action, provide the following information:
 - a. Action title or identifier;
 - b. The actual or planned start date;
 - c. The actual or expected end date;
 - d. Brief summary of the subject and objective of the action;
 - e. Engineering group(s)/supplier(s) responsible for designing and for conducting the action; and
 - f. A brief summary of the findings and/or conclusions resulting from the action.

For each action identified, provide copies of all documents related to the action, regardless of whether the documents are in interim, draft, or final form. Organize the documents chronologically by action.

12. Furnish Freightliner's assessment of the alleged defect in the subject vehicle, including:
 - a. The causal or contributory factor(s);
 - b. The failure mechanism(s);
 - c. The failure mode(s);
 - d. The risk to motor vehicle safety that it poses;
 - e. What warnings, if any, the operator and the other persons both inside and outside the vehicle would have that the alleged defect was occurring or subject component was malfunctioning; and
 - f. The reports included with this inquiry.
13. Provide a copy of the electrical drawings depicting the subject interlock system, its location, voltage loads, and identify each component attached within the circuit and a brief description for each component.
14. Identify what action Freightliner intends to take in this matter.

This letter is being sent to Freightliner pursuant to 49 U.S.C. § 30166, which authorizes NHTSA to conduct any investigation that may be necessary to enforce Chapter 301 of Title 49 and to request reports and the production of things. It constitutes a new request for information. Freightliner's failure to respond promptly and fully to this letter could subject Freightliner to civil penalties pursuant to 49 U.S.C. § 30165 or lead to an action for injunctive relief pursuant to 49 U.S.C. § 30163. (Other remedies and sanctions are available as well.) Please note that maximum civil penalties under 49 U.S.C. § 30165 have increased as a result of the recent

enactment of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, Public Law No. 106-414 (signed November 1, 2000). Section 5(a) of the TREAD Act, codified at 49 U.S.C. § 30165(b), provides for civil penalties of up to \$5,000 per day, with a maximum of \$15 million for a related series of violations, for failing or refusing to perform an act required under 49 U.S.C. § 30166. This includes failing to respond to ODI information requests.

If Freightliner cannot respond to any specific request or subpart(s) thereof, please state the reason why it is unable to do so. If on the basis of attorney-client, attorney work product, or other privilege, Freightliner does not submit one or more requested documents or items of information in response to this information request, Freightliner must provide a privilege log identifying each document or item withheld, and stating the date, subject or title, the name and position of the person(s) from, and the person(s) to whom it was sent, and the name and position of any other recipient (to include all carbon copies or blind carbon copies), the nature of that information or material, and the basis for the claim of privilege and why that privilege applies.

Freightliner's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by **December 29, 2006**. Please refer to **PE06-049** in Freightliner's response to this letter. If Freightliner finds that it is unable to provide all of the information requested within the time allotted, Freightliner must request an extension from me at (202) 366-4933 no later than five business days before the response due date. If Freightliner is unable to provide all of the information requested by the original deadline, it must submit a partial response by the original deadline with whatever information Freightliner then has available, even if an extension has been granted.

If Freightliner claims that any of the information or documents provided in response to this information request constitute confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. § 1905, Freightliner must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with 49 CFR Part 512, as amended (68 Fed. Reg. 44209 et seq; July 28, 2003), to the Office of Chief Counsel (NCC-113), National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, S.W., Washington, D.C. 20590. Freightliner is required to submit two copies of the documents containing allegedly confidential information (accept only one copy of blueprints) and one copy of the documents from which information claimed to be confidential has been deleted.

If you have any technical questions concerning this matter, please call Sonny Murianka of my staff at (202) 366-5196.

Sincerely,



Richard Boyd, Chief
Medium and Heavy Duty Vehicle Division
Office of Defects Investigation