

**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)
)

SPECIAL ORDER DIRECTED TO FOREST RIVER, INC.

To:

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

Dear Mr. Conway:

This Special Order is issued by the Secretary of Transportation 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 the National Highway Traffic Safety Administration (NHTSA), an Operating Administration of the United States Department of Transportation.

Based on information currently available to the NHTSA Office of Chief Counsel, it appears that Forest River, Inc. (Forest River) is in 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 it manufactured. To further the investigation into these apparent or potential violations, this Special Order now demands certain information from Forest River.

Forest River's response to this Special Order must be provided by **November 1, 2014**.

Forest River's response must be signed under oath, i.e., accompanied by an affidavit, signed by a responsible officer of Forest River, stating that he/she has undertaken and directed an inquiry reasonably calculated to assure that the answers and production of documents are complete and correct, that he/she has caused the documents of Forest River to be searched diligently for information and documents responsive to this Special Order and produced them to NHTSA, and that the answers provided to NHTSA respond completely and correctly to this Special Order. 49 U.S.C. § 30166(g)(1)(A); 49 C.F.R. § 510.7. Failure to respond fully or truthfully to this Special Order may result in a referral to the United States Department of Justice for a civil action to compel responses, and may subject Forest River to civil penalties of up to \$7,000 per day, up to a maximum penalty of \$35,000,000 for a related series of daily violations. 49 U.S.C. §§ 30163(a)(1), 30165(a)(3); 49 C.F.R. § 578.6(a)(3). Falsifying or withholding information in response to this Special Order may also lead to criminal penalties of a fine or imprisonment of up to 15 years, or both. 49 U.S.C. § 30170(a)(1).

DEFINITIONS

To the extent used in this Special Order, the following definitions apply:

1. **“Forest River:”** Forest River, Inc., 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, parent corporations at any tier, subsidiaries (whether or not incorporated) at any tier, 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 Forest River (including all business units and persons previously referred to).

2. **“Agent”** means an individual, such as a representative, who is authorized to act for or in place of another.

3. **“Describe”** means to provide, with respect to any act, occurrence, transaction, event, statement, communication, or conduct (hereinafter, collectively, “act”), all facts concerning any such act, including, but not limited to, a description of each act, and the date, the location, and the names and addresses of all persons involved.

4. **“Employee”** means a person who works in the service of another person (the employer) under an express or implied contract of hire, under which the employer has the right to control the details of work performance.

5. **“Officer”** means a person who holds an office of trust, authority, or command, such as a person elected or appointed by the board of directors to manage the daily operations of a corporation, such as a CEO, president, secretary, or treasurer.

6. **“You”** or **“Your”** means Forest River or Forest River’s.

7. To the extent that the terms defined in 49 C.F.R. § 579.4 are used in these requests, whether used in singular or in plural form, they have the same meaning as found in 49 C.F.R. § 579.4.

INSTRUCTIONS

1. Your response to the Special Order shall be sent to Office of the Chief Counsel (NCC-111), National Highway Traffic Safety Administration, West Building, W41-326, 1200 New Jersey Avenue, SE, Washington, DC 20590.

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

3. 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 also be reminded that where a document responsive to a request is not in the English language, both the original document and an English translation of the document must be produced.

4. You are required to respond to every request listed in this Special Order. If you cannot respond to any specific request or subpart(s) thereof, please state the reason why you are unable to do so. If you are unable to respond because you do not have all or any of the precise information needed to respond, provide an estimate. If, on the basis of attorney-client, attorney work product, or other privilege, you do not submit one or more requested documents or items of information in response to this Special Order, you must provide a privilege log identifying each document or item withheld, and stating the date, subject or title, 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.

5. The response to this Special Order, including any documents produced, must be submitted in duplicate, together with a copy of any confidentiality request, to this office by the deadline stated above.

6. If you claim that any of the information or documents provided in response to this Special Order constitutes confidential commercial material within the meaning of 5 U.S.C. §

552(b)(4), or is protected from disclosure pursuant to 18 U.S.C. § 1905, you must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with 49 C.F.R. Part 512, to the Office of Chief Counsel (NCC-111), National Highway Traffic Safety Administration, West Building, W41-326, 1200 New Jersey Avenue, SE, Washington, DC 20590. You are required to submit two copies of the documents containing allegedly confidential information and one copy of the documents from which information claimed to be confidential has been deleted. Failure to adhere to the requirements of 49 C.F.R. Part 512 will result in a rejection of your request for confidential treatment.

7. All documents shall be produced electronically, as described below, in a common format (e.g. Word or PDF).

- a. Hard copy documents shall be imaged in PDF format. They shall be provided as multi-page PDFs with document level optical character recognition (OCR).
- b. Electronically Stored Information (ESI) shall be converted to multi-page PDFs and produced along with document level OCR/extracted text.
- c. You shall produce an index that lists the title of each document produced and the request to which it corresponds.

8. The singular includes the plural; the plural includes the singular. The masculine gender includes the feminine and neuter genders; and the neuter gender includes the masculine and feminine genders. "And" as well as "or" shall be construed either disjunctively or conjunctively, to bring within the scope of this Special Order all responses that might otherwise be construed to be outside its scope. "Each" shall be construed to include "every" and "every" shall be construed to include "each." "Any" shall be construed to include "all" and "all" shall be construed to include "any." The use of a verb in any tense shall be construed as the use of the

verb in a past or present tense, whenever necessary to bring within the scope of the document requests all responses which might otherwise be construed to be outside its scope.

9. Forest River's response to this Special Order must be under oath, i.e., accompanied by an affidavit, signed by a responsible officer of Forest River, stating that he/she has undertaken and directed an inquiry reasonably calculated to assure that the answers and production of documents are complete and correct, that he/she has caused the documents of Forest River to be searched diligently for information and documents responsive to this Special Order and produced them to NHTSA, and that the answers to the inquiries provided to NHTSA respond completely and correctly to this Special Order

REQUESTS

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

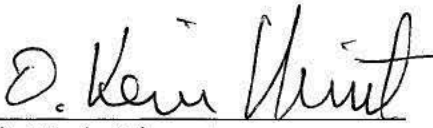
14. For a period of five years prior to the date of this letter, provide a copy of all notices, bulletins, and other communications as specified by 49 C.F.R. § 579.5 that Forest River has not previously provided to NHTSA. To the extent not indicated on the document, provide the date that each notice,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

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.

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).

Dated: October 2, 2014


O. Kevin Vincent
Chief Counsel