



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

NOV - 2 2018



1200 New Jersey Avenue SE.
Washington, DC 20590

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Seung Baik
Chief Legal Officer
Agility Fuel Solutions LLC
3335 Susan Street, Suite 100
Costa Mesa, CA 92626
Dear Mr. Baik:

NEF-106kmb
EA16-001

As you may already be aware, the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) is conducting an Engineering Analysis (EA16-001) pursuant to evaluate the integrity of the Compressed Natural Gas (CNG) fuel systems on certain model year (MY) 2014 Freightliner Business Class M2 vehicles, on substantially similar Freightliner vehicles, and on certain other medium and heavy-duty CNG peer vehicles. This investigation was prompted by a fatal incident that occurred on April 3, 2014, in Howard, Wisconsin, when the incident vehicle experienced a catastrophic CNG fuel container burst after it was struck by an unsecured forklift being transported inside the truck's cargo compartment. Agility Fuel Systems LLC was identified as the CNG fuel system integrator for the incident vehicle. Furthermore, the incident vehicle was originally equipped with CNG fuel containers manufactured by Hexagon Lincoln Inc., which merged with Agility Fuel Systems LLC effective October 3, 2016, to form a new company called Agility Fuel Solutions LLC (Agility). As part of this investigation, ODI is gathering additional information about this specific incident and information more generally about CNG fuel system integrity to better understand the industry state of the art and the hazard potential. The purpose of this letter is to request certain information from Agility to assist ODI in this pursuit.

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

- **Subject vehicle(s)**: Any and/or all motor vehicles manufactured for sale or lease in the United States, including, but not limited to, the District of Columbia, and current U.S. territories and possessions, which are equipped with one or more subject components.
- **Subject component(s)**: Any and/or all CNG fuel containers (as defined in 49 CFR 571.304) manufactured, sold or distributed by Agility since January 1, 2010, for use on subject vehicles.

- **CGA C-6.4-2012:** Compressed Gas Association, Inc. publication titled, “Methods for External Visual Inspection of Natural Gas Vehicle (NGV) and Hydrogen Gas Vehicle (HGV) Fuel Containers and Their Installations, Fourth Edition.”
- **Level 3 damage:** Damage that renders the subject component(s) unfit for continued service and cannot be repaired.
- **Agility:** Agility Fuel Solutions LLC, Agility Fuel Systems LLC, Hexagon Lincoln Inc., all of their past and present officers and employees, whether assigned to their principal offices or any of their field or other locations, including all of their 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 Agility (including all business units and persons previously referred to), who are, on or after January 1, 2010, 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;
 - 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.
- **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 Agility, 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 Agility 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 Agility has previously provided a document to ODI, Agility 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 Agility's response to each request, identify the source of the information and indicate the last date the information was gathered.

1. State the number of subject components sold or distributed by Agility to date, grouped by calendar year of fuel container sale and by fuel container designation (Type 1, Type 2, Type 3 or Type 4).
2. State the number of subject components Agility is aware of, that are alleged to have experienced Level 3 damage. For each such container, please provide:
 - a. Calendar year of sale;
 - b. End-of-life date;
 - c. Calendar year the fuel container was condemned;
 - d. Fuel container designation (Type 1, Type 2, Type 3 or Type 4); and

- d. Fuel container designation (Type 1, Type 2, Type 3 or Type 4); and
 - e. Summary description of damage that condemned the cylinder (i.e. object impact or abrasion; fire exposure; chemical exposure; improper repair attempt).
3. State the number of each of the following, received by Agility, or of which Agility is otherwise aware, which relate to, or may relate to, the integrity of the subject components:
- a. Reports involving a crash;
 - b. Reports involving a fire or explosion;
 - c. Reports involving injury or fatality;
 - d. Property damage claims;
 - e. Third-party arbitration proceedings where Agility is or was a party to the arbitration; and
 - f. Lawsuits, both pending and closed, in which Agility is or was a defendant or codefendant.

For subparts “a” through “f,” state the total number of each item (e.g., crash reports, injury 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 crash report and an injury report involving the same incident in which a crash occurred are to be counted as a crash report, an injury report and a lawsuit report).

In addition, for each incident related to items “a” through “f,” provide a summary description of the alleged problem and causal and contributing factors and Agility’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.

4. Separately, for each item (complaint, report, claim, notice, or matter) within the scope of your response to Request No. 3, state the following information:
- a. Agility’s file number or other identifier used;
 - b. Vehicle owner or fleet name (and fleet contact person), street address, email address and telephone number;
 - c. Vehicle’s VIN;
 - d. Vehicle’s make, model and model year;
 - e. Vehicle’s hours/mileage at time of incident;
 - f. Incident date;
 - g. Report or claim date;
 - h. Whether a crash is alleged;
 - i. Whether unsecured cargo or cargo spillage is alleged;
 - j. Whether a fuel container rupture, burst or explosion is alleged;
 - k. Whether a fire is alleged;
 - l. Whether property damage is alleged;
 - m. Number of alleged injuries, if any;
 - n. Number of alleged fatalities, if any;

- o. State the level of subject component damage alleged, reported or observed as defined by CGA C-6.4-2012 and who made the determination regarding the level of subject component damage (e.g. vehicle owner, insurance company, fuel container manufacturer, fuel system integrator); and
- p. Provide a summary of the incident, including Agility's assessment of the root cause and contributing factors.

Provide this information in Microsoft Access 2010, or a compatible format, entitled "INCIDENT DATA."

5. 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 integrity (including crashworthiness) of the subject components or the fuel systems they are part of, that have been conducted, are being conducted, are planned, or are being planned by, or for, Agility. 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. A brief summary of the subject and objective of the action;
 - e. Engineering group(s), supplier(s) and/or third-party provider(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.

6. Furnish Agility's interpretation of provisions in the following voluntary industry standards and what processes, including performance requirements, Agility has adopted to ensure conformance with them:
 - i) CSA/ANSI NGV 2-2016 §4.1.2 "Installation requirements", specifically the section that states, "It is intended that containers be protected from accidental cargo spillage and from mechanical damage. Container locations and mountings should be designed to provide adequate impact protection to prevent container failure in a collision."; and
 - ii) NFPA 52-2016 §15.3.3.1.1 "Installation of Fuel Supply Containers", specifically the section that states "Fuel supply containers shall be protected... to prevent damage that occurs due to... accidental cargo leakage."
7. Furnish Agility's assessment of the fatal incident that occurred on April 3, 2014, in Howard, Wisconsin, 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 subject condition was occurring or subject component was malfunctioning;
- f. The role of cargo securement;
- g. The role of accidental cargo spillage; and
- h. Agility's assessment of the incident vehicle's fuel container integrity.

Legal Authority for This Request

This letter is being sent to Agility 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.

Civil Penalties

Agility's failure to respond promptly and fully to this letter could subject Agility 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.) The Vehicle Safety Act, as amended, 49 U.S.C. § 30165(a)(3), provides for civil penalties of up to \$21,000 per violation per day, with a maximum of \$105,000,000 for a related series of daily violations, for failing or refusing to perform an act required under 49 U.S.C. § 30166. *See* 49 CFR 578.6 (as amended by Fixing America's Surface Transportation Act (the "FAST Act"), Pub. L. 114-94, § 24110(a)(2), 129 Stat. 1312 (Dec. 4, 2015)). This includes failing to respond completely, accurately, and in a timely manner to ODI information requests.

If Agility 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, Agility does not submit one or more requested documents or items of information in response to this information request, Agility 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.

Confidential Business Information

All business confidential information must be submitted directly to the Office of Chief Counsel as described in the following paragraph and should not be sent to this office. In addition, do not submit any business confidential information in the body of the letter submitted to this office. Please refer to EA16-001 in Agility's response to this letter and in any confidentiality request submitted to the Office of Chief Counsel.

If Agility 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, Agility

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, to the Office of Chief Counsel (NCC-100), National Highway Traffic Safety Administration, Room W41-227, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590. Agility is required to **submit two copies of the documents containing allegedly confidential information (except only one copy of blueprints) and one copy of the documents from which information claimed to be confidential has been deleted.** Please remember that the phrase "ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION" or "CONTAINS CONFIDENTIAL BUSINESS INFORMATION" (as appropriate) must appear at the top of each page containing information claimed to be confidential, and the information must be clearly identified in accordance with 49 CFR 512.6. If you submit a request for confidentiality for all or part of your response to this IR, that is in an electronic format (e.g., CD-ROM), your request and associated submission must conform to the new requirements in NHTSA's Confidential Business Information Rule regarding submissions in electronic formats. *See* 49 CFR 512.6(c) (as amended by 72 Fed. Reg. 59434 (October 19, 2007)).

If you have any questions regarding submission of a request for confidential treatment, contact Otto Matheke, Senior Attorney, Office of Chief Counsel at otto.matheke@dot.gov or (202) 366-5253.

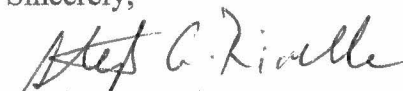
Due Date

Agility's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by Friday, **December 21, 2018**. Agility's response must include all non-confidential attachments and a redacted version of all documents that contain confidential information. If Agility finds that it is unable to provide all of the information requested within the time allotted, Agility must request an extension from Mr. Bruce York of my staff at (202) 366-6938 no later than five business days before the response due date. If Agility 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 Agility then has available, even if an extension has been granted.

Please send email notification to Mr. Kyle Bowker at kyle.bowker@dot.gov and to ODI_IRresponse@dot.gov when Agility sends its response to this office and indicate whether there is confidential information as part of Agility's response.

If you have any technical questions concerning this matter, please call Mr. Kyle Bowker of my staff at (202) 366-9597.

Sincerely,



Stephen A. Ridella, Ph.D.

Director

Office of Defects Investigation