



U.S. Department
of Transportation

**National Highway
Traffic Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

DEC - 3 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tim LaFon
Vice President Regulatory Affairs
Volvo Group North America LLC
7900 National Service Road
Greensboro NC 27409

NEF-106BBY
AQ18-005

Dear Mr. LaFon:

This letter is to inform you that the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) has opened an Audit Query (AQ18-005) to investigate Volvo Group North America LLC's (Volvo) compliance with the National Traffic and Motor Vehicle Safety Act, as amended, 49 U.S.C. § 30101 et seq. (Safety Act) and the regulations thereunder, including whether Volvo met its early warning reporting obligations pursuant to 49 U.S.C. § 30166(m) and 49 C.F.R. Part 579. NHTSA also has other concerns regarding Volvo's compliance with the Safety Act. To further the investigation, NHTSA is sending Volvo this Information Request.

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

- "Affiliates" means a corporation that is related to another corporation (such as a subsidiary, parent, or sibling corporation) by shareholdings or other means of control.
- "Agent" means an individual, such as a representative, who is authorized to act for or in place of another.
- "Document(s)" is used in the broadest sense of the word under Rule 34 of the Federal Rules of Civil Procedure, and includes 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, electronic communications (existing in hard copy and/or in electronic storage), invoices, contracts, agreements, manuals, publications, photographs of all types, and all mechanical, magnetic, and electronic records or recordings of any kind. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents

whether verified by the manufacturer or not. If a document is not in the English language, provide both the original document and an English translation of the document.

- “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.
- “Identify”, “identity” or “identification,” with respect to a person, means to provide that person’s name, title or position, employer, and last known business address and telephone number. With respect to a document, means the date (or time period covered if not dated), nature of document, author, and recipient(s). With respect to a business, means to provide the corporate address, name of its principals, telephone number, and name and address of the agent for service. With respect to a website, means the URL of the site, the name and address of the owner of the site and the name and address of administrator of the website.
- “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.
- “Volvo” means Volvo Group North America LLC, including but not limited to AB Volvo, Volvo Trucks North America, Volvo Bus North America, UD Trucks, Mack Trucks, Nova Bus, Prevost, 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 Volvo (including all business units and persons previously referred to).
- “You” or “Your” means Volvo or Volvo’s.
- Other terms. To the extent that they are used in these requests, the terms “claim,” “consumer complaint,” “dealer field report,” “field report,” “fleet,” “good will,” “make,” “model,” “model year,” “notice,” “type,” “warranty,” “warranty adjustment,” and “warranty claim,” whether used in singular or in plural form, have the same meaning as found in 49 C.F.R. § 579.4.

To facilitate my staff’s evaluation of Volvo’s compliance with the Safety Act, certain information is required. Pursuant to 49 U.S.C. § 30166, please provide numbered responses to the following Information Requests.

Insofar as Volvo has previously provided a document to ODI, Volvo 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 Volvo's response to each request, identify the source of the information and indicate the last date the information was gathered.

REQUESTS

1. Volvo's chronology contained in the 49 C.F.R. Part 573 Report for NHTSA Recall No. 17V-323 regarding certain 2016 LFS Artic model vehicles manufactured from May 17, 2016 through April 28, 2017 (the "Chronology") states the following:

April 27, 2017 Nova Bus receives report of potential safety concern.

April 28, 2017 Nova Bus identifies repair and begins repairing vehicles that were placed out of service.

April 28, 2017 Nova Bus reports potential issue to Volvo Group North America Regulatory Affairs department.

April 28, 2017 Volvo Group Regulatory Affairs contacts NHTSA and provides preliminary information.

May 16, 2017 Product Safety Committee meets and determines that a safety-related defect exists.

May 16, 2017 573 Report submitted to NHTSA to inform that Nova Bus determined a safety-related defect and that vehicles will be addressed through a voluntary safety recall.

Answer the following:

- a. Provide a detailed summary of circumstances relating to the decision to recall the subject vehicles for the safety defect. Your response must identify the members of the Product Safety Committee who made that decision.
- b. Provide an explanation of why there was an approximately 12 working day lag between the time Nova Bus undertook corrective actions and when the 49 C.F.R. Part 573 Report was filed with NHTSA.
- c. Provide an explanation of why there was an approximately 12 working day lag between the time Nova Bus reported to the potential issue to Volvo Group North America Regulatory Affairs Department and when the Product Safety Committee meeting was held.

- d. Provide any claims, complaints, or reports related to the vehicles and defect identified in recall 17V-323 that were received by Volvo prior to the release of recall.
2. For the period of July 1, 2013 to present, identify (by date and title) and describe in detail, any and all Volvo policies or procedures governing Volvo's decision making process on whether to conduct a recall or service campaign. Also, summarize any and all "unwritten" rules or policies that were in place or followed during the period of July 1, 2013, to present pertaining to Volvo's decision making process on whether to conduct a recall or service campaign. If any of the described policies or procedures changed in any respect during the July 1, 2013, to present time period, describe the changes made and when each change was made.
3. Provide an organizational chart of Volvo employees (including name and title) involved in Volvo's decision making process on whether to conduct a recall or service campaign since July 2013. If there have been changes to the organizational structure or to the employees holding those positions, provide a chart or summary reflecting the changes.
4. Provide an organizational chart illustrating the corporate structure between and among Volvo Group / AB Volvo and all companies under its corporate umbrella that manufacture for sale, have sold, offered for sale, introduced or delivered for introduction into the stream of commerce, or imported into the United States, motor vehicles or motor vehicle equipment, including but not limited to: Volvo Group North America LLC, Volvo Trucks, Volvo Bus, Prevost, Nova Bus, Mack and UD Trucks.
5. Separately, for each company listed in your response to the Request above, provide the following annual production information from 2013 to present:
 - a. The aggregate number of buses (as defined in 49 CFR 571.3) manufactured for sale, sold, offered for sale, introduced or delivered for introduction into the stream of commerce, or imported into the United States.
 - b. The aggregate number of medium-heavy duty vehicles (as defined in 49 CFR 579.4, (not including buses or emergency vehicles) manufactured for sale, sold, offered for sale, introduced or delivered for introduction into the stream of commerce, or imported into the United States.
6. Describe in detail Volvo's process for deciding what communications are reportable under 49 C.F.R. 579.5. In the detailed description include how Volvo differentiates between a communication that's related to a "defect" versus a communication that is related to a "product improvement". State whether Volvo has made any changes to that process during the prior five years and, if yes, describe the changes.
7. Describe in detail Volvo's process for submitting communications required under 49 C.F.R. 579.5 to NHTSA. State whether Volvo has made any changes to that process during the prior five years and, if yes, describe the changes.

8. Describe in detail any changes Volvo anticipates making to its processes for providing communications required under 49 C.F.R. 579.5 to NHTSA. Your response must include an anticipated timeline for implementing any such changes.
9. It appears that Volvo had not reported all communications required under 49 C.F.R. 579.5, including, but not limited to, "CBRs," "Tech Tips," "Service News," and "Service Bulletins" to NHTSA. Provide a chart containing the following information from July 1, 2013 to the present for each communication that was not provided to NHTSA in the time frame required:
 - a. The name of the communication;
 - b. The date of the communication;
 - c. The date the communication was reportable; and
 - d. The date the communication was reported to NHTSA.
10. For a period of five years prior to the date of this Information Request, provide a copy of all notices, bulletins, and other communications as specified by 49 C.F.R. 579.5 that Volvo has not previously provided to NHTSA regardless of whether Volvo considered the communication to be related to a defect or not. To the extent not indicated on each document, provide the date that each notice, bulletin, or other communication responsive to this request was issued.
11. To the extent you provided communications in response to the request immediately above, explain why those communications had not previously been submitted to NHTSA.
12. Describe in detail Volvo's process for reporting information required under 49 C.F.R. 579.22 from April 1, 2013 to present. Your response should include an explanation of any changes to Volvo's process.
13. For each reporting period, as established in 49 C.F.R. Part 579, from July 1, 2013 through the present date, provide the production information in the form specified by 49 C.F.R. 579.22(a) that has not previously been provided to NHTSA. If this information had not been provided to NHTSA prior to the date of this Information Request, provide your explanation of why this information was not reported.
14. Since July 1, 2013, state whether you have submitted information required by 49 C.F.R. 579.22(a) in an untimely manner to NHTSA. If your answer is yes, separately state the following for each instance of untimely reporting:
 - a. Why the information was submitted untimely; and
 - b. How many days late the submission was.
15. Describe in detail Volvo's process for submitting information required under 49 C.F.R. 579.22 to NHTSA. In this description include Volvo's process for deciding what incidents are reportable. Often manufacturers learn about incidents and conduct investigations in preparation for litigation. Similarly, many dealers become aware of

incidents or consumer complaints that get reported verbally back to the manufacturer through the field service network. In the description also include how those reports are captured in Volvo's information systems. State whether Volvo has made any changes to that process during the prior five years and, if yes, describe the changes.

16. Describe in detail any changes Volvo anticipates making to its processes for providing information required under 49 C.F.R. 579.22 to NHTSA. Your response must include an anticipated timeline for implementing any such changes.
17. It appears that Volvo had not reported all information required under 49 C.F.R. 579.22, including information on deaths and injuries, to NHTSA. Provide a chart containing the following information from July 1, 2013 to the present for each report that was not provided to NHTSA in the time frame required:
 - a. The incident date;
 - b. The reportable/due date to NHTSA;
 - c. The date the report was made to NHTSA;
 - d. An explanation of why the report was made late to NHTSA; and
 - e. Any 579.5 Communication(s) related to the incident.
18. For each quarterly reporting period, as established in 49 C.F.R. Part 579, from July 1, 2013 through the present date, provide a report on each incident involving one or more deaths or injuries as specified by 49 C.F.R. § 579.22(b) that has not previously been provided to NHTSA prior to the date of this Information Request. For each incident within the scope of your response provide:
 - a. A complete copy of the initial claim or notice document(s) that notified Volvo of the incident, excluding: (a) medical documents and bills, 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. Volvo's assessment of the circumstances that led to the incident including Volvo'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 Volvo, your response should indicate the date of resolution and describe the resolution.
19. If you provided information in response to the Request above, provide an explanation of why Volvo failed to report the information required by 49 C.F.R. § 579.22(b) to NHTSA previously.
20. It appears that Volvo had not reported accurate information under 49 C.F.R. 579.22, as it failed to include certain property damage claims in its prior reporting to NHTSA. State the number of property damage claims that were reported to NHTSA inaccurately, and

for each, state the date that the claim should have been reported to NHTSA, and the date that it actually was.

21. For each quarterly reporting period, as established in 49 C.F.R. Part 579, from July 1, 2013 through the present date, provide separate reports on the numbers of those consumer complaints, warranty claims, and field reports which involve the systems and components that are specified in codes 01 through 22, or 25 in paragraph (b)(2) of 49 C.F.R. § 579.22, or a fire (code 23), or rollover (code 24) not previously provided to NHTSA prior to the date of this Information Request.
22. If you provided information in response to the Request above, provide an explanation of why Volvo failed to report this information to NHTSA previously.
23. In an email dated February 4, 2018, Mr. Lafon wrote, "For the bus brands, I have started the audit work. I hope to have this completed by end of March 2018." In a second email dated September 1, 2017, Mr. Lafon wrote, "The ones that were reportable have now been sent. From the ones identified/ reported, I found a few that require investigation as potential safety-related defects. These are as follows:.... I will investigate these and let you know our findings." Please describe the status of the work as it relates to these emails.
24. Separately by recall number, answer the following questions regarding owner letters in connection with recalls 17E-068, 17E-069, 17E-070, and 17E-071.
 - a. The date you submitted the draft letter to NHTSA;
 - b. The date of your planned owner notification contained in your 49 CFR Part 573 report;
 - c. The date you submitted the final letter to NHTSA;
 - d. The date the final letter was sent to owners;
 - e. Whether you furnished the notification required by 49 C.F.R. § 577.5 no later than 60 days from the date you filed your defect or noncompliance information under 49 CFR Part 573. If you did not, also provide your explanation for your failure to do so.
 - f. If you did not mail an owner letter because the owners are unknown, describe all steps taken by you prior to the date of this Information Request to ascertain owners and provide notice to those affected.

Legal Authority for This Request

This letter is being sent to Volvo 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

Volvo's failure to respond promptly and fully to this letter could subject Volvo 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 Volvo 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, Volvo does not submit one or more requested documents or items of information in response to this information request, Volvo 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 AQ18-005 in Volvo's response to this letter and in any confidentiality request submitted to the Office of Chief Counsel.

If Volvo 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, Volvo 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. Volvo 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

Volvo's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by **February 15, 2019**. Volvo's response must include all non-confidential attachments and a redacted version of all documents that contain confidential information. If Volvo finds that it is unable to provide all of the information requested within the time allotted, Volvo must request an extension from me at (202) 366-6938 no later than five business days before the response due date. If Volvo 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 Volvo then has available, even if an extension has been granted.

Please send email notification to Larry Long at Larry.Long@dot.gov and to ODI_IRresponse@dot.gov when Volvo sends its response to this office and indicate whether there is confidential information as part of Volvo's response.

If you have any technical questions concerning this matter, please call Larry Long of my staff at (202) 366-6281

Sincerely,

A handwritten signature in black ink, appearing to be 'B. York', written in a cursive style.

Bruce York, Chief
Medium and Heavy Duty Vehicles Division
Office of Defects Investigation