



October 17, 2023

VIA EMAIL

Mr. Chris Sandvig
Director, Group Customer Protection
Volkswagen Group of America, Inc
3800 Hamlin Road
Auburn Hills, Michigan 48326
Chris.Sandvig@vw.com

NEF-101tph
PE23-017

Dear Mr. Sandvig,

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 (PE23-017) to investigate certain model year (MY) 2018-2019 Volkswagen Atlas vehicles equipped with Front Assist manufactured by Volkswagen Group of America, Inc. (Volkswagen). ODI has received allegations of the activation of the Front Assist automatic emergency braking (AEB) system with no imminent collision hazard present occurring in these vehicles. Inadvertent AEB activation while driving can increase the risk of a collision, particularly impact from the rear. To assist us at this stage of the investigation, ODI is requesting certain information concerning Front Assist, its components, and operation in the these and certain designated peer vehicles.

This office has received a total of 59 complaints alleging inadvertent activation of the Front Assist AEB system in certain 2018-2019 Volkswagen Atlas vehicles. A copy of the reports will be provided to you electronically for your review and information.

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

- **Subject vehicles:** all 2018-2019MY Volkswagen Atlas vehicles equipped with the subject system 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.
- **Subject system:** Front Assist including all associated sensors, control modules, hardware, software, data, actuators and wiring that contributes to the conferral of automated vehicle braking system capabilities manufactured for use as original equipment or service replacement parts.
- **Peer vehicles:** all 2020-2023MY Volkswagen Atlas and Atlas Cross Sport, 2018-2023MY Volkswagen Tiguan, 2018-2023MY Volkswagen Jetta, and 2018-2022MY Volkswagen Passat vehicles equipped with the subject system 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.

- **Alleged defect:** Front Assist engages automatic emergency braking with no imminent collision hazard present.
- **Volkswagen:** Volkswagen Group of America, 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 Volkswagen (including all business units and persons previously referred to), who are or were involved in any way as of January 1, 2013, 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, lawsuits or arbitrations; 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 Volkswagen, 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 Volkswagen 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 C.F.R. § 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 Volkswagen has previously provided a document to ODI, Volkswagen 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 Volkswagen’s response to each request, identify the source of the information and indicate the last date the information was gathered.

1. State, by model and model year, the number of **subject and peer** vehicles Volkswagen has manufactured for sale or lease in the United States. Separately, for each **subject vehicle only** manufactured to date by Volkswagen, state the following:
 - a. Vehicle identification number (17-character VIN);
 - b. Make;
 - c. Model;
 - d. Model Year;
 - e. Subject system trade name and design version installed as original equipment;
 - i) Software version(s);
 - ii) Firmware version(s);
 - iii) Hardware version(s);
 - f. Date of manufacture (MM/DD/YYYY);

- g. Date warranty coverage commenced (MM/DD/YYYY); and
- h. The State in the United States where the vehicle was originally sold or leased, or delivered for sale or lease (postal abbreviation).

Provide the table in Microsoft Access 2010, or a compatible format, entitled “PRODUCTION DATA.”

2. State separately for the **subject and peer** vehicles the number of each of the following, received by Volkswagen, or of which Volkswagen is otherwise aware, which relate to, or may relate to, the alleged defect in the **subject and peer** vehicles:
 - a. Consumer complaints, including those from fleet operators;
 - b. Field reports, including dealer field reports;
 - c. Reports involving a crash, injury or fatality;
 - d. Property damage claims;
 - e. Third-party arbitration proceedings, both pending and closed, where Volkswagen is or was a party to the arbitration; and
 - f. Lawsuits, both pending and closed, in which Volkswagen is or was a defendant or codefendant.

For subparts “a” through “f,” 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 Volkswagen’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. Volkswagen’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), email address and telephone number (please use distinct fields for each data type);
 - d. Vehicle owner or fleet street address, city, state (postal abbreviation), and ZIP code (please use distinct fields for each data type);
 - e. Vehicle’s 17-character VIN;
 - f. Vehicle’s make, model and model year (please use distinct fields for each data type);
 - g. Vehicle’s mileage at time of incident (numeric data type);
 - h. Incident date (MM/DD/YYYY);
 - i. Incident details including:
 - i) Roadway type;

- ii) Roadway features (e.g. overpass, construction plate, etc.)
- iii) Roadway obstructions (e.g. debris, traffic cones, etc.);
- iv) Speed of travel prior to incident onset;
- v) Traffic conditions;
- j. Whether Volkswagen has inspected the vehicle, and/or the location where the incident occurred;
 - i) If available, state the location and GPS coordinates;
 - ii) If so, state whether Volkswagen confirmed or duplicated the occurrence;
- k. Report or claim date (MM/DD/YYYY);
- l. Whether a crash is alleged;
- m. Whether property damage is alleged;
- n. Number of alleged injuries, if any; and
- o. Number of alleged fatalities, if any.

Provide this information in Microsoft Access 2010, or a compatible format, entitled “REQUEST NUMBER TWO DATA.”

4. Produce copies of all documents, consumer questionnaires and data logs – such as laid out in Volkswagen Technical Service Bulletin “45-21-01 – Autonomous Emergency Braking (AEB) (U.S. Only)” – 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 Volkswagen used for organizing the documents. Describe in detail the search methods and search criteria used by Volkswagen to identify the items in response to Request No. 2.
5. State, by model and model year, a total count for all of the following categories of claims, collectively, that have been paid by Volkswagen to date that relate to, or may relate to, the alleged defect in the **subject vehicles only**: warranty claims; extended warranty claims; claims for good will services that were provided; field, zone, or similar adjustments and reimbursements; and 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. Volkswagen’s claim number;
- b. Vehicle owner or fleet name (and fleet contact person), email address and telephone number (please use distinct fields for each data type);
- c. Vehicle owner or fleet street address, city, state (postal abbreviation), and ZIP code (please use distinct fields for each data type);
- d. 17-character VIN;
- e. Vehicle’s make, model and model year (please use distinct fields for each data type);
- f. Repair date (MM/DD/YYYY);
- g. Vehicle mileage at time of repair (numeric data type);
- h. Repairing dealer’s or facility’s name, telephone number, city and state or ZIP code (please use distinct fields for each data type);
- i. Labor operation number(s);
- j. Problem code(s);

- k. Diagnostic trouble code(s);
- l. Replacement part number(s) and description(s);
- m. Concern stated by customer;
- n. Cause as stated on the repair order;
- o. Correction as stated on the repair order; and
- p. Additional comments, if any, by dealer/technician relating to claim and/or repair.

Provide this information in Microsoft Access 2010, or a compatible format, entitled “WARRANTY DATA.”

6. Describe in detail the search methods and search criteria used by Volkswagen to identify the claims in response to Request No. 5, including the labor operations, problem codes, diagnostic trouble codes, part numbers and any other pertinent parameters used.
7. Provide a list of all labor operations, labor operation descriptions, problem codes, and problem code descriptions, diagnostic trouble codes and diagnostic trouble code descriptions applicable to the alleged defect in the **subject vehicles**. State whether the diagnostic trouble codes are automatically reported to the warranty database electronically or manually entered into the warranty database by a claims administrator.
8. State, by model and model year, the terms of the new vehicle warranty coverage offered by Volkswagen 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 Volkswagen 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.
9. Produce copies of all service, warranty, and other documents that relate to, or may relate to, the alleged defect in the **subject vehicles**, that Volkswagen 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 Volkswagen is planning to issue within the next 120 days.
10. 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 only** that have been conducted, are being conducted, are planned, or are being planned by, or for, Volkswagen. 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.

11. Describe all modifications or changes made by, or on behalf of, Volkswagen in the design, material composition, manufacture, quality control, supply, or installation of the subject system, from the start of production to date, which relate to, or may relate to, the alleged defect in the **subject vehicles**. For each such modification or change, provide the following information:
 - a. The date or approximate date on which the modification or change was incorporated into vehicle production;
 - b. A detailed description of the modification or change;
 - c. The reason(s) for the modification or change;
 - d. The hardware, firmware, and software names and numbers of the original version;
 - e. The hardware, firmware, and software names and numbers of the modified version;
 - f. Whether the original unmodified version was withdrawn from production and/or sale, and if so, when;
 - g. When the modified version was made available as a service component; and
 - h. Whether the modified version can be interchanged with earlier production versions.

Also, provide the above information for any modification or change that Volkswagen is aware of which may be incorporated into vehicle production within the next 120 days.

12. State the following information regarding the subject system configuration(s) and integration onto the **subject and peer vehicles**:
 - a. Supplier of each system component;
 - b. Control module(s);
 - c. Sensor type(s) and model(s);
 - d. Sensor position(s) and orientation(s); and
 - e. Sensor position and alignment tolerances.

For subparts “b” and “c” provide the corresponding supplier specifications documents. For subpart “d” provide corresponding engineering drawings and describe any differences in sensor mounting that exist between **subject and peer vehicles**.

13. Describe how subject system calibration is performed during production, during vehicle operation, and during service, and describe any differences that exist between the **subject and peer vehicles**.
14. Describe in detail the subject system operation and performance and any differences that exist between the **subject and peer vehicles** including but not limited to:
 - a. How the subject system determines that a crash is imminent;
 - b. Minimum and maximum operating speeds;
 - c. Control authority over braking deceleration throughout the operational speed envelope;

- d. Vehicle and obstacle classification;
- e. Response to the presence of other vehicles in adjacent and/or oncoming lanes;
- f. Detection of and response to system performance degradation and potential causal factors including but not limited to sensor occlusion, sensor misalignment, internal communication errors, and environmental conditions; and
- g. All driver control inputs that cancel or override subject system AEB activation.

15. Furnish Volkswagen's assessment of the alleged defect in the **subject vehicles**, including:

- a. The causal or contributory factor(s);
- b. The failure mechanism(s);
- c. The failure mode(s); including the specific operating conditions under which inadvertent automatic emergency braking can occur;
- 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 system was malfunctioning;
- f. Comparative performance of **subject vehicles to the peer vehicles** and other Volkswagen vehicles equipped with AEB systems; and
- g. The reports included with this inquiry.

Legal Authority for This Request

This letter is being sent to Volkswagen 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. It constitutes a new request for information.

Civil Penalties

Volkswagen's failure to respond promptly and fully to this letter could subject Volkswagen 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, 49 U.S.C. § 30165(a)(3), provides for civil penalties of up to \$26,315 per violation per day, with a maximum of \$131,564,183 for a related series of daily violations, for failing or refusing to perform an act required under 49 U.S.C. § 30166. *See* 49 C.F.R. § 578.6(a)(3). This includes failing to respond completely, accurately, or in a timely manner to ODI information requests.

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

If Volkswagen's response contains any information that you claim is confidential business information, Volkswagen must request two secure electronic file transfer links from Thomas Haugh at thomas.haugh@dot.gov. One secure electronic file transfer link is for your request for confidential treatment and will be directed to NHTSA's Office of the Chief Counsel. Please see the enclosure for additional instructions on submitting a request for confidential treatment that is compliant with 49 C.F.R. Part 512 (specifically, a request for confidential treatment must include the four required parts that are discussed in the enclosure). The second secure electronic file transfer link is for your non-confidential response to this letter. Do not submit any confidential business information along with your non-confidential submission. Please refer to PE23-017 in Volkswagen's response to this letter and in a request for confidential treatment that Volkswagen may submit.

Due Date

Volkswagen's response to this letter must be submitted to this office by **December 13, 2023**. If Volkswagen finds that it is unable to provide all of the information requested within the time allotted, Volkswagen must request an extension from me at (202) 366-4925 no later than five business days before the response due date. If Volkswagen 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 Volkswagen then has available, even if an extension has been granted.

If you have any technical questions concerning this matter, please call Thomas Haugh of my staff at (202) 366-2252.

Sincerely,

A solid black rectangular box used to redact the signature of Sharon Yukevich.

Sharon Yukevich, Chief
Vehicle Defects Division A
Office of Defects Investigation

The subject reports referenced in the introduction of this letter may be viewed at the NHTSA.gov website using the following ODI reference numbers:

11102848, 11110298, 11172559, 11181662, 11203827, 11219409, 11228895, 11242194, 11244779, 11254778, 11269439, 11271113, 11300603, 11316386, 11317062, 11328322, 11328975, 11330388, 11331640, 11350423, 11353009, 11353353, 11355313, 11365545, 11373804, 11377290, 11378151, 11407349, 11408004, 11426737, 11427499, 11441156, 11441872, 11452502, 11453055, 11454392, 11456906, 11457588, 11458279, 11471758, 11473288, 11482796, 11485979, 11487060, 11488830, 11494539, 11497270, 11503622, 11504352, 11510748, 11511647, 11511681, 11512304, 11520325, 11524700, 11530992, 11534071, 11538084, 11539486.

ENCLOSURE – INFORMATION FOR REQUESTS FOR CONFIDENTIAL TREATMENT

If you believe that your response contains any material that you claim is confidential business information, submit these materials to NHTSA's Office of the Chief Counsel in accordance with 49 C.F.R. Part 512. **All requests for confidential treatment must be submitted directly to the Office of the Chief Counsel. Upon request, ODI will provide you with a secure file transfer link for your submission to the Office of the Chief Counsel.**

Requests for confidential treatment are governed by Part 512. A current version of this regulation is available on the internet at <http://www.ecfr.gov> by selecting Title 49 "Transportation," selecting "Parts 500 – 599" and then selecting Part 512 "Confidential Business Information."

How to request confidential treatment:

NHTSA is currently treating electronic submission as an acceptable method for submitting confidential business information to the agency under Part 512. If you claim that any of the information or documents provided in your response constitutes confidential business information within the meaning of 5 U.S.C. § 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. § 1905, you must request a secure file transfer link from the ODI contact listed in your Information Request. ODI will copy a representative from the Office of the Chief Counsel on the secure file transfer link for your request for confidential treatment. You must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with Part 512, to the Office of the Chief Counsel. Do not send a hardcopy of a request for confidential treatment to NHTSA's headquarters.

Your request must include a request letter that contains supporting information, pursuant to Part 512.8. Your request must also include a certificate, pursuant to Part 512.4(b) and Part 512, Appendix A.

You are required to submit one unredacted "confidential version" of the information for which you are seeking confidential treatment. Pursuant to Part 512.6, the words "ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION" or "CONFIDENTIAL BUSINESS INFORMATION CONTAINED WITHIN BRACKETS" (as applicable) must appear at the top of each page containing information claimed to be confidential. In the latter situation, where not all information on the page is claimed to be confidential, identify each item of information for which confidentiality is requested within brackets: "[]."

You are also required to submit one redacted "public version" of the information for which you are seeking confidential treatment. Pursuant to Part 512.5(a)(2), the redacted "public version" should include redactions of any information for which you are seeking confidential treatment (i.e., the only information that should be unredacted is information for which you are **not** seeking confidential treatment).

For questions about a request for confidential treatment, please contact Dan Rabinovitz in the Office of the Chief Counsel at Daniel.Rabinovitz@dot.gov or (202)366-8534.