



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

Notice of Unsafe Condition Involving Commercial Motor Vehicles Affected by Volvo Trucks North America's Safety Recall and Out-of-Service Declaration

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: FMCSA has determined that commercial motor vehicles manufactured by Volvo Trucks North America (Volvo Trucks) and affected by the National Highway Traffic Safety Administration (NHTSA) Part 573 Safety Recall Report No. 16V-097000, that have not already received the interim or permanent recall remedy repair specified by Volvo in the recall, are likely to cause an accident or breakdown because of a defective steering shaft which may disconnect from the junction block without warning, causing the vehicle to be in an unsafe condition. FMCSA is notifying commercial motor vehicle operators that vehicles subject to the recall without the interim or permanent repair will be subject to an immediate out-of-service order under 49 CFR 396.9 or compatible state regulations.

DATES: This Notice is effective March 23, 2016.

FOR FURTHER INFORMATION CONTACT: Charles J. Fromm, Deputy Chief Counsel, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., S.E., Washington, DC 20590, by telephone at 202-366-3551 or via e-mail at charles.fromm@dot.gov. FMCSA office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On February 16, 2016, Volvo Trucks initiated a safety recall affecting nearly 16,000 Class 8 motor vehicles in the United States.

According to Volvo, a condition exists which could lead to separation of the steering shaft from the junction block. Also, the bolt connecting the upper steering shaft to the lower steering shaft may not have been properly tightened. Volvo's report to NHTSA states that either condition can lead to separation of the steering shaft and immediate loss of steering ability and control, which could lead to a crash. Volvo Trucks issued a Safety Recall Alert on March 10, which directed all owners of the affected vehicles to take the vehicles out of operation as soon as possible and cautioned that the separation can occur without warning and amended its safety recall on March 15, alerting NHTSA of the more serious hazard. Volvo Trucks strongly recommends that these vehicles remain out of service until repairs are made. NHTSA is overseeing Volvo Truck's recall efforts to ensure prompt notification of the defect to vehicle owners and that vehicles are not operated in a defective condition. Volvo's Safety Recall Report is available on its website at: [http://www-](http://www-odi.nhtsa.dot.gov/owners/SearchDetails?searchCriteria.prod_ids=1991310&searchCriteria.model_yr=2016&searchCriteria.make=VOLVO&searchCriteria.model=VNL&activeTab=0&searchType=PROD&prodType=V&targetCategory=A&cmplCount=1&rclCount=3&invCount=1&tsbCount=0)

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Additionally, to assist with notification efforts, on March 18, 2016, FMCSA posted an Inspection Bulletin on its website.

<https://www.fmcsa.dot.gov/newsroom/urgent-inspection-bulletin-safety-recall-issued-volvo-trucks>. The Inspection Bulletin advised FMCSA inspectors and state partners

under the Motor Carrier Safety Assistance Program (MCSAP) of the condition of the affected vehicles and requested inspectors to direct the operators of such vehicles to contact Volvo Customer Service before continuing in operation. The Inspection Bulletin also noted that continued operation of the affected vehicles could be considered a violation of 49 CFR 396.7, which prohibits operation of a vehicle in a condition likely to cause an accident or a breakdown. Today's notice formalizes that determination and clarifies that FMCSA and its state partners under the MCSAP program will place a vehicle out-of-service if the necessary repair or replacement has not been made, based on the identified out-of-service defect under 49 CFR 393.209(c), which requires that a steering column to be securely fastened.

The Secretary of Transportation has statutory authority to set minimum standards for commercial motor vehicle safety, including ensuring that commercial motor vehicles “are maintained, equipped, loaded, and operated safely” and to prescribe requirements for the “safety of operation and equipment of, a motor carrier.” (49 U.S.C. 31136(a)(1) and 49 U.S.C. 31502(b)). The Secretary also has broad power in carrying out motor carrier safety statutes and regulations to, among other things, “inspect the equipment of a carrier or lessor” and “perform other acts the Secretary considers appropriate.” (49 U.S.C. 504(c)(1) and 49 U.S.C. 31133(a)(10)). The Administrator of FMCSA has been delegated authority under 49 C.F.R. 1.87(f), (i) and (j) to carry out the functions vested in the Secretary of Transportation by 49 U.S.C. chapter 311, subchapter III, 49 U.S.C. chapter 315, and 49 U.S.C. 504. This delegation of authority includes the authority to declare unsafe vehicles out-of-service under 49 CFR 396.9. Under 49 USC 31102, MCSAP State partners agree to conduct roadside inspections. In 49 CFR part 350, MCSAP state

partners agree to adopt state safety laws and regulations that are compatible with 49 CFR parts 390-397.

Out-of-Service Determination

FMCSA has determined that commercial motor vehicles subject to Volvo Trucks' Safety Recall (NHTSA Part 573 Safety Recall Report No. 16V-097000), that have not already received the interim or permanent recall remedy repair specified by Volvo in the above-referenced recall, are likely to cause an accident or breakdown and are therefore in an unsafe condition. The condition of the steering column is also a violation of 49 CFR 393.209(c) which requires the steering column to be securely fastened. Because of the potential consequences associated with continued operation of these vehicles, through this notice FMCSA is declaring unsafe the operation of any unrepaired vehicle affected by the Volvo Trucks recall under NHTSA Campaign No. 16V097000 and declaring such vehicles to be in an out-of-service condition. The affected vehicles should not be operated, and the operation of an unrepaired affected vehicle will therefore subject the operator to an out-of-service order under federal or compatible state regulations.

FMCSA is directing its investigators and state partners conducting roadside inspections to perform a Level IV inspection on any unrepaired affected vehicles and to place the vehicle out of service based on the violation of 49 CFR 393.209(c). Level IV inspections, which are typically performed on a one-time basis on a particular item as a special inspection, are not included in FMCSA's Safety Measurement System (SMS), and therefore the out-of-service declaration will not affect a motor carrier's SMS score.

Placing the vehicle out-of-service under this Notice is not intended to provide a basis for further enforcement action and seeks only the immediate cessation of the operation of vehicles that have been deemed to be in an unsafe condition. Operators of vehicles declared out-of-service, however, must comply with an out-of-service order. Motor carrier operators who violate an out-of-service order will be subject to civil penalties and other enforcement as provided in the Federal Motor Carrier Safety Regulations.

Issued under the authority delegated in 49 CFR 1.87 on: March 22, 2016

T. F. Scott Darling, III
Acting Administrator

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