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September 30, 2004

VIA FEDERAL EXPRESS

Richard P. Boyd, Chief
M&HDT Division
Office of Defects Investigation
National Highway Traffic Safety Administration
Department of Transportation
400 Seventh Street, S.W.
Room 5326
Washington, D.C. 20590-0001

CONFIDENTIAL BUSINESS
INFORMATION - TRADE SECRET -
PROPRIETARY

Re: NHTSA Case No. PE04-057

Dear Mr. Boyd:

On behalf of Polaris Industries Inc. ("Polaris"), I am submitting this letter in response to the National Highway Traffic Safety Administration's (NHTSA) letter of August 4, 2004. The August 4 letter requests that Polaris' Victory Motorcycle Division ("Victory") provide responses to a series of NHTSA requests related to an alleged defect in the transmissions in Victory motorcycles. Specifically, the alleged defect involves "unintentional, spontaneous transmission downshifting and/or transmission lock-up" occurring on model year (MY) 1999 and 2000 Victory brand motorcycles.

Subsequently, NHTSA informed Victory that NHTSA also seeks information regarding MY 2001, 2002, and 2003 Victory motorcycles. In addition, for requests 5 through 7, NHTSA granted Victory an extension until November 15, 2004 for the submission of responses to these requests. Information responsive to these requests, therefore, will be submitted separately.

* * *

Chicago

London

Los Angeles

New York

San Francisco

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As requested in the August 4, 2004 letter, the individual NHTSA requests are repeated below, followed by the Polaris responses, for requests 1 through 4.

1. *Separately, for each month/year of production, state the number of subject vehicles sold in the United States by model year/model.*

Please find attached (Attachment A) an Excel spreadsheet listing the number of Victory motorcycles sold in the United States by month for model years 1999 through 2003. The list is based on Victory's shipment records for vehicles shipped to U.S. locations. An electronic copy of Attachment A (and all of the Excel spreadsheets attached to this letter) is provided on a CD included as Attachment N.

2. *State the number and provide copies of all the following, from all sources, of which Polaris is aware and which relate, or could relate to the alleged defect:*

a. owner complaints;

Please find attached (Attachment B) a copy of owner complaints received which relate, or could relate, to the alleged defect. These owner complaints were identified through word searches of the Victory service call records for MY 1999-2003 Victory motorcycles (16 such records involving 14 unique Vehicle identification Numbers (VINs)), review of customer letters (1 such complaint involving two such records), and review of other records (1 such complaint involving two such records). Thus, there are a total of 20 total records involving 16 unique VINs relating to consumer ("owner") complaints which relate, or could relate, to the alleged defect. The service calls are also compiled in an Excel spreadsheet which is attached (Attachments C and N).

2. *State the number and provide copies of all the following, from all sources, of which Polaris is aware and which relate, or could relate to the alleged defect:*

b. field reports,

Please find attached (Attachment D) a copy of field reports received which relate, or could relate, to the alleged defect. These field reports were identified through word searches of the Victory dealer reports for MY 1999-2003 Victory motorcycles (73 such records involving 46 unique VINs). The field reports are also compiled in an Excel spreadsheet which is attached (Attachments E and N).

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2. *State the number and provide copies of all the following, from all sources, of which Polaris is aware and which relate, or could relate to the alleged defect:*

c. crash/incident claims;

Please find attached (Attachment F) a copy of crash/incident claims received which relate, or could relate, to the alleged defect. These crash/incident claims were identified through word searches of the Victory dealer inquiries, warranty claims, and service calls for MY 1999-2003 Victory motorcycles (16 such records involving 5 VINs) and review of other records (2 records involving 1 VIN). Thus, there are a total of 6 VINs that are associated with crash/incident claims, involving 18 total records, which relate, or could relate, to the alleged defect. The 16 crash/incident claim records obtained from the word searches are also compiled in an Excel spreadsheet which is attached (Attachments G and N).

2. *State the number and provide copies of all the following, from all sources, of which Polaris is aware and which relate, or could relate to the alleged defect:*

d. subrogation claims;

Polaris is not aware of any subrogation claims which relate, or could relate, to the alleged defect.

2. *State the number and provide copies of all the following, from all sources, of which Polaris is aware and which relate, or could relate to the alleged defect:*

e. lawsuits; and

Polaris is not aware of any lawsuits which relate, or could relate, to the alleged defect.

2. *State the number and provide copies of all the following, from all sources, of which Polaris is aware and which relate, or could relate to the alleged defect:*

f. third-party arbitration proceedings (where Polaris is a party to the arbitration).

Polaris is not aware of any arbitration proceedings which relate, or could relate, to the alleged defect.

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3. *If Polaris has issued any service or technical bulletins, advisories, or other communications to dealers, zone offices, or field offices pertaining to the alleged defect, provide a copy of each such document. If no such documents have been issued, so state. For each document identified:*

Documents issued as Victory developed transmission kits containing current production components to repair earlier model year motorcycles relate, or could relate, to the alleged defect. Transmission kit part numbers were communicated to dealers through the Polaris technical service call center, "Polaris Voice of Victory" dated January 2003, and in the 2004 "Victory In-Field Update" CD P/N 9919660. These kits were developed to address general transmission durability issues, to assist dealers in upgrading earlier model year transmissions that required service, and to provide an easier and more reliable method of upgrading and repairing transmission as compared to ordering individual parts. These documents are attached (Attachment H) and include:

- January 2003 Voice of Victory
- 2004 Victory In-Field Update CD
- 2201878 – 2001 Transmission Kit Instructions
- 2202148 – 1999 & 2000 Transmission Kit Instructions
- 2202149 – 2001 Transmission Upgrade Kit Instructions
- 2202430 – 1999 & 2000 SE Transmission Kit Instructions
- 2202431 – 2000 Transmission Kit Instructions
- 2202432 – 2001 Transmission Kit Instructions
- 2202433 – 2001 Transmission Kit Instructions

Victory has not issued any other service or technical bulletins, advisories, or other communications to dealers, zone offices, or field offices pertaining to the alleged defect.

3. a. *Provide a complete chronology listing all activities or events, including, but not limited to incidents involving the subject component, which led Polaris to believe it needed to undertake the communication;*

Transmission Kits

The following activities and events led Polaris to issue the documents in Attachment H related to the transmission kits:

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During model years 1999 and 2000 Victory experienced various transmission issues through warranty and testing activities. The attached April 20, 2000 memorandum from Dan Bauer to Geoff Burgess describes these transmission issues (Attachment I).

During the summer of 2000 Victory made available to dealers a transmission kit with components from the newly designed 2001 transmission for the repair of troublesome transmissions from the past model years. As design changes were made on subsequent model year transmissions new kits were developed to incorporate the most current design.

The table below provides details related to the transmission kits.

P/N	Description	Used On	Kit Status	Additional Kit Info
2201878	2001 Transmission Update Kit	1999 & 2000 Models	Released Aug 2000. Superseded by 2202148 kit	2001 Trans. Design - Major design changes to upgrade transmission.
2202148	1999 - 2000 Transmission Kit	1999 & 2000 Models	Released July 2001. Kit contains 2002 production components. Superseded by 2202431 kit	2002 Trans Design - Gear ratio change. Changes not intended to improve durability. Vendor mfg problem w/ heat treat process.
2202149	2001 Transmission Update Kit	2001 Models	Released July 2001. Kit contains 2002 production components. Superseded by 2202432 kit	2002 Trans Design - Gear ratio change. Changes not intended to improve durability. Vendor mfg problem w/ heat treat process.
2202430	1999 & 2000 Transmission Kit	1999 & 2000 SE models	Released June 2002. Kit contains 2003 production components. Current kit in use.	2003 Trans Design - New gear supplier. Modified 3rd gear to improve strength and reduce material through hardening.

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2202431	2000 Transmission Kit	2000 Models (Except SE)	Released June 2002. Kit contains 2003 production components. Current kit in use.	2003 Trans Design - New gear supplier. Modified 3rd gear to improve strength and reduce material through hardening.
2202432	2001 Transmission Kit	2001 Models	Released June 2002. Kit contains 2003 production components. Current kit in use.	2003 Trans Design - New gear supplier. Modified 3rd gear to improve strength and reduce material through hardening.
2202433	2002 Transmission Kit	2002 Models	Released June 2002. Kit contains 2003 production components. Current kit in use.	2003 Trans Design - New gear supplier. Modified 3rd gear to improve strength and reduce material through hardening.

3. b. Provide a listing (in chronological order) of all information related to any testing through which the need for the communication was identified and/or assessed, even if the testing was being conducted for another purpose. Please provide a copy of each item listed; and

With respect to the transmission kits (the documents provided in Attachment H), the testing documentation generated by the MY 2002 Durability Test Vehicles was relied upon and/or assessed by Victory in determining the need for the transmission kits and the associated communications. This testing documentation is currently being collected by Victory in response to request 5. and will be provided with the response to that request

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3. c. Provide the number of repairs and/or replacement paid for by Polaris that resulted from the communication identified. List your response by repairing dealer (and include the dealer name, address, and phone number.

With respect to the transmission kits (the documents provided in Attachment H), the number of transmission kit repairs paid under warranty is listed below:

Transmission Kit Repairs Under Warranty

Number of Warranty Repairs		
PART/KIT NUMBER	ITEM DESCRIPTION	Total
2201878	KIT-2001 TRANSMISSION UPGRADE	63
2202149	KIT-TRANSMISSION 2001	28
2202148	KIT-TRANSMISSION 99&00	79
2202430	KIT-TRANSMISSION 99&00 SPECIAL ED ONLY	120
2202431	KIT-TRANSMISSION MY2000	84
2202432	KIT-TRANSMISSION MY2001	42
2202433	KIT-TRANSMISSION MY2002	14
Grand Total		430

The warranty repair records for the transmission kits are provided in the attached Excel file (Attachments J and N) in order by repairing dealer.

4. Provide a listing of all warranty claims, including extended warranty claims, and requests for "good will," field, or zone adjustments received by Polaris that relate to the alleged defect, by model, model year, build month, VIN, calendar month of claim, and problem claim code. Each problem claim code must be identified.

The warranty claims, including extended warranty claims and requests for "good will," field, or zone adjustments received by Polaris that relate to the alleged defect are attached (Attachment K). In addition, an Excel spreadsheet is attached (Attachments L and N) which lists these claims by model, model year, build month, VIN, calendar month of claim, and problem claim code. Also attached is an Excel spreadsheet (Attachments M and N) which includes a listing of the definitions of each of the problem codes.

* * * *

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To obtain the materials submitted, Polaris conducted searches of the places where responsive material should be located in the ordinary course of business. Other responsive materials may exist that have not been produced because they have not been located. It is possible that additional documents responsive to requests 1 through 4 will be identified in the materials being identified, collected, and reviewed to prepare Polaris' response to requests 5 through 7. If such records are identified, they will be provided as appropriate. In addition, Polaris will respond to NHTSA's request for a privilege log in its next letter.

There is one type of record that Polaris has not been able to systematically retrieve, e-mails. Due to the length of time that has elapsed since relevant records would have been generated, the e-mail system and basic server system used by Polaris have been modified. Polaris has investigated whether it is possible to resurrect its original e-mail and server systems and conduct searches to locate relevant documents. Based on the initial estimate from its information services personnel, the effort required to conduct email discovery would require, *at a minimum*, approximately 76 weeks of effort and \$280,000 in consulting fees and new hardware and software expenditures. In addition, there is no guarantee that such an effort would be successful. The 76 week estimate reflects approximately 366 workdays of effort and computer run time (over the course of successive five-day workweeks) for completing the following steps in this restoration and search process: (1) inventorying and cataloging backup tapes - 33.1 days; (2) restoring emails from backup tapes to a file server - 332 days; and (3) indexing and searching user emails - 1 day. Based on this estimate, Polaris has concluded that it is not feasible to obtain these e-mails in a timely and economically reasonable manner.

There may be instances where isolated e-mails have been saved by individuals in their working files. Where such records are located, they will be produced to the extent that they are responsive to NHTSA's requests.

* * * *

Polaris requests that this letter be afforded confidential treatment by NHTSA indefinitely. This submission includes information that is commercial in nature, is being supplied voluntarily, and is not customarily disclosed to the general public. The information being submitted includes some material that is entitled to protection from disclosure as self-critical analysis as well as confidential business or trade secret information. It therefore is exempt from disclosure under 15 U.S.C. § 2055, the Trade Secrets Act, 18 U.S.C. § 1905, and/or the Freedom of Information Act, 5 U.S.C. § 552(b). These materials also include some information about private individuals that should not be disclosed to the public. Accordingly, Polaris submits this information in expectation of confidential treatment (*see* 49 C.F.R. Part 512). I am authorized by Polaris to

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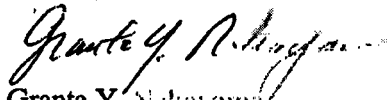
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make claims of confidentiality on its behalf. If any request is made for this information, please notify me immediately.

If you have any further questions about this matter, please do not hesitate to contact me.

Very truly yours,


Granta Y. N. Boyana

Attachments

cc: Jacqueline Glassman, Chief Counsel, NHTSA (w/o att)