

**UNITED STATES DEPARTMENT OF TRANSPORTATION  
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**

1200 New Jersey Avenue, SE  
West Building, W41-326  
Washington, DC 20590

**In re:**

PE14-016  
Air Bag Inflator Rupture

**GENERAL ORDER DIRECTED TO MANUFACTURERS**

To:

Kazuo Higuchi  
Senior Vice President  
TK Holdings Inc.  
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Washington, DC 20006

Mr. Sam Campbell  
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Vice President, Global Vehicle Safety  
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Mr. Jay Joseph  
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1919 Torrance Blvd.  
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Mr. David Robertson  
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Mr. Mark Chaffin  
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(Service List Continued)

Mr. Selim A. Hammoud  
Director, Product Safety & Environment  
Nissan North America, Inc.  
One Nissan Way  
Franklin, TN 37067

Mr. Maurice Arcangeli  
Director - Government Relations  
Subaru of America, Inc.  
P.O. Box 6000  
Cherry Hill, NJ 08034-6000

Mr. Dino Triantafyllos  
Chief Quality Officer  
Mr. Abbas Saadat  
Vice President, Quality Control  
Toyota Motor Engineering & Manufacturing  
North America, Inc.  
Toyota Safety & Compliance Liaison Office  
19001 South Western Avenue  
Torrance, CA 90501

This General Order is issued by the Secretary of Transportation pursuant to 49 U.S.C. § 30166(g)(1)(A) and 49 C.F.R. §§ 510.7 and 510.8, and pursuant to a delegation of authority to the Chief Counsel of the National Highway Traffic Safety Administration (“NHTSA”), an Operating Administration of the United States Department of Transportation, 49 C.F.R. §§ 1.95, 501.8(d).

As part of NHTSA’s ongoing investigation and oversight of defective Takata air bag inflators, NHTSA, by this General Order, hereby demands that BMW of North America, LLC (“BMW”); Chrysler Group, LLC (“Chrysler”); Ford Motor Company (“Ford”) ; General Motors, LLC (“GM”); American Honda Motor Company (“Honda”); Mazda Motor Corporation (“Mazda”); Mitsubishi Motors North America, Inc. (“Mitsubishi”); Nissan North America, Inc. (“Nissan”); Subaru of America, Inc. (“Subaru”); Toyota Motor Engineering & Manufacturing North America, Inc. (“Toyota”); and, TK Holdings, Inc. (“Takata”) (collectively, “the Manufacturers”), file certain reports and answers to questions under oath.

The Manufacturers’ responses to this General Order shall be provided by **December 5, 2014**.

The Manufacturers' responses shall be signed under oath, i.e., accompanied by an affidavit, signed by a responsible officer of each of the Manufacturers, stating that he/she has undertaken and directed an inquiry reasonably calculated to assure that the answers and production of documents are complete and correct, that he/she has caused the documents of the Manufacturers to be searched diligently for information and documents responsive to this General Order and produced them to NHTSA, and that the answers to the inquiries provided to NHTSA respond completely and correctly to this General Order. 49 U.S.C. § 30166(g)(1)(A); 49 C.F.R. § 510.7.

Failure to respond fully or truthfully to this General Order may result in a referral to the United States Department of Justice for a civil action to compel responses, and may subject the Manufacturers to civil penalties of up to \$7,000 per day, up to a maximum penalty of \$35,000,000 for a related series of daily violations. 49 U.S.C. §§ 30163(a)(1), 30165(a)(3); 49 C.F.R. § 578.6(a)(3). Falsifying or withholding information in response to this General Order may also lead to criminal penalties of a fine or imprisonment of up to 15 years, or both. 49 U.S.C. § 30170(a)(1).

### **DEFINITIONS**

To the extent used in this General Order, the following definitions apply:

1. **“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.

2. **“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.

3. **“Inflator”** means frontal air bag inflator modules and attached air bags manufacturer by Takata between January 1, 2001 and the present, including, but not limited to, inflators designated by Takata and/or Takata customers as type SDI, SDI-X, PSDI, PSDI-4, PSDI-4K, SPI, PSPI, and PSPI-L.

4. **“High Absolute Humidity Region (HAH Region)”** means the following states and U.S. territories: Florida; Puerto Rico; Hawaii; Saipan; American Samoa; and, the U.S. Virgin Islands, and the following geographic areas within the United States: Southern Georgia; coastal areas of Alabama; Louisiana; Mississippi; and, Texas.

5. **“Takata”** means TK Holdings, Inc. and Takata Corporation, 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 TK

Holdings, Inc. or Takata Corporation (including all business units and persons previously referred to).

6. **“You” or “Your”** means each individual party to whom this General Order is directed. This definition includes all of your 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 your control (including all business units and persons previously referred to).

### **INSTRUCTIONS**

1. Your response to the General Order shall be sent to Office of the Chief Counsel (NCC-111), National Highway Traffic Safety Administration, West Building, W41-326, 1200 New Jersey Avenue, SE, Washington, DC 20590.

2. Please repeat the applicable request verbatim above your response. After your response to each request, identify the source of the information and indicate the last date the information was gathered.

3. After your response to each request, state whether you previously had any responsive documents that are no longer within its possession, custody, or control, including but not limited to because the documents were lost or destroyed. If yes, state describe the documents; identify the reason that the documents are no longer in your possession, custody, or control; and identify the date that you last had the documents.

4. 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 also be reminded that where a document responsive to a request is not in the English language, both the original document and an English translation of the document must be produced.

5. You are required to respond to every request listed in this General Order. If you cannot respond to any specific request or subpart(s) thereof, please state the reason why you are unable to do so. You are instructed and cautioned not to assert privilege in connection with any information you submit to the Agency. Should you anticipate doing so for any reason (and the Agency can contemplate none), you are instructed to contact Christie Iannetta at (202) 366-2239 to discuss why any information you submit would constitute privileged information.

6. The response to this General Order, including the document requests, must be submitted in duplicate to this office by the deadline stated above.

7. We expect that you will not claim that materials we request contain confidential business information. If you claim that any of the information or documents provided in response to this General Order constitutes confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or is protected from disclosure pursuant to 18 U.S.C. § 1905, you must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with 49 C.F.R. Part 512, to the Office of Chief Counsel (NCC-111), National Highway Traffic Safety Administration, West Building, W41-326, 1200 New Jersey Avenue, SE, Washington, DC 20590. You are required to submit two copies of the documents containing allegedly confidential information and one copy of the documents from which information claimed to be confidential has been deleted. Failure to adhere to the requirements of 49 C.F.R. Part 512 will result in a rejection of your request for confidential



treatment.

8. All documents shall be produced electronically, as described below, and accompanied by a Concordance-format load file.

a. The report referenced in Request Nos. 1 and 2 shall be produced in electronic PDF copy and in duplicate hard copy.

b. Hard copy documents shall be imaged in TIFF format. They shall be provided as multi-page TIFFs with document level OCR. The following metadata fields shall be provided for each document:

- i. Custodian—Name of person or division (if the document is from a file shared by multiple employees) from which the file is being produced;
- ii. Bates Begin—Beginning Production Number;
- iii. Bates End—Ending Production Number;
- iv. Attach Begin—Beginning Attachment Range Number;
- v. Attach End—Ending Attachment Range Number (i.e. parentage is maintained); and
- vi. Page Count.

c. Electronically Stored Information (ESI) shall be converted to multi-page TIFF images and produced along with document level OCR/extracted text. The following metadata fields will be provided for non-email ESI:

- i. Custodian (name of custodian from which file is being produced);
- ii. Other Custodian(s) (name of other custodian(s) who had a copy of the file);
- iii. Doc Title (title of file from properties);
- iv. Doc Subject (subject of file from properties);
- v. Created Date (date the file was created);
- vi. Created Time (time the file was created);
- vii. Last Modified Date (date the file was last modified);
- viii. Last Modified Time (time the file was last modified);
- ix. Last Saved By (name of user who last saved the file);
- x. Doc Type (attachment or loose file);
- xi. File Type (Microsoft Word, Microsoft Excel, etc.);
- xii. File Name (names of the file);
- xiii. Full Path (full path location to where the file resided);
- xiv. File Ext (extension for the file);

- xv. MD5 Hash (or equivalent);
- xvi. Bates Begin (beginning production number);
- xvii. Bates End (ending production number);
- xviii. Attach Begin (beginning attachment range number);
- xix. Attach End—Ending Attachment Range Number (i.e. parentage is maintained);
- xx. Page Count; and
- xxi. Native link (path to the native file as included in the production, e.g., d\PROD001\Natives\ABC00015.xls).

The following metadata fields will be provided for electronic mail:

- i. Custodian (name of custodian from which file is being produced);
- ii. Other Custodian(s) (name of other custodian(s) who had a copy of the file prior to de-duplication);
- iii. Author (FROM filed);
- iv. CC;
- v. BCC;
- vi. Recipient (TO field);
- vii. MD5 Hash Value (or equivalent);
- viii. Date Sent (date the email was sent);
- ix. Date Received (date the email was received);
- x. Time Sent (time the email was sent);
- xi. Time Received (time the email was received);
- xii. File Ext (extension for the file);
- xiii. Email Folder (the folder within the mailbox where the message resided);
- xiv. Body Text (extracted text);
- xv. Bates Begin (beginning production number);
- xvi. Bates End (ending production number);
- xvii. Attach Begin (beginning attachment range number);
- xviii. Attach End—Ending Attachment Range Number (i.e. parentage is maintained);
- xix. Page Count;
- xx. Subject; and
- xxi. Native link (path to the native file as included in the production, e.g., d\PROD001\Natives\ABC00015.xls).

For all date fields, please produce them in either YYYYMMDD or MM/DD/YYYY format. Do not include the time in any date fields. Electronic mail shall be produced along with attachments to the extent the message or any attachment is responsive, relevant, and not privileged. As a general matter, subject to specific review, a message



and its attachments shall not be withheld from production based on the fact that one or more attachments are privileged, irrelevant, or non-responsive.

d. Excel spreadsheets, PowerPoint files (or like presentations), photographs, and brochures shall be produced both in native and TIFF formats. For Excel documents or any documents with embedded links to other files or documents, any linked files should be sequentially numbered and produced after the source file and the Attach Beg/Attach End fields be used to denote the parent/child relationship.

e. If a particular file is not provided in a common format (e.g. Word or PDF) and requires the use of special software that is not readily available, you must provide a copy of that software with its submission.

9. Provide all documents requested in this General Order, even if such documents have been previously produced.

10. The singular includes the plural; the plural includes the singular. The masculine gender includes the feminine and neuter genders; and the neuter gender includes the masculine and feminine genders. "And" as well as "or" shall be construed either disjunctively or conjunctively, to bring within the scope of this General Order all responses that might otherwise be construed to be outside its scope. "Each" shall be construed to include "every" and "every" shall be construed to include "each." "Any" shall be construed to include "all" and "all" shall be construed to include "any." The use of a verb in any tense shall be construed as the use of the verb in a past or present tense, whenever necessary to bring within the scope of the document requests all responses which might otherwise be construed to be outside its scope.

11. The Manufacturers' responses to this General Order must be under oath, i.e., accompanied by an affidavit, signed by a responsible officer of the Manufacturer., stating that

he/she has undertaken and directed an inquiry reasonably calculated to assure that the answers and production of documents are complete and correct, that he/she has caused the documents of the Manufacturer to be searched diligently for information and documents responsive to this General Order and produced them to NHTSA, and that the answers to the inquiries provided to NHTSA respond completely and correctly to this General Order.

12. The requests in this is General Order are deemed to be continuing in nature so as to require supplemental responses from you should you obtain or become aware of further responsive information or documents.

### **REQUEST**

1. File a report that describes, in detail, all completed, ongoing or planned testing of Takata inflators outside of the HAH Region. At a minimum, your report must include, but should not be limited to, the following:

- a. All documents regarding or relating to the testing contained in your report;
- b. The location of the testing; the dates of the testing; whether the testing is completed, in progress, or planned; anticipated date of completion of testing; the nature and objective of the testing; and, testing protocols;
- c. A roster of all vehicles where the inflator was tested which includes: the model; model year; vehicle build date; VIN; the vehicle's registration history, by location; inflator serial number; inflator type; dealership location with zip code where the inflator unit was returned; whether any deaths, injuries or claims are associated with the inflator in the vehicle; and, product specifications for the air bag and inflator modules in each vehicle.
- d. If testing of inflators has been completed, describe in detail the results of

the testing and the conclusions you have reached based upon the test results. If your conclusion is that a safety defect does not exist in inflators outside of the HAH Region, describe in detail the basis for that conclusion and when the decision was made and by whom. Provide a copy of all documents to or from any person(s) related to the conclusion that no safety defect exists in inflators outside of the HAH Region.

e. Sub-part (e) is directed to BMW, Chrysler, Ford, GM, Honda, Mazda, Mitsubishi, Nissan, Subaru and Toyota: State in your report whether or not Takata has performed testing of inflators used in your vehicles outside of the HAH Region. If so, describe in detail what Takata has communicated to you about the testing and/or test results. Produce all documents related to Takata's testing, test results and your communications, internal and external, related to the testing. State whether you have requested additional information from Takata concerning its testing of inflators outside of the HAH Region which you believe would assist in your determination of whether a defect exists. Identify and describe any information, documents or categories of information and documents that you reasonably believe that Takata has or reasonably should have concerning inflators or testing of inflators used in your vehicles that Takata has not provided you and which you believe would assist you in testing inflators to determine whether a safety defect exists in inflators outside of the HAH Region.

f. Provide the name, title and complete contact information for each and every manager or supervisor (at all levels of management or supervisory responsibility) involved in your investigation and decision-making process concerning rupturing air bag inflators manufactured, in whole or in part, by Takata.

g. Provide the name, title and complete contact information for each and



every person who prepared and provided input and/or data included in the report contained in Request No. 1, including but not limited to inside or outside counsel, accountants, engineers, employees and other professionals.

Dated: November 18, 2014



O. Kevin Vincent  
Chief Counsel