

**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

SECOND SPECIAL ORDER DIRECTED TO TK HOLDINGS, INC.

To:

Kazuo Higuchi
Senior Vice President
TK Holdings Inc.
888 16th Street NW, Suite 800
Washington, DC 20006

This Special Order¹ 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).

Over 7 million Toyota, Honda, Mazda, BMW, Nissan, Mitsubishi, Subaru, Chrysler, Ford, and General Motors vehicles have been recalled to replace defective Takata air bags. When inflated, defective air bag inflators may project fragments rather than properly inflating the attached air bag. As part of NHTSA’s ongoing oversight of these recalls and its investigation into the defect, this Special Order now demands certain information and documents from TK Holdings Inc.

TK Holdings Inc.’s response to this Special Order must be provided by **December 5**,

¹ Pursuant to 49 U.S.C. § 30166(g), this Special Order is equivalent to a subpoena.

2014. TK Holdings Inc.’s response must be signed under oath, i.e., accompanied by an affidavit, signed by a responsible officer of TK Holdings Inc., 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 TK Holdings Inc. to be searched diligently for information and documents responsive to this Special Order and produced them to NHTSA, and that the answers to the inquiries provided to NHTSA respond completely and correctly to this Special Order. 49 U.S.C. § 30166(g)(1)(A); 49 C.F.R. § 510.7.

Failure to respond fully or truthfully to this Special Order may result in a referral to the United States Department of Justice for a civil action to compel responses, and may subject TK Holdings Inc. 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 Special 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 Special Order, the following definitions apply:

1. **“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.
2. **“Agent”** means an individual, such as a representative, who is authorized to act for or in place of another.
3. **“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.

4. **“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.

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. **“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.

7. **“Recalled Inflator”** means Takata frontal air bag inflator modules, and may include the attached air bags, which are involved in any safety recall or similar remedial action (including the 2014 regional safety improvement campaigns) initiated by a vehicle manufacturer 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.

8. **“Replacement Inflator”** means Takata frontal air bag inflator modules being manufactured at the request of any vehicle manufacturer for use as replacement parts in connection with the remedy program for any safety recall or similar remedial action initiated by a vehicle manufacturer between November 11, 2008 and the present.

9. **“Takata Inflators”** means all frontal air bag inflator modules manufactured by Takata between January 1, 2001 and the present.

INSTRUCTIONS

1. Your response to the Special 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 Special 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 Special 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 Special 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. 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.

b. 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 field);
- 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.

c. 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.

d. 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 Special 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 Special 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. TK Holdings Inc.’s response to this Special Order must be under oath, i.e., accompanied by an affidavit, signed by a responsible officer of TK Holdings Inc., 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 TK Holdings Inc. to be searched diligently for information and documents responsive to this Special Order and produced them to NHTSA, and that the answers to the inquiries provided to NHTSA respond completely and correctly to this Special Order.

REQUESTS

1. Explain the process by which Takata manufactures propellant for the Takata Inflators. Your response should include a summary of the step-by-step process from the time the chemical compounds are received at Takata's Moses Lake, Washington facility (or any other facility at which Takata receives chemical compounds) to the time the propellant wafers are shipped to the Takata Inflator manufacturing facilities.
2. Explain the chemical composition and manufacturing process for the propellant that is currently being used in the Takata Inflators.
3. Explain the chemical composition and manufacturing process for the propellant that was used in the Recalled Inflators.
4. Explain the chemical composition and manufacturing process for the propellant that is currently being used in the Replacement Inflators.
5. Produce a chronology identifying each point in time that Takata made a change to the chemical composition of the propellant used in the Takata Inflators from January 1, 2000 to the present. Your response shall include the precise date and time on which the change was made, the Takata Inflators affected by the change, the nature of the change made to the propellant formula, and the reason(s) for that change.
6. Produce the names, titles, and complete contact information for each and every

Takata employee who recommended that a change to the propellant formula be made.

7. Produce the names, titles, and complete contact information for each and every Takata employee who was involved in the decision to change the propellant formula.

8. Produce the names, titles, and complete contact information for each and every Takata employee who developed the propellant formula used in the Recalled Inflators.

9. Produce the names, titles, and complete contact information for each and every Takata employee who developed the propellant formula used in the Replacement Inflators.

10. Produce the names, titles, and complete contact information for each and every Takata employee who formulated the propellant used in the Recalled Inflators.

11. Produce the names, titles, and complete contact information for each and every Takata employee who formulated the propellant used in the Replacement Inflators.

12. Produce the names, titles, and complete contact information for each and every Takata employee who tested the propellant used in the Recalled Inflators.

13. Produce the names, titles, and complete contact information for each and every Takata employee who tested the propellant used in the Replacement Inflators.

14. Produce all documents that refer to, relate to, discuss or concern the propellant used in the Takata Inflators; including, but not limited to, any studies or testing of the propellant formulas.

15. Produce all documents that refer or relate to concerns or allegations (regardless of whether or not such concerns or allegations were substantiated) by any Takata employee or contractor, or any motor vehicle manufacturer, that ammonium nitrate is too volatile or that there is otherwise a problem with using ammonium nitrate in the propellant for the Takata Inflators.

16. Produce all internal Takata documents referenced in the Reuters article entitled

“Takata changes chemical compound involved in air bag recalls,” a copy of which is attached hereto as **Exhibit A**.

17. Produce the Reuters analysis of internal Takata documents referenced in the Reuters article, attached as **Exhibit A**.

18. Produce all documents that refer to, relate to, discuss or concern the decision to change the propellant formula as reported in the Reuters article, attached as **Exhibit A**; including, but not limited to, emails, design specifications, and studies.

Dated: November 18, 2014


O. Kevin Vincent
Chief Counsel