U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

1200 New Jersey Avenue SE.
Washington, DC 20590

MAR 12 2015

**VIA EMAIL AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Hercules Tire & Rubber Company c/o
Mr. Daniel Campbell
Crowell & Moring LLP
1001 Pennsylvania Ave., NW
Washington, DC 20004

NVS-215rwg
EQ15-001

Dear Mr. Campbell:

This letter is to inform you that the Recall Management Division (RMD) of the Office of Defects Investigation, National Highway Traffic Safety Administration (NHTSA) has opened an Equipment Query (EQ15-001) to investigate allegations that certain Hercules All Trac A/T tires are substantially similar in design, construction, and performance as tires ITG Voma recalled due to a safety defect, and therefore Hercules should make a defect decision and recall its All Trac A/T tires. A copy of the letter making these allegations is attached for your review and consideration, as is a copy of the other tire manufacturer's (ITG Voma) recall report.

In order for the agency to investigate this matter, certain information is required. Unless otherwise stated in the text, the following definitions apply to these information requests:

- **Subject Tires:** all Hercules All Trac A/T tires fabricated by Shandong Yongsheng Rubber Co., Ltd. and that Hercules imported or otherwise introduced for sale in the United States, including, but not limited to, the District of Columbia, and U.S. territories, and that share, or may share, the same or substantially similar specifications as tires manufacturer ITG Voma recalled and identified in its safety recall 14T-013.

- **Recalled Hercules LRE Tires:** The tires Hercules recalled as part of safety recall 13T-002.

- **Hercules:** Hercules Tire & Rubber Company, to include but not limited to, any of its past or current parent companies, including American Tire Distributers (ATD), any predecessor companies, all of its past and present officers and employees, whether assigned to its principal offices or any of its field or other locations, including all of its 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 Hercules (including all business units and persons previously referred to), who are or were involved in any way with any of the following related to the subject tires:

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, or lawsuits; 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.

- **Alleged defect:** That certain Hercules All Trac A/T tires are substantially similar in design, performance, and function as the Recalled Precision Trac II tires that were determined to be defective due to a risk of tread separation.

- **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 Hercules, 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 Hercules 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 CFR 579.4.

Pursuant to 49 U.S.C. § 30166, please provide numbered responses to the following information requests. 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 Hercules's response to each request, identify the source of the information and indicate the last date the information was gathered.

1. Has Hercules manufactured (defined to include importation) or distributed or sold or introduced into United States commerce any Subject Tires? If so, list by tire line (e.g., tire brand(s) and/or model name(s)), range of tire identification numbers (TIN), size, load range, type/construction code, inclusive dates of manufacture, and any other information necessary to describe or identify, any Subject Tires.

   Provide this information in electronic form in Excel or a compatible format, entitled "**PRODUCTION DATA.**" A pre-formatted Data Collection File, which provides further details regarding this submission, will be emailed to you.

2. For each tire line you identified in response to question 1, state the number of those tires Hercules sold or distributed within the United States.

   Provide this information in electronic from in Excel or a compatible format, entitled "**SALES AND DISTRIBUTION DATA.**" A pre-formatted Data Collection File, which provides further details regarding this submission, will be emailed to you.

3. For each Subject Tire line you identified in response to question 1, furnish a cured tire specification history and design history. This specification should include, but not be limited to, material compositions and relevant dimensions pertaining to all major tire components including:
   a. Inner liner;
   b. Body plies;
   c. Beads;
   d. Tread or belt plies;
   e. Belt wedges or "gum strips"; and
   f. Nylon overlay.

4. Please explain how Hercules determined which tires to recall as part of its 2013 safety recall (safety recall 13T-002). Please also explain why Hercules did not include any Subject Tires

in that recall. Describe any field data and provide copies of any technical data or information that explains or supports why Hercules did not.

5. To the extent Hercules did manufacture or distribute in the Unites States tires Hercules understands have, or may have, the same specifications as the tires ITG Voma recalled in 14T-013, explain why Hercules has not yet made a defect decision and/or decided to conduct a recall of those tires. Describe any field data and provide copies of any technical data or information that explains or supports why Hercules has not made that decision.

6. The attached December 17, 2014, letter from The Cowen Law Group asserts that Shandong's representative testified in a lawsuit that the subject tires share the same "green tire specifications" as the ITG Voma recalled tires, and provides a list of the tire sizes and models. Does Hercules agree with this assessment that the subject tires share the same green tire specifications? Why or why not? Please provide all technical information or data to support your explanation.

7. In Hercules's opinion and experience, does the fact that tires share the same green tire specification equate with expected or actual field performance and/or durability? Why or why not?

8. To the extent Hercules has knowledge; identify other tire populations that Shandong Yongsheng Rubber Co. manufactured for importation or sale in the United States that share the same basic construction or "common greens" with the ITG Voma recalled tires and/or the Hercules All Trac A/T tires. For any other tire populations identified, include tire line, size, manufacturing plant, construction code, and year of manufacture. List any tire line, model, or brand names not already identified herein under which these tires may have been sold.

9. Is Hercules related in any way to ITG Voma? If so, please explain the relationship between the companies and identify whether Hercules has access to or shares field or adjustment data or information with ITG Voma.

Legal Authority for This Request

This letter is being sent to Hercules 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 and the production of things. It constitutes a new request for information.

Civil Penalties

Hercules's failure to respond promptly and fully to this letter could subject Hercules 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, as amended, 49 U.S.C. § 30165(a)(3), provides for civil penalties of up to $7,000 per violation per day, with a maximum of $35,000,000 for a related series of daily violations, for failing or refusing to perform an act required under 49 U.S.C. § 30166. This includes failing to respond completely, accurately, and in a timely manner to ODI information requests. The maximum civil penalty of $7,000 per violation per day is established by 49 CFR 578.6(a)(3). The maximum civil penalty of $35,000,000 for a related series of daily violations of 49 U.S.C. § 30166 is

authorized by 49 U.S.C. § 30165(a)(3) as amended by § 31203(a)(1)(B) of the Moving Ahead for Progress in the 21st Century Act, Public Law 112-141.

If Hercules 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, Hercules does not submit one or more requested documents or items of information in response to this information request, Hercules 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 Hercules claims that any of the information or documents provided in response to this information request constitute confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. § 1905, Hercules must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with 49 CFR Part 512, as amended, to the Office of Chief Counsel (NCC-111), National Highway Traffic Safety Administration, Room W41-227, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590. Hercules is required to **submit two copies of the documents containing allegedly confidential information (except only one copy of blueprints) and one copy of the documents from which information claimed to be confidential has been deleted.** Please remember that the phrase "ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION" or "CONTAINS CONFIDENTIAL BUSINESS INFORMATION" (as appropriate) must appear at the top of each page containing information claimed to be confidential, and the information must be clearly identified in accordance with 49 CFR 512.6. If you submit a request for confidentiality for all or part of your response to this IR, that is in an electronic format (e.g., CD-ROM), your request and associated submission must conform to the new requirements in NHTSA's Confidential Business Information Rule regarding submissions in electronic formats. *See* 49 CFR 512.6(c) (as amended by 72 Fed. Reg. 59434 (October 19, 2007)). **Please refer to EQ15-001 in Hercules's response to this letter and in any confidentiality request submitted to the Office of Chief Counsel.**

Due Date

Hercules's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by ***May 7, 2015***. Hercules's response must include all non-confidential attachments and a redacted version of all documents that contain confidential information. If Hercules finds that it is unable to provide all of the information requested within the time allotted, Hercules must request an extension from me at (202) 366-9525 no later than five business days before the response due date. If Hercules 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 Hercules then has available, even if an extension has been granted.

The assigned investigator to this matter is Robert Garris. Mr. Garris can be reached at Robert.Garris@dot.gov or (202) 366-9525. Please send your response to this information request via email to Mr. Garris and to ODI_IRresponse@dot.gov. If there are confidential materials included in your response or its attachments, please indicate that directly in your message. Please also reference this investigation's assigned identification, number, EQ15-001, in your response.

If you have any questions concerning this matter, please call Robert Garris of my staff at (202) 366-9525.

Sincerely,



Jennifer Timian, Chief
Recall Management Division
Office of Defects Investigation

Enclosures