

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

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

In re:)
)
EA15-001)
(formerly PE14-016))
Air Bag Inflator Rupture)
)

FOURTH SPECIAL ORDER DIRECTED TO TK HOLDINGS, INC.

To:

Mike Rains
Product Safety Director
TK Holdings Inc.
2500 Takata Drive
Auburn Hills, MI 48326

Steven G. Bradbury, Esquire
Dechert LLP
1900 K Street, NW
Washington, DC 20006

Andrew J. Levander, Esquire
Dechert LLP
1900 K Street, NW
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 that 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).

On July 15, 2015, Volkswagen Group of America, Inc. (“Volkswagen”) disclosed to NHTSA that a TK Holdings, Inc. (“Takata”) SSI-20 air bag inflator had ruptured in a field incident involving a 2015 Volkswagen Tiguan on or about June 7, 2015.

¹ A Special Order is the functional equivalent of a subpoena. *See* 49 U.S.C. § 30166(g).

As part of NHTSA's ongoing investigation and oversight of Takata air bag inflators, and in light of the confirmed rupture of a Takata SSI-20 air bag inflator in a 2015 Volkswagen Tiguan on or about June 7, 2015, NHTSA, by this Special Order, hereby demands that Takata file certain reports and answers to questions under oath, and produce certain documents.

Takata's response to this Special Order must be provided by August 24, 2015, and supplemental responses shall thereafter be provided to NHTSA on the first day of each month, beginning on October 1, 2015, and continuing until such time as NHTSA notifies Takata that additional supplemental responses are no longer required.

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 accurate, 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 accurately 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). Any supplemental response that is not timely submitted in accordance with the monthly schedule described above will constitute a separate violation, and may result in additional daily civil penalties. 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

These Definitions may include new, additional, or differing requirements from those included in the prior Special Orders issued to Takata on October 30, 2014, November 18, 2014, and June 19, 2015.

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

1. The definitions of “**manufacturer,**” “**motor vehicle,**” “**original equipment,**” and “**replacement equipment**” can be found in 49 U.S.C. § 30102 and 49 C.F.R. § 573.4.
2. “**Document(s)**” is used in the broadest sense of the word under Rule 34 of the Federal Rules of Civil Procedure and shall mean all written, printed, typed, recorded, or graphic matter of every kind, nature, and description, however produced or reproduced, whether draft or final, original or reproduction, signed or unsigned, electronic or hard copy, and regardless of whether approved, signed, sent, received, redrafted, or executed, including but not limited to: written communications, letters, correspondence, facsimiles, e-mail, instant messages, text messages, agendas, memoranda, minutes, notes, summaries, reports, voicemails, films, photographs, recordings of any type, transcripts, contracts, agreements, purchase or sales orders, specifications, drawings, diagrams, diaries, journals, logs, desk calendars, interoffice communications, reports, studies, bills, checks, income statements, balance sheets, books of account, ledgers and other financial records, and all information generated by or stored by computer, including without limitation, electronic writings, records, files, reports, hard drives, backup data, removable computer storage media (such as flash drives, tapes, disks, and cards), printouts, document image files, web pages, databases, spreadsheets, software, and digital recordings, or material similar to any of the foregoing however denominated, by whomever

prepared, and to whomever addressed, which are in your possession, custody or control or to which you have had or can obtain access. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color.

3. **“High Absolute Humidity Region”** includes 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.

4. **“Inflator”** means any gas generator (pyrotechnic, stored gas, or hybrid) used to inflate an air bag in a supplemental restraint system that is manufactured by you, regardless of the air bag’s position in the vehicle (i.e., whether driver, passenger, center, or rear seat and whether frontal, side, knee, curtain, or other); regardless of the motor vehicle manufacturer (i.e., the customer); regardless of whether it was manufactured as original equipment or replacement equipment; and regardless of whether it is a single stage or dual stage.

5. **“Inflator Supplier”** means any other manufacturer of inflators from whom Takata has obtained inflators for use in air bag modules produced, manufactured, sold, supplied, or otherwise distributed by Takata for use as part of an air bag mechanism in a motor vehicle.

6. **“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).

7. **“Takata Inflators”** means all motor vehicle air bag inflator modules and attached air bags ever manufactured by Takata.

8. **“You”** or **“Your”** means and refers to Takata (as defined in No. 6, supra) to whom this Fourth Special Order is directed. This definition includes all of Takata’s 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

These Instructions may include new, additional, or differing requirements from those included in the prior Special Orders issued to Takata on October 30, 2014, November 18, 2014, and June 19, 2015. You are cautioned to review these Instructions closely to ensure that your response to this Special Order complies with the following:

1. Your response to this 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. Your response to this Special Order shall be provided to NHTSA by **August 24, 2015**, and supplemental responses with any information not previously reported shall thereafter be provided to NHTSA on the first day of each month, beginning October 1, 2015, and

continuing until such time as NHTSA notifies you that additional supplemental responses are no longer required.

3. 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.

4. **When a request calls for a detailed, narrative response, you shall not identify business records or other documents in lieu of providing a written narrative. A response to a request for a written narrative that solely directs NHTSA to business records or documents will be considered non-responsive, and may result in civil penalties. See 49 U.S.C. §§ 30163(a)(1), 30165(a)(3); 49 C.F.R. § 578.6(a)(3). A response to a request for a detailed, narrative response that includes references to specific Bates Number(s) in addition to a written narrative will not be considered a violation of this Instruction.**

5. After your response to each request, state whether you previously had any responsive documents that are no longer within your possession, custody, or control, including, but not limited to, documents that were lost or destroyed. If such documents ever existed: describe the documents; identify the reason that the documents are no longer in your possession, custody, or control; and identify the date on which you last had the documents.

6. 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. If the requisite explanation is not produced contemporaneously with the documents, NHTSA may require you to meet with NHTSA representatives to provide such an explanation.

7. 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.

8. 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.

9. You are instructed and cautioned not to assert privilege in connection with any document(s) and/or information that 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 explain your position that such document(s) and/or information are privileged. Should you nevertheless decide to withhold any document(s) and/or information that is responsive to a request herein by claiming that such document(s) and/or information is privileged, then you must promptly prepare and provide a privilege log 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. Your privilege log must be sufficiently detailed for the agency to assess whether a privilege designation is justified. At a minimum, it shall set forth the privilege relied upon and shall include the following information for each document:

- (a) the document Bates-number range;
- (b) the identity and position of its author(s);
- (c) the identity and position of all addressees and recipients;
- (d) the date on which the document was prepared and, if different, the date(s) on which it was sent to or shared with persons other than its author(s);
- (e) the title of the document;
- (f) the document type and format;
- (g) the subject matter addressed in the document;

- (h) the purpose(s) for which the document was prepared or communicated; and
- (i) the specific basis for the claim that the document is privileged or protected.

The privilege log shall be submitted no later than fourteen business days after your written response(s) to this Special Order is due.

10. 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, then 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.

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

(a) The reports referenced in Requests No. 3 and 5 shall be produced in electronic Excel copy and 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);
- vi. Request No.—Identification of the Special Order Request number(s) to which the document is responsive; and
- vii. 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. Request No. (each Request number(s) that the document is responsive to);
- xxi. Page Count; and
- xxii. 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. Request No. (each Request number(s) that the document is responsive to);
- xx. Page Count;
- xxi. Subject; and
- xxii. 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.

12. 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.

13. If documents responsive to this Special Order have been previously produced to NHTSA, you are required to identify the responsive document(s) by Bates Number(s).

14. 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.

15. The requests in this Special Order are deemed to be continuing in nature so as to require supplemental responses from you should you obtain or become aware of any new, additional, or differing responsive information and/or documents.

REQUESTS

In accordance with the monthly reporting requirements set out in Instructions No. 2 and 15 above, Takata shall respond to the following Requests:

1. Provide a detailed, narrative explanation, including a timeline of events and knowledge, and supporting documentation, of your understanding of the SSI-20 air bag inflator

rupture in a 2015 Volkswagen Tiguan on or about June 7, 2015, which Volkswagen reported to NHTSA on July 15, 2015.

2. Provide a detailed, narrative explanation, including a timeline of events and knowledge, and supporting documentation, of your understanding of any confirmed or alleged SSI-20 air bag inflator rupture(s), other than the incident identified in response to Request No. 1.

3. Other than as previously provided in response to Request No. 13 in the first Special Order Directed to TK Holdings, Inc., dated October 20, 2014, provide a list of every incident of which Takata is aware of a rupture, or alleged rupture, of any Takata inflator type. Provide answers in the following categories and with the following information for each incident:

a. **Field incidents.** Categorize your responses into inflator types and state the total number of alleged ruptures and confirmed ruptures for that type. For each rupture or alleged rupture within an inflator type include: the date of the incident; the location of the incident (including city and state, if in the United States); whether the incident involved a death(s) and/or injury or injuries; the name of the person(s) killed or injured and their position in the vehicle; the make, model, and model year of the vehicle; and the vehicle's VIN.

b. **Lot Acceptance Testing (LAT).** Categorize your responses into inflator types. For each rupture include: the date on which the rupture incident occurred; the location of the LAT; the total number of inflators tested and total number of ruptures in that LAT; and any other relevant information.

c. **Conformance of Production (CoP) Testing.** Categorize your responses into inflator types. For each rupture include: the date on which the rupture incident

occurred; the location of the CoP testing; the total number of inflators tested and total number of ruptures in that CoP testing; and any other relevant information.

4. Other than the previously disclosed Takata inflators containing phase stabilized ammonium nitrate (specifically, PSDI, PSDI-4, PSDI-4K, SPI, PSPI, PSPI-L, SDI, PSDI-5, SDI-X, PSDI-X, SPI-2, PSPI-2, PSPI-6, SSI-20, SPI-X, PSPI-X, SDI-X 1.7, PDP, and SDP) provide a list identifying any other type of air bag inflator you have ever manufactured that contained phase stabilized ammonium nitrate (including as a booster or other agent) and the type of the phase stabilized ammonium nitrate (e.g. 2004) used in that product. If you have already provided this information, identify where this information can be found by Bates Number(s).

5. Except as already provided in response to the Special Order Directed to TK Holdings, Inc. Request No. 2, file a report identifying every air bag inflator ever manufactured by Takata with a propellant containing phase stabilized ammonium nitrate that you have supplied to any motor vehicle manufacturer. Your response shall be segregated by propellant and inflator type and shall further identify the motor vehicle manufacturer (i.e., customer), the date range during which you supplied that inflator to the customer, and the total quantity provided to your customer. Your response must be in Excel format, using **Appendix A “Takata Inflator Customers” tab** as a guide.

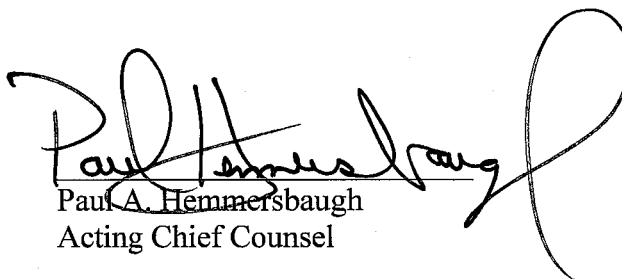
6. File a report identifying every air bag module ever manufactured by Takata that contained an inflator manufactured by any other Inflator Supplier utilizing a phase stabilized ammonium nitrate propellant, which you then sold to any motor vehicle manufacturer. Your response shall be segregated by Inflator Supplier, propellant and inflator type, and shall further identify the motor vehicle manufacturer (i.e., customer), the dates on which you supplied that inflator, and the total quantity provided to the customer. Your response must be in Excel format,

using **Appendix A “Supplier Inflators”** tab as a guide.

7. Provide a detailed, narrative explanation of any other safety related issue Takata is investigating, plans to investigate, or is considering investigating with regard to any inflator that Takata manufactures or that Takata sources from any other Inflator Supplier for use in air bag modules produced, sold, or otherwise distributed by Takata.

8. For each incident identified in your responses to Request Nos. 1 – 3, provide a copy of all documents that refer to, relate to, discuss, or concern Takata’s assessment of the incident, and all documents that Takata gathered as part of its investigation (including any police accident reports). If you have already produced these documents, identify them by Bates Number(s).

Dated: August 13, 2015



Paul A. Hemmersbaugh
Acting Chief Counsel

APPENDIX A

Takata Inflators Customers

Propellant	Inflator Type	Customer	Beginning of Supply	End of Supply	# of Units Supplied Total
2004 Propellant	SSI-2020	Customer 1	01/01/2000	12/12/2012	1,000,000
		Customer 2	01/31/2004	Ongoing	500,000

APPENDIX A

Takata Supplier Inflators

Inflator Supplier	Propellant	Inflator Type	Takata Air Bag Module Type	Customer	Beginning of Supply	End of Supply	# of Units Supplied Total
John Q. Smith Automotive	PSAN 999	PASS-999					
			ABC Example				
				Customer 1	01/01/2000	12/12/2012	1,000,000
				Customer 2	01/31/2004	Ongoing	500,000