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

1200 New Jersey Avenue SE.
Washington, DC 20590

December 5, 2022

VIA EMAIL

Mr. Christopher Sandvig, Director
Group Customer Protection
Volkswagen Group of America, Inc.
3800 Hamlin Road
MC 3C00
Auburn Hills, MI 48326

NEF-101sly
EA16-003

Dear Mr. Sandvig,

As you are aware, the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) has opened an Engineering Analysis (EA16-003) to investigate allegations of ruptures involving toroidal shaped hybrid air bag inflators, both passenger and driver side, manufactured by ARC Automotive, Inc. (ARC). ODI is requesting additional information from Volkswagen Group of America, Inc. (VW) to facilitate its investigation of the potential risk of a deployment-related field rupture of the toroidal shaped hybrid front passenger air bag inflator (PH7) in the U.S. market.

The scope of this Information Request is defined as all PH7 air bag inflators manufactured by ARC during a certain production time frame. The production time frame for the PH7 inflators is defined by a) a starting point of June 1, 2014, the inflator build date of a confirmed field event, and b) the end point of January 31, 2018, the implementation date of equipment and process improvements by ARC on all toroidal inflator assembly lines. This Information Request is separate from and requests information supplemental to the long-established and ongoing processes the Agency has in place to monitor field rupture event allegations and ARC production anomalies through the issuance of two Standing General Orders (SGOs).[1]

Unless otherwise stated in the text, the following definitions apply to these information requests:

- **Subject Vehicles:** All vehicles equipped with the Subject Component manufactured by VW for sale or lease in the United States, including but not limited to the District of Columbia and current United States territories and possessions.

- **Subject Component:** Frontal passenger air bag modules using a single or dual stage toroidal shaped hybrid air bag inflator manufactured by ARC.

[1] The SGOs ca be found on NHTSA.gov under EA16-003.

- **Subject Vehicle Testing**: Any design, validation, quality, or conformance test regularly conducted by VW in the design, development, validation, or production of the Subject Vehicles that involved production level Subject Components including but not limited to sled tests, development tests, barrier tests, crash tests and Conformance of Production (CoP) tests.

- **Subject Vehicle Test Deployments**: A deployment of the Subject Component that occurs during Subject Vehicle Testing.

- **Field Deployment**: A deployment of the Subject Component that occurs after the Subject Vehicle has initially left the possession and control of VW.

- **Successful Deployment**: A deployment of the Subject Component during which the inflator did not rupture or produce abnormal shrapnel/projectiles.

- **PH7 Production Time Frame of Interest:** June 1, 2014, through January 31, 2018.

- **VW:** Volkswagen Group of America, Inc. 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 VW (including all business units and persons previously referred to), who are or, in or after 1995, were involved in any way with any of the following related to the alleged defect in the subject vehicles:

  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.

- **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.

In order for my staff to evaluate the alleged defect, certain information is required. Pursuant to 49 U.S.C. § 30166, please provide numbered responses to the following information requests.

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

1. State, by OEM passenger module part number,[2] make, model and model year, and month of production (sequence), the number of Subject Vehicles VW has manufactured for sale or lease in the United States. Separately for each sequence, provide the compliance, design and estimated minimum and maximum Field Deployment information requested below, by calendar month and year. Provide the information in tabular form entitled "VW DRIVER AIR BAG PRODUCTION AND DEPLOYMENT DATA."

    a. OEM name;
    b. OEM air bag module part number;
    c. Make;
    d. Model;
    e. Model year;
    f. Month of vehicle production (MM/YYYY);
    g. Number of vehicles produced;
    h. Estimated number of Field Deployments to date - min/low estimate, and;
    i. Estimated number of Field Deployments to date - max/high estimate.

2. Describe in detail the methodology and process VW used to determine the minimum and maximum estimated Field Deployments in its response to Request 1 and explain why VW believes the approach is accurate and appropriate.

3. Utilizing the information from the Requests above and any other relevant information, provide VW's assessment of the probability that future Field Deployments of the Subject Component in the Subject Vehicles will be successful (i.e., will not result in a rupture/abnormal projectiles) including VW's estimates of the reliability and confidence of the probability assessment. Provide any other findings, conclusions, observations, or assessments VW has established from the study of data that are deemed pertinent to Subject Component safety and reliability and address the probability of successful Field Deployments.

Legal Authority for This Request

This letter is being sent to VW 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.

[2] To the extent it does not affect the Agency's use of the data, it may be advantageous to combine part numbers that are functionally equivalent and differ only due to color or other trim options. To the extent that possibility exists, please contact ODI for further discussion.

Civil Penalties

VW's failure to respond promptly and fully to this letter could subject VW 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 $24,423 per violation per day, with a maximum of $122,106,996 for a related series of daily violations, for failing or refusing to perform an act required under 49 U.S.C. § 30166. *See* 49 C.F.R. § 578.6. This includes failing to respond completely, accurately, and in a timely manner to ODI information requests.

If VW 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, VW does not submit one or more requested documents or items of information in response to this information request, VW 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 VW's response contains any information that you claim is confidential business information, VW must request two (2) secure electronic file transfer links from Sharon Yukevich at sharon.yukevich@dot.gov. One secure electronic file transfer link is for your request for confidential treatment and will be directed to NHTSA's Office of Chief Counsel. Please see the enclosure for additional instructions on submitting a request for confidential treatment that is compliant with 49 C.F.R. Part 512 (specifically a request for confidential treatment must include the four (4) required parts that are discussed in the enclosure). The second secure electronic file transfer link is for your non-confidential response to this letter. Do not submit any confidential business information along with your non-confidential submission. Please refer to EA16-003 in VW's response to this letter and in a request for confidential treatment that VW may submit.

Due Date

VW's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by **January 18, 2023**. VW's response must include all non-confidential attachments and a redacted version of all documents that contain confidential information. If VW finds that it is unable to provide all the information requested within the time allotted, VW must request an extension from me at (202) 366-5226 no later than five (5) business days before the response due date. If VW is unable to provide all the information requested by the original deadline, it must submit a partial response by the original deadline with whatever information VW then has available, even if an extension has been granted.

Please send email notification to Sharon Yukevich at sharon.yukevich@dot.gov and to ODI_IRresponse@dot.gov when VW sends its response to this office and indicate whether there is confidential information as part of VW's response.

If you have any technical questions concerning this matter, please call Sharon Yukevich of my staff at (202) 366-4925 or (202) 836-3605.

Sincerely,

[redacted]

Stephen A. Ridella, Ph.D.
Director
Office of Defects Investigation

Enclosure, Information for Requests for Confidential Treatment

ENCLOSURE – INFORMATION FOR REQUESTS FOR CONFIDENTIAL TREATMENT

If you believe that your response contains any material that you claim is confidential business information, submit these materials to NHTSA's Office of the Chief Counsel in accordance with 49 C.F.R. Part 512. **All requests for confidential treatment must be submitted directly to the Office of the Chief Counsel. Upon request, ODI will provide you with a secure file transfer link for your submission to the Office of the Chief Counsel.**

Requests for confidential treatment are governed by Part 512. A current version of this regulation is available on the internet at http://www.ecfr.gov by selecting Title 49 "Transportation," selecting "Parts 500 – 599" and then selecting Part 512 "Confidential Business Information."

How to request confidential treatment:

NHTSA is currently treating electronic submission as an acceptable method for submitting confidential business information to the agency under Part 512. If you claim that any of the information or documents provided in your response constitutes confidential business information within the meaning of 5 U.S.C. § 552(b)(4) or are protected from disclosure pursuant to 18 U.S.C. § 1905, you must request a secure file transfer link from the ODI contact listed in your Information Request. ODI will copy a representative from the Office of the Chief Counsel on the secure file transfer link for your request for confidential treatment. You must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with Part 512, to the Office of the Chief Counsel. Do not send a hardcopy of a request for confidential treatment to NHTSA's headquarters.

Your request must include a request letter that contains supporting information, pursuant to Part 512.8. Your request must also include a certificate, pursuant to Part 512.4(b) and Part 512, Appendix A.

You are required to submit one unredacted "confidential version" of the information for which you are seeking confidential treatment. Pursuant to Part 512.6, the words "ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION" or "CONFIDENTIAL BUSINESS INFORMATION CONTAINED WITHIN BRACKETS" (as applicable) must appear at the top of each page containing information claimed to be confidential. In the latter situation, where not all information on the page is claimed to be confidential, identify each item of information for which confidentiality is requested within brackets: "[ ]."

You are also required to submit one redacted "public version" of the information for which you are seeking confidential treatment. Pursuant to Part 512.5(a)(2), the redacted "public version" should include redactions of any information for which you are seeking confidential treatment (i.e., the only information that should be unredacted is information for which you are **not** seeking confidential treatment).

For questions about a request for confidential treatment, please contact Dan Rabinovitz in the Office of Chief Counsel at daniel.rabinovitz@dot.gov.