



September 28, 2021

Mr. Ann Carlson
Office of Chief Counsel
National Highway Traffic Safety Administration
West Building W41-227
1200 New Jersey Ave., SE
Washington, D.C. 20590

Re: Request for Confidential Treatment:
Response to Peer Information Request (PE21-010)

Dear Ms. Carlson,

Hyundai Motor America, Inc. ("HMA") is requesting confidential treatment of specific information submitted in HMA's response to NHTSA's Office of Defects Investigation ("ODI") August 3, 2021 Information Request with regard to PE21-010, an inquiry into Autoliv Driver Pyro Smart ("ADPS") 1.5 inflators on certain vehicles manufactured by General Motors. HMA asserts this information is protected from public disclosure pursuant to 5 U.S.C. § 552(b)(4) ("Exemption 4") and § 552(b)(6) ("Exemption 6") and 49 C.F.R. § 512.15(d) and (e). HMA seeks confidential treatment for certain types of information that are regularly and properly protected by the agency in other submissions. HMA seeks permanent confidential treatment for this information in its entirety.

Along with this request, HMA has provided a copy of its response and the supporting information in electronic format. The files for which confidential treatment is sought are titled "SUBJECT PART NUMBERS" and "PART SALES" in PDF format and have been marked "Entire Page Confidential Business Information" on pages containing the confidential information. Files and materials that cannot be marked internally have been renamed so that "CONF BUS INFO" appears in the native file name.

A. Description of the Information (49 C.F.R. § 512.8(a))

Confidential treatment is sought for the attachment associated with HMA's response to Request No. 6. The attachment contains design and manufacturing information related to certain Hyundai and Genesis vehicles. If released, this information would cause substantial competitive harm to HMA because it would provide competitors with insight into HMA's product design and manufacture, and HMA's analysis of its own products' performance which would provide competitors with an improperly-obtained competitor advantage.

Confidential treatment is sought for the attachment associated with HMA's response to Request No. 11. The attachment contains sales information related to the subject component. If released, this information would cause substantial competitive harm to HMA because it would provide competitors with insight into HMA's revenue and profit margins when combined with publicly-available pricing information.

B. Confidentiality Standard & Justification (49 C.F.R. § 512.8(b) and (c))

Generally, Exemption 4 protects trade secrets and privileged or confidential commercial or financial information. It was enacted to prevent disclosures that would "eliminate much of the time and effort that would otherwise be required to bring to market a product competitive with the [submitter's] product." *Public Citizen Health Research Grp v. FDA*, 185 F.3d 898, 905 (D.C. Cir. 1999). "Because competition in business turns on the relative costs and opportunities faced by members of the same industry, there is a potential windfall for competitors to whom valuable information is released under FOIA. If those competitors are charged only minimal FOIA retrieval costs for the information, rather than the considerable costs of private reproduction, they may be getting quite a bargain. Such bargains could easily have competitive consequences not contemplated as part of FOIA's principal aim of promoting openness in government." *Worthington Compressors, Inc., v. Castle*, 662 F.2d 45, 51 (D.C. Cir. 1981)

The standard for confidential information had previously been set forth by the D.C. Circuit in *National Parks and Conservation Association v. Morton*, 975 F.2d 765, 770 (D.C. Cir. 1994), stating that commercial and financial information that is required to be submitted to a federal agency "is 'confidential' for purposes of the exemption if disclosure of the information is likely to have either of the following effects: (1) to impair the Government's ability obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained." The documents for which HMA is seeking confidential treatment qualify as confidential under the *National Park* standard.

In addition, the United States Supreme Court's recent decision in *Food Marketing Institute v. Argus Leader Media*, No. 18-141 (U.S. June 24, 2019) further supports HMA's position through its holding that FOIA allows a federal agency to withhold from disclosure records submitted by a private entity where the submitter keeps the records secret and the agency promises to keep the records from disclosure. HMA customarily keeps private the information described in Section A of this letter, and HMA believes that the agency has assured HMA and other private entities that it will keep from disclosure the type of information referenced in this letter. Whether analyzed under *National Park* or *Food Marketing Institute*, the documents for which HMA is seeking confidential treatment qualify as confidential and should be protected from public disclosure pursuant to Exemption 4.

Please contact me if you have any questions with regard to this confidentiality request.

Sincerely,



Cole Stutz
Director, North America Safety Office
Hyundai Motor America

CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY

I, Cole Stutz, pursuant to the provisions of 49 CFR part 512, state as follows:

(1) I am the Director of the North America Safety Office at Hyundai Motor America (“Hyundai”), and I am authorized by Hyundai to execute this certificate on its behalf;

(2) I certify that the attachments SUBJECT PART NUMBERS and PART SALES referenced in Hyundai’s response to the August 3, 2021 Peer Information Request letter is confidential and proprietary information and is being submitted with the claim that such information is entitled to confidential treatment under 5 U.S.C. 552(b)(4) (as incorporated by reference in and modified by the statute under which the information is being submitted);

(3) I hereby request that the information contained be protected on a permanent basis;

(4) This certification is based on the information provided by the responsible personnel who have authority in the normal course of business to release the information for which a claim of confidentiality has been made to ascertain whether such information has ever been released outside the respective companies;

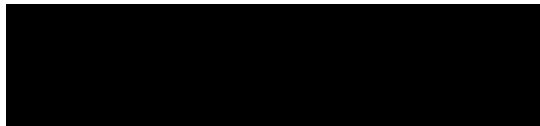
(5) Based upon that information, to the best of my knowledge, information and belief, the information for which Hyundai has claimed confidential treatment has never been released or become available outside Hyundai, except to those with which Hyundai has confidential relationships or agreements of confidentiality, including but not limited to confidential advisors and affiliate companies;

(6) I make no representations beyond those contained in this certificate and, in particular, I make no representations as to whether this information may become available outside of the company because of unauthorized or inadvertent disclosure; and

(7) I certify under penalty of perjury that the foregoing is true and correct.

Executed on this 27th day of September, 2021.

Hyundai Motor America



Cole Stutz
Director
North America Safety Office
Hyundai Motor America

September 28, 2021

VIA FedEx

Mr. Jeremy L. Gunderson
Acting Chief, Vehicle Defects Division A
National Highway Traffic Safety Administration
Office of Enforcement
Office of Defects Investigation
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

RE: PE21-010 – Response to Agency Information Request

Dear Mr. Gunderson:

Enclosed is Hyundai Motor North America's ("HMNA") response to the Office of Defects Investigation ("ODI") August 3, 2021, Information Request with regard to PE21-010, an inquiry into allegations involving certain General Motors vehicles where the Autoliv Driver Pyro Smart ("ADPS") 1.5 air bag inflator could rust causing the driver air bag to not operate as intended. ODI sent this Information Request to HMA for purposes of gathering information for a comparative analysis among peer vehicles. Attached you will find complete responses to requests 1-11 of the information request.

I. Freedom of Information Act Protections

HMA believes NHTSA's policy is to protect the privacy of individuals under exemption 6 of the Freedom of Information Act, 5 U.S.C. Section 552(b)(6). The name, address, and other personal information of owners or other individuals, including HMA personnel, contained in any of the attachments in this response should not be made available to the public. Therefore, while HMA is not requesting confidential treatment for this information pursuant to 49 CFR, Part 512, we believe any private information concerning individuals should not be made public.

II. General Objections

The General Objections set forth below are incorporated by reference into HMA's responses to the Information Request. These General Objections are deemed continuing as to each subpart of the Request, and are not waiver, nor in any way limited, by the specific responses to a subpart, nor should the failure to specifically incorporate the General Objections be construed as a waiver. Moreover, any applicable, good faith objection not raised in this section shall not be interpreted as a waiver.

The information provided in this response is current as of **August 8, 2021**, and reflects HMA's best understanding of the data as of this date. HMA has made a good faith effort to collect the information necessary to respond to the Information Request and reserves the right to amend and/or supplement this response, as appropriate. HMA reserves the right to recapture privileged or otherwise protected or exempted documents that may have been inadvertently produced in response to this Information Request. Any inadvertent production of privileged material is not, and should not be interpreted as, a waiver of any applicable privilege.

In accordance with this request, HMA has conducted reasonable, good faith searches of corporate records available from those departments knowledgeable about the subject matter of this inquiry. However, the definition of "document(s)" in the Information Request is unreasonably broad, vague, and ambiguous in the context of the information sought by this Information Request. Furthermore, HMA understands that the requests are seeking information related to model year 2020-2021 Hyundai vehicles sold or leased in the United States only as indicated in an e-mail sent to peer recipients on August 13, 2021.

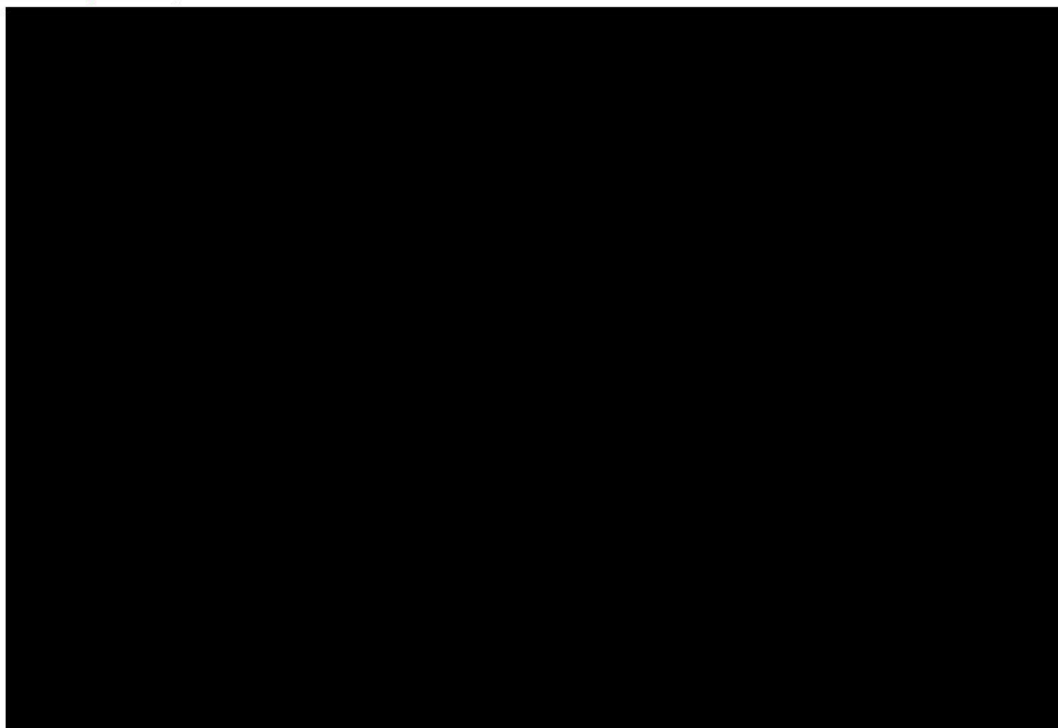
HMA's response to this Information Request was based on good faith searches of locations where documents determined to be responsive to the information request would normally be found and in consultation with current personnel knowledgeable about the information requested.

III. Specific Responses

- 1. State, by model and model year, the number of subject vehicles Hyundai has manufactured for sale or lease in the United States. Separately, for each subject vehicle manufactured to date by Hyundai, state the following:**
 - a. Vehicle identification number (VIN);**
 - b. Make;**
 - c. Model;**
 - d. Model Year;**
 - e. Air bag control module (SDM) supplier;**
 - f. Date of manufacture;**
 - g. Date warranty coverage commenced; and**
 - h. The State in the United States where the vehicle was originally sold or leased (or delivered for sale or lease).**

Provide the table in Microsoft Access 2010, or a compatible format, entitled "PRODUCTION DATA."

Response to Request 1



For subparts “a” through “h,” please refer to the attachment titled “PRODUCTION DATA” included in this submission.

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2. State the number of each of the following, received by Hyundai, or of which Hyundai is otherwise aware, which relate to, or may relate to, the alleged defect in the subject vehicles:
- a. Consumer complaints, including those from fleet operators;
 - b. Field reports, including dealer field reports;
 - c. Reports involving an injury or fatality;
 - d. Property damage claims
 - e. Third-party arbitration proceedings where Hyundai is or was a party to the arbitration; and
 - f. Lawsuits, both pending and closed, in which Hyundai is or was a defendant or codefendant.

For subparts “a” through “f,” state the total number of each item (e.g., consumer complaints, field reports, etc.) separately. Multiple incidents involving the same vehicle are to be counted separately. Multiple reports of the same incident are also to be counted separately (i.e., a consumer complaint and a field report involving the same incident in which a crash occurred are to be counted as a crash report, a field report and a consumer complaint).

In addition, for items “c” through “f” provide a summary description of the alleged problem and causal and contributing factors and Hyundai's assessment of the

problem, with a summary of the significant underlying facts and evidence. For items “e” and “f” identify the parties to the action, as well as the caption, court, docket number, and date on which the complaint or other document initiating the action was filed.

Response to Request 2

As of the date of this response, HMA has not identified any complaints, reports, claims, notices, arbitration proceedings, lawsuits, and other matters that relate to, or may relate to, the alleged defect in the subject vehicles.

3. Separately, for each item (complaint, report, claim, notice, or matter) within the scope of your response to Request No. 2, state the following information:

- a. Hyundai's file number or other identifier used;**
- b. The category of the item, as identified in Request No. 2 (i.e., consumer complaint, field report, etc.);**
- c. Vehicle owner or fleet name (and fleet contact person), street address, email address and telephone number;**
- d. Vehicle's VIN;**
- e. Vehicle's make, model and model year;**
- f. Vehicle's mileage at time of incident;**
- g. Incident date;**
- h. Report or claim date;**
- i. Whether any air bags deployed;**
- j. Whether the side curtain air bags deployed;**
- k. Whether the seat belt pretensioners deployed;**
- l. Whether any Diagnostic Trouble Codes were retrieved from the vehicle;**
- m. Whether information was retrieved from the SDM/Crash Data Recorder;**
- n. Whether property damage is alleged;**
- o. Number of alleged injuries, if any; and**
- p. Number of alleged fatalities, if any.**

Provide this information in Microsoft Access 2010, or a compatible format, entitled “REQUEST NUMBER TWO DATA.”

Response to Request 3

As of the date of this response, HMA has not identified any complaints, reports, claims, notices, arbitration proceedings, lawsuits, and other matters that relate to, or may relate to, the alleged defect in the subject vehicles that were within the scope of our response to Request No. 2.

4. Produce copies of all documents related to each item within the scope of Request No. 2. Organize the documents separately by category (i.e., consumer complaints, field

reports, etc.) and describe the method Hyundai used for organizing the documents. Describe in detail the search methods and search criteria used by Hyundai to identify the items in response to Request No. 2.

Response to Request 4

As of the date of this response, HMA has not identified any complaints, reports, claims, notices, arbitration proceedings, lawsuits, and other matters that relate to, or may relate to, the alleged defect in the subject vehicles that was within the scope of our response to Request No. 2.

5. State, by model and model year, a total count for all of the following categories of claims, collectively, that have been paid by Hyundai Motor America to date that relate to, or may relate to, the alleged defect in the subject vehicles: warranty claims; extended warranty claims; claims for good will services that were provided; field, zone, or similar adjustments and reimbursements; and warranty claims or repairs made in accordance with a procedure specified in a technical service bulletin or customer satisfaction campaign.

Separately, for each such claim, state the following information:

- a. Hyundai Motor America's claim number;
 - b. Vehicle owner or fleet name (and fleet contact person), street address, email address and telephone number;
 - c. VIN;
 - d. Repair date;
 - e. Vehicle mileage at time of repair;
 - f. Repairing dealer's or facility's name, telephone number, city and state or ZIP code;
 - g. Labor operation number(s);
 - h. Problem code(s);
 - i. Diagnostic trouble code(s);
 - j. Replacement part number(s) and description(s);
 - k. Concern stated by customer;
 - l. Cause as stated on the repair order;
 - m. Correction as stated on the repair order; and
 - n. Additional comments, if any, by dealer/technician relating to claim and/or repair.
- Provide this information in Microsoft Access 2010, or a compatible format, entitled "WARRANTY DATA."

Response to Request 5

As of the date of this response, HMA has not identified any warranty claims; extended warranty claims; claims for good will services that were provided; field, zone, or similar adjustments and reimbursements; and warranty claims or repairs made in accordance with a procedure specified

in a technical service bulletin or customer satisfaction campaign that relate to, or may relate to, the alleged defect in the subject vehicles.

6. **Describe in detail the search methods and search criteria used by Hyundai Motor America to identify the claims in response to Request No. 5, including the labor operations, problem codes, diagnostic trouble codes, part numbers and any other pertinent parameters used.**

Provide a list of all labor operations, labor operation descriptions, problem codes, and problem code descriptions, diagnostic trouble codes and diagnostic trouble code descriptions applicable to the alleged defect in the subject vehicles. State whether the diagnostic trouble codes are automatically reported to the warranty database electronically or manually entered into the warranty database by a claims administrator. State how long the diagnostic trouble code is stored in the system, where it is stored and if it is deleted is there any history that would indicate it was previously active.

State, by make and model year, the terms of the new vehicle warranty coverage offered by Hyundai Motor America on the subject vehicles (i.e., the number of months and mileage for which coverage is provided and the vehicle systems that are covered). Describe any extended warranty coverage option(s) that Hyundai Motor America offered for the subject vehicles and state by option, model, and model year, the number of vehicles that are covered under each such extended warranty.

Response to Request 6

HMA searched its warranty database using the definition of “alleged defect” as contained in the agency’s request letter. HMA typically does not conduct warranty data searches using labor or operation codes, but rather conducts word searches of its warranty database including, where applicable, the usage of specific diagnostic trouble codes as search terms; therefore, no labor operation codes were used in HMA’s searches.

For this request, HMA selected two diagnostic trouble code(s) as its primary search criteria across all warranty information sources for the subject vehicles and associated subject component part numbers:

Diagnostic Trouble Code	Diagnostic Trouble Code Description
B1346	Driver Airbag Resistance Too High, 1st stage
B1481	Driver Airbag Resistance Too High, 2nd stage

The subject component part numbers used in the search are provided in the attachment “SUBJECT PART NUMBERS” included in this submission.

HMA conducted a manual review of each warranty claim to determine whether or not it is responsive to the Information Request.

For the purpose of warranty claims processing, diagnostic trouble codes are manually entered into the warranty claim form by a claims administrator, after which the warranty claim is processed and stored in the central warranty database serving all processing and analysis applications for an indefinite period of time. HMA's warranty database does not have specific protocol for deletion of any diagnostic information from a warranty claim.

For all new Hyundai and Genesis vehicle purchases, Hyundai offers a comprehensive warranty package consisting of the following express warranties:

Coverage	Vehicles	Components Covered*	Terms	
			Months	Mileage
Powertrain	All	*Specific components/systems vary by model. Please see attachments for detailed information regarding specific components/systems coverage: Warranty Coverage Details: 2021 Hyundai.pdf 2022 Genesis.pdf	120	100,000
New Vehicle Limited			60	60,000
Anti-Perforation			84	Unlimited
Replacement Parts and Accessories			12	12,000
California Emission Control Systems			60 / 84	60,000 / 70,000
Federal Emission Defect Performance			60 / 96	60,000 / 80,000
Hybrid Battery	Hybrid	Hybrid Battery	Lifetime (12-19MY)	
			10 (20MY+)	100,000 (20MY+)
		Hybrid Starter/Generator	120	100,000
		Hybrid Power Control Unit		
		Automatic Transmission		

For more information, please refer to <https://www.hyundaiusa.com/assurance/america-best-warranty.aspx>.

For extended warranty coverage options, Hyundai offers four (4) levels of coverage for any new or certified-preowned (“CPO”) Hyundai vehicle:

Option	Coverage	Terms	
		Minimum	Maximum
CPO & Powertrain	Engine Transmission Drive Axles	12 Mo. / 12,000 Mi.	120 Mo. / 120,000 Mi.
Gold	All Powertrain Climate Control Shocks & Suspension Fuel Systems Electrical Systems	12 Mo. / 12,000 Mi.	120 Mo. / 120,000 Mi.
Platinum	All Gold Steering Systems CV Boots Navigation & Audio	12 Mo. / 12,000 Mi.	120 Mo. / 120,000 Mi.
Term Protection Plus(“TPP”)	Expanded coverage to include Brake Pads, Battery, Headlamps, Wipers, Alignment, Belts, Hoses, Fluids	24 Mo. / 24,000 Mi.	48 Mo. / 60,000 Mi.

Mileage expiration intervals are selected by the customer. For details please refer to <http://www.hmfusa.com/hpp-overview>.

As the subject vehicles are all designated model years 2020-2021, all subject vehicles are covered under new vehicle warranty coverage.

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7. **Produce copies of all service, warranty, and other documents that relate to, or may relate to, the alleged defect in the subject vehicles, that Hyundai Motor America has issued to any dealers, regional or zone offices, field offices, fleet purchasers, or other entities. This includes, but is not limited to, bulletins, advisories, informational documents, training documents, or other documents or communications, with the exception of standard shop manuals. Also, include the latest draft copy of any communication that Hyundai Motor America is planning to issue within the next 120 days.**

Response to Request 7

As of the date of this response, HMA has not identified any service, warranty, or other documents that relate to, or may relate to, the alleged defect in the subject vehicles.

8. Describe all assessments, analyses, tests, test results, studies, surveys, simulations, investigations, inquiries and/or evaluations (collectively, “actions”) that relate to, or may relate to, the alleged defect in the subject vehicle that have been conducted, are being conducted, are planned, or are being planned by, or for, Hyundai Motor America. For each such action, provide the following information:
- a. Action title or identifier;
 - b. The actual or planned start date;
 - c. The actual or expected end date;
 - d. Brief summary of the subject and objective of the action;
 - e. Engineering group(s)/supplier(s) responsible for designing and for conducting the action; and
 - f. A brief summary of the findings and/or conclusions resulting from the action.
- For each action identified, provide copies of all documents related to the action, regardless of whether the documents are in interim, draft, or final form. Organize the documents chronologically by action.

Response to Request 8

As of the date of this response, HMA has not identified any actions as defined in this letter that relate to, or may relate to, the alleged defect in the subject vehicles.

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9. Describe all modifications or changes made by, or on behalf of, Hyundai Motor America in the design, material composition, manufacture, quality control, supply, or installation of the subject component, from the start of production to date, which relate to, or may relate to, the alleged defect in the subject vehicles. For each such modification or change, provide the following information:
- a. The date or approximate date on which the modification or change was incorporated into vehicle production;
 - b. A detailed description of the modification or change;
 - c. The reason(s) for the modification or change;
 - d. The part number(s) (service and engineering) of the original component;
 - e. The part number(s) (service and engineering) of the modified component;
 - f. Whether the original unmodified component was withdrawn from production and/or sale, and if so, when;
 - g. When the modified component was made available as a service component; and
 - h. Whether the modified component can be interchanged with earlier production components.
- Also, provide the above information for any modification or change that Hyundai Motor America is aware of which may be incorporated into vehicle production within the next 120 days.

Response to Request 9

As of the date of this response, HMA has not identified any part modifications that relate to, or may relate to, the alleged defect in the subject vehicles.

10. Produce two of each of the following:

- a. Exemplar samples of each design version of the subject component;**
- b. Field return samples of the subject component exhibiting the alleged defect taken from vehicles with a manufacture date prior to January 1, 2021; and**
- c. Any kits that have been released, or developed, by Hyundai Motor America for use in service repairs to the subject component/assembly which relate, or may relate, to the alleged defect in the subject vehicles.**

Response to Request 10

As of the date of this response, HMA has located, or is locating, the required exemplar parts to fulfill the agency request. An HMA representative will contact Kevin Miller directly to make arrangements for delivery. Please note that parts availability for certain models may be limited due to current part inventory shortages. In the event a requested part cannot be located, HMA will backorder the part and keep the agency informed of its status until fulfillment.

Regarding subpart “b,” HMA has not identified any specific incidents that relate to, or may relate to, the alleged defect in the subject vehicles; therefore, no field return samples exhibiting the alleged defect are available for recovery.

Regarding subpart “c,” HMA has not developed or released any service-use kits for the subject component which relate, or may relate to, the alleged defect in the subject vehicles.

11. State the number of each of the following that Hyundai Motor America has sold that may be used in the subject vehicles by component name, part number (both service and engineering/production), model and model year of the vehicle in which it is used and month/year of sale:

- a. Subject component; and**
- b. Any kits that have been released, or developed, by Hyundai Motor America for use in service repairs to the subject component/assembly.**

For each component part number, provide the supplier’s name, address, and appropriate point of contact (name, title, and telephone number). Also, identify by make, model and model year, any other vehicles of which Hyundai Motor America is aware that contain the identical component, whether installed in production or in service, and state the applicable dates of production or service usage.

Response to Request 11

For subpart “a,” HMA is providing a response titled “PART SALES” in PDF format with this submission.

As noted in its response to Request No. 10 above, HMA has not developed or released any service-use kits for the subject component.

Regarding subject component part numbers and vehicle applicability, please refer to the attachment titled “SUBJECT PART NUMBERS” included in this submission. All subject part numbers are supplied by Autoliv.

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- 12. Furnish Hyundai Motor America’s assessment of the alleged defect in the subject vehicle, including:**
- a. The causal or contributory factor(s);**
 - b. The failure mechanism(s);**
 - c. The failure mode(s);**
 - d. The risk to motor vehicle safety that it poses; and**
 - e. What warnings, if any, the operator and the other persons both inside and outside the vehicle would have that the alleged defect was occurring, or subject component was malfunctioning; and**
 - f. The reports included with this inquiry.**

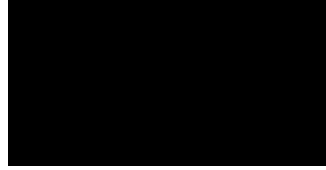
Response to Request 12

HMA undertook a comprehensive assessment of the alleged defect in the subject vehicles and has determined HMA vehicles do not contain the alleged safety related defect.

In addition to searching all information sources and evaluating the responsive data as requested in the agency’s letter, HMA gathered and reviewed actions taken by HMC to inspect warranty returns, analyze data trends, conduct in-depth component testing, and approve modifications to the subject component. A review of all of the available information that may relate to the alleged defect conclusively show HMA vehicles are unaffected.

HMA will continue to monitor all available information sources for new reports that could indicate an emerging trend associated with the alleged defect. Should HMA receive any new reports or receive any indication that the subject vehicles are at risk for displaying conditions similar to that of the alleged defect, HMA is committed to thoroughly investigating the issue and proactively sharing its findings with the agency.

Sincerely,



Cole Stutz
North American Safety Office
Hyundai Motor North America