



May 23, 2022

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

R. Thomas Brunner - Senior Principal, Technical Compliance
Mercedes-Benz USA, LLC
One Maynard Drive, Suite 2103
Park Ridge, NJ 07656

NEF-102pub
EA21-002

Dear Mr. Tomas Brunner,

This letter is to inform you that the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) has opened an Engineering Analysis (EA21-002) to investigate whether a safety defect related to propellant degradation exists in non-recalled desiccated phase-stabilized ammonium nitrate (PSAN) frontal air bag inflators manufactured by Takata in certain vehicles manufactured by Mercedes-Benz USA, LLC (MBUSA), and to request certain information.

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

- **Subject vehicle(s)**: Any vehicles manufactured for sale or lease in the United States, including, but not limited to, the District of Columbia, and current U.S. territories, and possessions by MBUSA that were originally equipped and/or remedied under a subject recall action with a desiccated Takata PSAN-based frontal air bag inflator.
- **Subject recall action(s)**: Any recall action conducted by MBUSA that used the subject component as a remedy part in vehicles manufactured for sale or lease in the United States, including, but not limited to, the District of Columbia, and current U.S. territories and possessions.
- **Remedy inflator group**: A group of inflators composed of a single inflator type sharing a unique two-letter prefix.
- **Subject component**: All non-recalled desiccated Takata PSAN-based frontal air bag inflators.
- **Alleged defect**: The effects of long-term field exposure, which may result in the degradation of the PSAN propellant, leading to an aggressive deployment and potential rupture of the subject component.
- **MBUSA**: Mercedes-Benz USA, LLC, 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 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 MBUSA (including all business units and persons previously referred to), who are or were involved in any way as of January 1, 2007, 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, lawsuits, mediations or arbitrations; 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.
- **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, documents generated through litigation, mediation, or arbitration, pleadings, mediation statements, 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 MBUSA, 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 MBUSA 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 C.F.R. § 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. Insofar as MBUSA has previously provided a document to ODI, MBUSA may produce it again or identify the document, the document submission to ODI in which it was included and the precise location in that submission where the document is located. 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 MBUSA’s response to each request, identify the source of the information and indicate the last date the information was gathered.

1. State, by model and model year, the number of subject vehicles (excluding vehicles remedied under a subject recall action) MBUSA has manufactured for sale or lease in the United States. Separately, for each subject vehicle manufactured to date by MBUSA, state the following:
 - a. Make;
 - b. Model;
 - c. Model year;
 - d. Module position (Driver or Passenger);
 - e. Inflator prefix;
 - f. Inflator type;
 - g. Main propellant (2004 or 2004L);
 - h. Desiccant type;
 - i. Booster material; and
 - j. Auto-Ignition material;

A pre-formatted data collection file, in which you should submit your response, will be provided to you.

2. For all subject vehicles identified in Request No. 1, provide the following information.
 - a. Vehicle identification number (17-character VIN);
 - b. Make;
 - c. Model;
 - d. Model year;
 - e. Date of manufacture (MM/DD/YYYY); and
 - k. The state (postal abbreviation) in the United States including, but not limited to, the District of Columbia, and current U.S. territories and possessions 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."

3. Provide the following information for each subject recall action conducted by MBUSA in the United States, including, but not limited to, the District of Columbia, and current U.S. territories and possessions. Separately, for each subject recall action to date, state the following:
 - a. Make;
 - b. NHTSA recall ID;
 - c. Recall status active (Yes) or closed/superseded (No);
 - d. Remedy inflator group ID;
 - e. Number of remedy repairs performed using the subject component; and
 - f. Subject component currently being used for remedy repairs (Yes or No)

A pre-formatted data collection file, in which you should submit your response, will be provided to you.

4. For each remedy inflator group identified in Request No. 3, provide the following information.
 - a. Remedy inflator group ID;
 - b. Module position (Driver or Passenger);
 - c. Inflator prefix;
 - d. Inflator type;
 - e. Main propellant (2004 or 2004L);
 - f. Desiccant type;
 - g. Booster material;
 - h. Auto-Ignition material; and
 - i. Total number of inflators that were purchased.

A pre-formatted data collection file, in which you should submit your response, will be provided to you.

5. List all reports and/or allegations of a field rupture of the subject component. For each reported allegation, provide:
 - a. Make;
 - b. Model;
 - c. Model year;
 - d. Vehicle identification number (17-character VIN);
 - e. State;
 - f. Vehicle build date;
 - g. Module position (Driver or Passenger);
 - h. Inflator serial number;
 - i. Inflator build date;
 - j. Inflator type;
 - k. Incident date;
 - l. Description of incident;
 - m. Injury (Yes/No);
 - n. Fatal (Yes/No); and
 - o. Description of injuries.

Provide the table in Microsoft Access 2010, or a compatible format, entitled “REQUEST NUMBER FIVE DATA.”

6. List all past, currently active, and/or any planned future field collection activities conducted/being conducted/to be conducted by or on behalf of MBUSA of the subject component. Separately, for each field collection activity conducted to date, provide the following information.
 - a. Any entities that assisted with the field collection activity;
 - b. All make, model, model year vehicles included in the field collection activity;
 - c. Inflator type(s);
 - d. Inflator prefix(s);
 - e. Geographic area of collected parts;
 - f. Field age range of collected parts;
 - g. Number of parts targeted;
 - h. Number of parts collected; and
 - i. Rationale for selecting targeted population. (i.e. investigating field incident, abnormal laboratory test result, legal claims, production quality concerns, etc.)
7. List all past, currently active, and/or any planned testing and analysis activities conducted/being conducted/to be conducted by or on behalf of MBUSA of the subject component. Separately, for each testing and analysis activity conducted to date, provide the following information.
 - a. All parties, including third parties, involved with the identified testing activity.
 - i. A description of each party’s role in the identified testing activity.
 - b. All field collection activity(s) associated with each testing activity.
 - c. Details on laboratory testing associated with each testing activity, including but not limited to:

- i. Use of field collected or specifically prepared (not production units) inflators;
 - ii. All dissection and internal inflator component analysis;
 - iii. All ballistic testing including any propellant burn rate analysis;
 - iv. All accelerated exposure testing (*e.g.*, chamber cycling);
 - v. All controlled field exposure testing (*e.g.*, parking lot exposure); and
 - d. Any interim or final reports/results generated from the testing activity.
8. Provide the current service life estimate for each subject component (listed by inflator prefix) identified in response to Requests No. 1 and No. 4. For each service life estimate provided, include the following.
 - a. A detailed description of the data, report, test activity, predictive modeling, or other information and analysis that provides the basis for the service life estimate. Include copies of all documents related to the basis for the estimate.
 - b. A detailed description of all current and/or planned testing, analysis, and/or predictive modeling activities being conducted for the purpose of establishing or updating your understanding of the service life of the subject component. Your description should include, but not be limited to:
 - i. All controlled field exposure testing (*e.g.*, parking lot exposure); and
 1. The identification of all parties, including third parties, involved with the identified activity, including a description of each party's role in the identified activity.
 2. The actual or planned start date and end date for each identified activity.
 3. The identification and description of specific activities associated with each service life estimate determination.
9. For any inflator types identified in response to Requests No. 1 and/or No. 4, state whether you have or are developing a program to replace the inflators in subject vehicles. If yes, identify for which inflator type(s), the status of the program, and projected completion of each program.

Legal Authority for This Request

This letter is being sent to MBUSA 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. It constitutes a new request for information.

Civil Penalties

MBUSA's failure to respond promptly and fully to this letter could subject MBUSA 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, 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(a)(3). This includes failing to respond completely, accurately, or in a timely manner to ODI information requests.

If MBUSA 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, MBUSA does not submit one or more requested documents or items of information in response to this information request, MBUSA 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 MBUSA's response contains any information that you claim is confidential business information, MBUSA must request two secure electronic file transfer links from Pedro Bonilla at pedro.bonilla@dot.gov. One secure electronic file transfer link is for your request for confidential treatment and will be directed to NHTSA's Office of the Chief Counsel. Please see enclosure 1 for additional instructions on submitting a request for confidential treatment. 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 EA21-002 in MBUSA's response to this letter and in a request for confidential treatment that MBUSA may submit.

Due Date

MBUSA's response to this letter must be submitted to this office by **July 4, 2022**. If MBUSA finds that it is unable to provide all of the information requested within the time allotted, MBUSA must request an extension from Bruce York at bruce.york@dot.gov no later than five business days before the response due date. If MBUSA 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 MBUSA then has available, even if an extension has been granted.

If you have any technical questions concerning this matter, please email Pedro Bonilla of my staff at pedro.bonilla@dot.gov.

Sincerely,

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

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:

To facilitate social distancing due to COVID-19, NHTSA is 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 the Chief Counsel at Daniel.Rabinovitz@dot.gov or (202)366-8534.