

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

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

In re:

**PE14-016
Air Bag Inflator Rupture**

SPECIAL ORDER DIRECTED TO AMERICAN HONDA MOTOR CO., INC.

To:

Jay Joseph
Assistant Vice President
Product Regulatory Office
American Honda Motor Co., Inc.
1919 Torrance Boulevard
Torrance, CA 90501-2746

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 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).

Over 7 million Toyota, Honda, Mazda, BMW, Nissan, Mitsubishi, Subaru, Chrysler, Ford, and General Motors vehicles have been recalled to replace defective Takata air bags. When inflated, defective air bag inflators may project fragments rather than properly inflating the attached air bag. As part of NHTSA’s ongoing oversight of these recalls and its investigation into the defect, this Special Order now demands certain information and documents from Honda.

NHTSA acknowledges that Honda has already agreed to produce some of the documents

¹ Pursuant to 49 U.S.C. § 30166(g), this Special Order is equivalent to a subpoena.

demanded in this Special Order. In order to protect the public, NHTSA expects Honda to produce documents as soon as they are available, as previously agreed by Honda. Honda's complete response to this Special Order must be provided no later than **December 15, 2014**. Honda's complete response must be signed under oath, i.e., accompanied by an affidavit, signed by a responsible officer of Honda, stating that he/she has undertaken and directed an inquiry reasonably calculated to assure that the answers and production of documents are complete and correct, that he/she has caused the documents of Honda 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 correctly 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 Honda 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). 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

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

1. **"Affiliates"** means a corporation that is related to another corporation (such as a subsidiary, parent, or sibling corporation) by shareholdings or other means of control.
2. **"Agent"** means an individual, such as a representative, who is authorized to act for or in place of another.

3. **“Air bag rupture”** means any deployment of an air bag (regardless of the air bag or inflator manufacturer) during which a commanded deployment creates excessive internal pressure in the inflator causing the inflator casing or internal components to be propelled into the passenger compartment.

4. **“Document(s)”** is used in the broadest sense of the word under Rule 34 of the Federal Rules of Civil Procedure, and includes 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, electronic communications (existing in hard copy and/or in electronic storage), invoices, contracts, agreements, manuals, publications, photographs of all types, and all mechanical, magnetic, and electronic records or recordings of any kind. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by the manufacturer or not. If a document is not in the English language, provide both the original document and an English translation of the document.

5. **“Employee”** means a person who works in the service of another person (the employer) under an express or implied contract of hire, under which the employer has the right to control the details of work performance.

6. **“Honda”** means American Honda Motor Co., Inc. and its parent company, Honda Motor Co., Ltd., all of their past and present officers and employees, whether assigned to their principal offices or any of their field or other locations, all of their divisions, subsidiaries (whether or not incorporated) and affiliated enterprises, including the Honda Division and the Acura Division, 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 Honda (including all business units and persons previously referred to).

7. **“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).

8. **“Takata inflator”** means Takata frontal air bag inflator modules and attached air bags designed and/or produced by Takata or Honda involved in any recall, customer satisfaction, extended warranty or remedial campaign initiated by Honda from January 2001 to the present, including, but not limited to, type SDI, SDI+, SDI-X, PSDI, PSDI-4, PSDI-4K, SPI, PSPI and PSPI-L.

9. **“Officer”** means a person who holds an office of trust, authority, or command, such as a person elected or appointed by the board of directors to manage the daily operations of a corporation, such as a CEO, president, secretary, or treasurer.

INSTRUCTIONS

1. Your response to the 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. 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.

3. 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 also be reminded that 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.

4. 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. If you are unable to respond because you do not have all or any of the precise information needed to respond, provide an estimate. You are instructed and cautioned not to assert privilege in connection with any information you submit to NHTSA. Should you anticipate doing so for any reason (and NHTSA can contemplate none), you are instructed to contact Beth Mykytiuk at (202) 366-9991 to discuss why any information you submit would constitute privileged information.

5. The response to this Special Order, including the document requests, must be submitted in duplicate to this office by the deadline stated above.

6. We expect that you will not claim that materials we request contain confidential business information. 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.

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

a. 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); and
- vi. Page Count.

b. 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. Page Count; and
- xxi. 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. Page Count;
- xx. Subject; and
- xxi. 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.

c. 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.

d. 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.

8. Provide all documents requested in this Special Order, even if such documents have been previously produced.

9. 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.

10. Honda's response to this Special Order must be under oath, i.e., accompanied by an affidavit, signed by a responsible officer of Honda, stating that he/she has undertaken and directed an inquiry reasonably calculated to assure that the answers and production of documents are complete and correct, that he/she has caused the documents of Honda 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 correctly to this Special Order.

REQUESTS

1. Provide all communications with Takata that refer to, relate to, discuss or concern the Takata inflators not performing as intended and/or any air bag rupture.

2. Provide all internal communications that refer to, relate to, discuss or concern the Takata inflators not performing as intended and/or any air bag rupture.

3. Provide all communications with any air bag inflator manufacturer or supplier (other than Takata) that refer to, relate to, discuss or concern the Takata inflators and/or any air bag rupture.

4. Provide all communications with any motor vehicle manufacturer that refer to, relate to, discuss or concern the Takata inflators and/or any air bag rupture.

5. Provide every Failure Mode and Effects Analysis (FMEA) that refers to, relates to, discusses or concerns: (i) air bag rupture (regardless of the air bag or inflator manufacturer); or (ii) any Takata air bag or air bag component (including an air bag inflator), which does not or may not perform as intended.

6. Provide all field reports that involve an air bag rupture or that otherwise involve an incident where rapid combustion of the air bag propellant resulted in a rupture or energetic disassembly of the inflator.
7. Provide a list of all warranty claims that involve an air bag rupture or that otherwise involve an incident where rapid combustion of the air bag propellant resulted in a rupture or energetic disassembly of the inflator.
8. Provide all Honda product and/or design standards for air bag inflators in effect from January 1, 1998 to the present.
9. Provide all standards and specifications for air bag inflators provided by Honda to Takata between January 1, 1998 and the present.
10. Provide all documents that refer or relate to concerns or allegations (regardless of whether or not such concerns or allegations were substantiated) by any Honda employee or contractor that any Takata air bag or air bag component (including an air bag inflator) was defective or improperly manufactured.
11. Provide a roster of all Honda vehicles recalled for air bag rupture including, but not limited to, Recall Nos. 08V-593, 09V-259, 10V-041, 11V-260, 13V-132, 14V-349, and 14V-351 and 14V-353 (both of which were referred to by Honda as a "Regional Service Campaign"). Include in your answer the model, model year, VIN, location where the vehicle is registered, product specifications for the air bag and inflator modules in each vehicle, and whether the recall remedy was performed.
12. Identify each incident in which an air bag rupture has occurred, or is alleged to have occurred, in a Honda vehicle, of which Honda is aware, by any means (including but not limited to media reports), regardless of whether there was a death, injury or property damage.

Include in your answer the model, model year, VIN, location where the vehicle is registered, and product specifications for the air bag and inflator modules in each vehicle.

13. For each incident identified in your response to Request No. 12, provide a copy of any documents related to Honda's assessment of the incident and any documents that Honda gathered as part of its investigation of the incident (including any police accident report).

14. Provide all documents that refer to, relate to, discuss or concern any incident involving a death and/or injury in which an air bag rupture has occurred, or is suspected or alleged to have occurred.

15. Provide a list of every lawsuit naming Honda as a defendant that is based, in whole or in part, on the occurrence or alleged occurrence of an air bag rupture. For each lawsuit, provide the full case caption (including case number and jurisdiction) and describe the current status of the lawsuit. Also include in your answer the following information: (i) the date on which the alleged incident occurred; (ii) the date on which the lawsuit was filed; (iii) if resolved, the date and nature of the resolution; and, (iv) the settlement amount, if any.

16. For each lawsuit identified in your response to Request No. 15, provide the complaint and any amended complaint(s), Honda's answer and any amended answer(s), all interrogatory responses by Honda, all deposition and trial transcripts, all expert reports, all technical analyses of the claims (whether internal to Honda or produced in the litigation), all dispositive motions related to Honda, all opinions concerning dispositive motions related to Honda, all demand letters and responses, and all settlement agreements.

17. Provide a list of every pre-suit legal claim that is based, in whole or in part, on the occurrence or alleged occurrence of an air bag rupture. Include in your answer: (i) the name of the claimant; (ii) the name of the claimant's counsel, if any; (iii) the date on which the alleged

incident occurred; (iv) the date on which the claim was asserted; (v) a description of the nature of the claim; and, (vi) a description of the current status of the claim. In addition, for any claim that has been resolved, state the date of such resolution, describe the nature of the resolution as to Honda, and identify the amount of the settlement, if any.

18. For each pre-suit legal claim identified in your response to Request No. 17, provide a copy of any written documentation of the allegations, all technical analyses of the claims (whether internal to Honda, provided by Honda to the claimant, or provided by the claimant to Honda), all demand letters and responses, and all settlement agreements.

19. Provide a list of all subpoenas directed to Honda that request documents or information relating to air bag ruptures. For each subpoena, provide the full case caption (including case number and jurisdiction) for the lawsuit in which it was issued.

20. For each subpoena identified in your response to Request No. 19, provide a copy of all motions to quash, documents produced in response to the subpoena, and transcripts of testimony pursuant to the subpoena.

21. Identify all insurance policies providing liability coverage for the lawsuits and claims asserted against Honda in Request Nos. 15 through 19.

22. Provide all documents that Honda submitted to any insurer(s) that refer to, relate to, discuss, or concern air bag rupture.

23. Provide all chronologies, timelines and/or summaries of events that refer to, relate to, discuss or concern air bag rupture(s), regardless of whether prepared by Honda or provided to Honda by any third party.

24. Provide all audits that refer or relate to Takata's production of air bags or air bag components, regardless of whether they were performed by Honda, Takata or a third party.

25. Provide Honda's assessment of Takata's recordkeeping processes, including, but not limited to, Takata's ability to track propellant lots and match them to specific inflators.

26. State whether Takata supplied Honda with inflators containing propellant produced using machinery whose "auto-reject" function could be turned off, thereby creating an opportunity for substandard propellant produced by this machinery to be incorporated into production inflators. If the answer to the foregoing is in the affirmative, state when Honda learned of the occurrence(s) of such production, how Honda learned of the occurrence(s) and what information was available to Honda to identify inflators produced by machinery whose "auto reject" function had been disabled.

27. State whether Honda has conducted any testing, or requested that testing be conducted by a third party on behalf of Honda, involving or relating to air bag ruptures. Include in your answer a description of the testing conducted, the date on which such testing occurred, and the testing result(s).

28. Provide all documents that refer to, relate to, discuss or concern air bag rupture testing regardless of whether the testing was performed by Honda, Takata or a third party.

29. State whether Honda has performed any investigation, or requested that an investigation be conducted by a third party on behalf of Honda, involving or relating to air bag rupture. Include in your answer a description of the nature and results of the investigation.

30. Provide all documents that refer to, relate to, discuss or concern any investigation into the air bag rupture issue described in Request No. 29 regardless of whether the investigation was conducted by Honda, Takata or a third party.

31. State whether Honda sent any employees to visit or inspect Takata production facilities in the United States or Mexico between January 1, 2000 and the present. Include in

your answer: (i) the names and titles of such employees; (ii) the Takata facility visited; (iii) the purpose of the visit or inspection; and, (iv) the dates on which such visits or inspections occurred.

32. State whether Honda assigned any employee(s) to monitor and/or inspect the quality of inflators produced by Takata and/or inflator propellant(s) originating from Takata production facilities in the United States or Mexico between January 1, 2000 and the present. Include in your answer: (i) the names and titles of such employees; (ii) the Takata product at issue; (iii) the manner and methodology of the monitoring and/or inspection; and, (iv) the time period(s) during which the particular employee performed the foregoing activities.

33. State whether Honda provided any quality control or engineering assistance to Takata relating to the Takata inflators. If the answer to the foregoing is in the affirmative, describe these activities in detail, including, but not limited to: (i) the names and titles of Honda employees providing this assistance; (ii) the nature of this assistance; (iii) the dates on which such assistance was provided; and, (iv) whether any Honda employees provided such assistance at Takata production facilities in the United States or Mexico.

34. Provide a list of all recalls being conducted outside of the United States for Honda vehicles equipped with the Takata inflators that have been recalled by Honda in the United States.

35. Provide a corporate organizational chart(s) identifying the employees, by name and title, who have been involved in investigating or decision making concerning the air bag rupture issue.

36. Provide a copy of any document retention policy that applies to the documents requested herein.

37. Provide a copy of any litigation hold for documents associated with air bags manufactured in whole or in part by Takata. To the extent not identified on the face of the litigation hold, identify the date that it was put in place and identify each individual (by name and title) to whom the litigation hold applies.

38. Provide all other documents not otherwise requested herein that refer to, relate to, discuss or concern any air bag rupture.

Dated: November 5, 2014



O. Kevin Vincent
Chief Counsel