TK Holdings Inc.

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December 2, 2014

Mr. Frank S. Borris II
Director
Office of Defects Investigation
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20950

Re: PE14-016; Response to Recall Request Letter

Dear Mr. Borris:

I am writing on behalf of Takata in response to the recall request letter ("RRL") that you sent to TK Holdings Inc. ("Takata") on November 26, 2014.

Before addressing the substance of the RRL, I note that Takata was very surprised to receive such a letter. Under the procedures normally followed by the Office of Defects Investigation ("ODI"), ODI does not send a RRL until after its defect investigation is concluded. Here, to the contrary, at the time your letter was sent, ODI had not even received, much less analyzed, Takata's December 1, 2014 initial response to the Special Order issued to the Company on October 30, 2014. And the responses to the Second Special Order issued to Takata and to the General Order issued to Takata and to ten vehicle manufacturers are not due until December 5, 2014.

Second, as far as Takata is aware, ODI has never before sent a RRL to a manufacturer of original equipment, such as Takata. Under the NHTSA statute, only manufacturers of motor vehicles and replacement equipment are required to decide in good faith whether their products contain a safety-related defect and, if so, to conduct a recall. *See* 49 U.S.C. § 30118(c). Similarly, the Agency's authority to issue an Initial Decision that a safety-related defect exists, as referred to in the last paragraph of your letter, applies only to manufacturers of motor vehicles and replacement equipment, and not to manufacturers of original equipment. *See* 49 U.S.C. § 30118(a) and (b).

In addition, we were surprised by your demand for a response to your letter by December 2, 2014. From what Takata understands, ODI has always allowed manufacturers a minimum of ten working days to respond to a RRL, but you allowed Takata only two working days to respond, given the intervening Thanksgiving holiday. In that short period of time, Takata has not been able to prepare a comprehensive response to your letter; however, we do wish to state the following:

First, Takata wants to emphasize that, as a Company whose primary goal is to enhance the safety of the driving public, we have fully supported, and we will continue to support, appropriate recalls by vehicle manufacturers to remedy all safety defects in our products that are identified to exist on the basis of available information and data. This has long been Takata's practice and policy, and it is fully consistent with the response that the Company made to ODI's November 17 oral request as well as today's statement from the Company's Chairman.

However, it is Takata's current view that the currently available, reliable information does not support a nationwide determination of a safety defect in all "vehicles equipped with the subject driver-side inflators."[1] You base your request for an expansion of the currently pending campaigns on two reported incidents from outside of the four States[2] that were initially identified in June 2014 as high absolute humidity ("HAH") areas for purposes of the regional field actions announced at that time.[3]

With respect to the first of those incidents, involving a model year 2005 Honda Accord from Southern California that was equipped with a PSDI-4 inflator, Honda's pending regional field action already covers all such vehicles equipped with that type of inflator in California, so an expansion of that campaign would not be necessary to cover such vehicles. And with respect to the second incident referred to in your letter, involving a model year 2007 Ford Mustang from North Carolina that was reportedly equipped with a PSDI-4 inflator, neither Takata nor NHTSA has been able to examine the inflator from that vehicle.[4] Therefore, there is no way to ascertain what actually occurred during the incident, whether any inflator ruptured, and whether any inflator rupture that may have occurred was related to the incidents that led to the current regional campaigns. For these reasons, these two incidents do not provide evidence that a nationwide recall of vehicles equipped with PSDI-4 inflators is warranted, and there is absolutely no evidence supporting an expanded recall of vehicles equipped with PSDI inflators.

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[1] Although your letter is not specific, Takata assumes, based on the November 17 oral request conveyed by members of your staff, that the "subject" inflators are all PSDI inflators manufactured from SOP though December 31, 2006 (not already recalled) and PSDI-4 driver-side inflators manufactured by Takata between January 1, 2004 and December 31, 2008.

[2] Florida, Puerto, Rico, Hawaii, and the U.S. Virgin Islands.

[3] In its December 1, 2014 response to NHTSA's October 30, 2014 Special Order, Takata has provided information regarding claims associated with other reported and unsubstantiated inflator incidents. We continue to evaluate and examine reported incidents.

[4] It is our understanding that the vehicle in question has already been repaired and the inflator was discarded during those repairs.

In view of the fact that the requested nationwide recall would add more than eight million vehicles to the vehicles that are already being campaigned, there certainly has been no showing of the "significant number of failures" which Takata understands is required under the *Wheels* case cited in your letter. *United States v. General Motors,* 518 F.2d 420, 427 (D.C. Cir. 1975). As the D.C. Circuit held in that case, to establish the existence of a defect under the Safety Act, the Government must demonstrate that there has been more than a "*de minimus* number" of failures. *Id.* at 438. Here, you have relied on two reported incidents outside of the HAH areas (one of which involved a model of vehicle and a location that is already covered by a pending campaign). That translates to a failure rate of approximately 0.000006 failures per air bag deployment,[5] which is far below the failure rate in the vast majority of the thousands of recalls that have been conducted under the Safety Act, and orders of magnitude below the failure rate at issue in the *Wheels* case.

On the other hand, contrary to the assertion on page 2 of your letter, Takata had provided NHTSA with "new information" to support its position that the current campaigns are sufficient to address the identified safety risks associated with potential inflator ruptures. Although its testing and analysis is still ongoing, Takata has been providing NHTSA with the results of its testing of inflators that have been returned from the field in connection with the pending recalls and field actions. As of November 30, 2014, we have tested a total of 1057 inflators, both passenger and driver, from locations outside the four identified States without a single rupture. The testing has included 665 PSDI and PSDI-4 inflators without rupture regardless of location. Takata will continue to provide the agency with updated test information as it becomes available.

As Takata informed you in its response to ODI's November 17 oral request, the Company remains committed to addressing all safety issues promptly and agrees that the current field actions should be expanded if appropriate and necessary to respond to a demonstrated safety risk. Shigehisa Takada, the Company's Chairman of the Board, in a statement released today, confirmed the Company's commitment to taking all actions needed to advance the goal of safety for the driving public, including working to produce additional replacement units to support any further recalls that may be announced by our customers.

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[5] This rate is estimated based upon a recall expansion of 8 million PSDI and PSDI-4 units, an average life of 8 years from time of manufacture, and an estimated air bag deployment rate of 0.5% of the population annually, divided into the two incidents referred to in your letter. In fact, since the incident in California involved a vehicle that is already covered by a Honda campaign, the actual rate for the inflators that would be covered by your requested expansion is half of that.

Takata firmly believes that the currently available information and data do not support a nationwide recall of vehicles equipped with the subject inflators. Takata will continue, and indeed will expand, its efforts to provide replacement kits for vehicles in the HAH regions of concern, and it will expand its testing and analysis efforts as well. If those testing efforts, or data from other sources, indicate the existence of a safety defect beyond the scope of the current campaigns, Takata will promptly take appropriate action.

In closing, Takata looks forward to working with NHTSA and the vehicle manufacturers to identify and address safety risks to the public.

Sincerely,

M. Rains

Mike Rains
Director of Product Safety

cc: Kenneth N. Weinstein
Steven G. Bradbury