



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[DOCKET NO. NHTSA-2016-0124; Notice 2]

#### General Motors LLC, Receipt of Second Petition for Inconsequentiality and Notice of Consolidation

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Notice of receipt of petition.

**SUMMARY:** On January 3, 2017, TK Holdings Inc. (Takata) filed a defect information report (DIR), in which it determined that a defect existed in certain passenger-side air bag inflators that it manufactured, including passenger inflators that it supplied to General Motors, LLC (GM) for use in certain GMT900 vehicles. GM has petitioned the Agency for a decision that, because of differences in inflator design and vehicle integration, the equipment defect determined to exist by Takata is inconsequential as it relates to motor vehicle safety in the GMT900 vehicles, and that GM should therefore be relieved of its notification and remedy obligations.

**DATES:** The closing date for comments is September 14, 2017.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments regarding this petition for inconsequentiality. Comments must refer to the docket and notice number cited in the title of this notice and be submitted by one of the following methods:

- Internet: Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.
- Mail: Docket Management Facility, M-30, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590.

- Hand Delivery or Courier: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590 between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- Facsimile: (202) 493-2251.

You may call the Docket at (202) 366-9324.

Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Thus, submitting such information makes it public. You may wish to read the Privacy Act notice, which can be viewed by clicking on the “Privacy and Security Notice” link in the footer of <http://www.regulations.gov>. DOT’s complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000 (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated above will be filed in the docket and will be considered. Comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will also be published in the Federal Register pursuant to the authority indicated at the end of this notice.

**FOR FURTHER INFORMATION CONTACT:**

For legal issues: Stephen Hench, Office of the Chief Counsel, NCC-100, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, D.C. 20590 (telephone: (202) 366-5263).

For general information regarding NHTSA’s investigation into Takata air bag inflator ruptures and the related recalls: <http://www.safercar.gov/rs/takata/index.html>.

## **SUPPLEMENTAL INFORMATION:**

### **I. Background.**

On May 4, 2016, NHTSA issued, and Takata agreed to, an Amendment to the November 3, 2015 Consent Order (the “Amendment”), under which Takata is bound to declare a defect in all frontal driver and passenger air bag inflators that contain a phase-stabilized ammonium nitrate (PSAN)-based propellant and do not contain a moisture-absorbing desiccant. Such defect declarations will be made on a rolling basis, with the first declaration due on May 16, 2016 and the second declaration due on December 31, 2016. *See* Amendment at ¶ 14.

*GM’s May 27, 2016 DIRs.*

Takata timely submitted the first scheduled equipment DIRs on May 16, 2016. *See* Recall Nos. 16E-042, 16E-043, and 16E-044. Those DIRs included non-desiccated passenger inflators, designated as types SPI YP and PSPI-L YD, that were installed as original equipment on certain motor vehicles manufactured by GM (the “covered passenger inflators”), as well as other non-desiccated passenger inflators installed as original equipment on motor vehicles manufactured by a number of other automakers, which are not at issue here.

The Takata filing triggered GM’s obligation to file a DIR for the affected GM vehicles. *See* 49 CFR part 573; Amendment at ¶ 16; November 3, 2015 Coordinated Remedy Order at ¶ 46. GM ultimately submitted two DIRs on May 27, 2016. *See* Recall Nos. 16V-381 (for vehicles in Zone A) and 16V-383 (for vehicles in Zone B).

On November 15, 2016, GM petitioned the Agency, under 49 U.S.C. 30118(d), 30120(h) and 49 CFR Part 556, for a decision that the equipment defect determined to exist by Takata is inconsequential as it relates to motor vehicle safety in the GMT900 vehicles. *See* GM’s Petition for Inconsequentiality and Request for Deferral of Determination Regarding Certain GMT900

Vehicles Equipped with Takata “SPI YP” and “PSPI-L YD” Passenger Inflators (the “First Petition for Inconsequentiality” or “First Petition”). GM’s First Petition concluded that because the putative defect is inconsequential to safety in the GMT900 vehicles, the company should be relieved of notification and remedy obligations for Takata inflators in those GM vehicles. *See* First Petition at p. 18. GM further requested that NHTSA defer its decision on the petition until GM is able to complete its testing and engineering analysis in August 2017. *See id.*

In a Notice published in the Federal Register on November 28, 2016, the Agency published notice of the First Petition and granted two administrative requests. *See* 81 FR 85681. First, as a matter of its enforcement discretion, NHTSA accepted the First Petition even though it was filed outside the regulatory 30-day filing deadline. Second, NHTSA found that GM had produced probative evidence to support its inconsequentiality claim that—while not yet sufficient—tended to support GM’s Petition, at least with respect to the short-term safety of the covered passenger inflators. Therefore, NHTSA elected to grant GM until August 31, 2017 to develop and present further evidence, data, and information, and defer the Agency’s decision on the First Petition for Inconsequentiality, unless additional evidence warrants an earlier decision. NHTSA further required that GM submit monthly testing updates, which would be made publicly available. Since then, GM has submitted updates for December 2016 and January through August 2017, which have been posted to the public docket. *See* Docket No. NHTSA-2016-0124.

*GM’s January 10, 2017 DIRs.*

Takata timely submitted the second scheduled equipment DIRs on January 3, 2017. *See* Recall Nos. 17E-001, 17E-002, and 17E-003. Those DIRs included additional covered passenger inflators. Again, the Takata filing triggered GM’s obligation to file a DIR for the affected GM

vehicles. *See* 49 CFR part 573; Amendment at ¶ 16; Third Amendment to Coordinated Remedy Order at ¶ 32. GM ultimately submitted its DIRs on January 10, 2017. *See* Recall Nos. 17V-010, 17V-019, and 17V-021.<sup>1</sup> Therein, in accordance with 49 CFR 573.6(c)(8)(iii), GM notified NHTSA of its intention to file a petition for an exemption from its recall requirements (i.e., a petition for inconsequentiality). Contemporaneous with its DIRs, GM submitted to the Agency a Petition for Inconsequentiality and Request for Deferral of Determination Regarding Certain GMT900 Vehicles Equipped with Takata “SPI YP” and “PSPI-L YD” Passenger Inflators Subject to January 2017 Takata Equipment DIR Filings (the “Second Petition for Inconsequentiality” or “Second Petition”).<sup>2</sup>

## **II. Class of Motor Vehicles Involved.**

GM’s Second Petition involves certain “GMT900” vehicles that contain the covered passenger inflators (designated as inflator types “SPI YP” and “PSPI-L YD”). GMT900 is a GM-specific vehicle platform that forms the structural foundation for a variety of GM trucks and sport utility vehicles, including: Chevrolet Silverado 1500, GMC Sierra 1500, Chevrolet Silverado 2500/3500, GMC Sierra 2500/3500, Chevrolet Tahoe, Chevrolet Suburban, Chevrolet Avalanche, GMC Yukon, GMC Yukon XL, Cadillac Escalade, Cadillac Escalade ESV, and Cadillac Escalade EXT. The Second Petition involves the following GMT900 vehicles:

- In Zone A, model year 2012 GMT900 vehicles. Zone A comprises the following states and U.S. territories: Alabama, California, Florida, Georgia, Hawaii, Louisiana, Mississippi, South Carolina, Texas, Puerto Rico, American Samoa,

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<sup>1</sup> When a manufacturer files a petition for inconsequentiality, the affected DIR will not be made public unless and until the Agency denies the petition.

<sup>2</sup> GM’s Second Petition has been publicly available on NHTSA’s website since January. <https://www.nhtsa.gov/recall-spotlight/takata-air-bags>.

Guam, the Northern Mariana Islands (Saipan), and the U.S. Virgin Islands. *See* Amendment at ¶ 7.a.

- In Zone B, certain model year 2009 GMT900 vehicles. Zone B comprises the following states: Arizona, Arkansas, Delaware, District of Columbia, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Virginia, and West Virginia. *See* Amendment at ¶ 7.b.
- In Zone C, certain model year 2007-2008 GMT900 vehicles. Zone C comprises the following states: Alaska, Colorado, Connecticut, Idaho, Iowa, Maine, Massachusetts, Michigan, Minnesota, Montana, New Hampshire, New York, North Dakota, Oregon, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin, and Wyoming. *See* Amendment at ¶ 7.c.

### **III. Summary of GM's Second Petition for Inconsequentiality.**

GM's Second Petition raises the same issues and arguments as its First Petition. *See* Second Petition at p. 4. According to the Second Petition, GM's engineering analysis supports the conclusion that the covered passenger inflators in the subject GMT900 vehicles are currently performing as designed, and will likely continue to perform as designed for a number of years - i.e., that the covered passenger inflators, as integrated into the GMT900 vehicles, do not present an unreasonable risk to safety. *See* Second Petition at p. 10.

According to the Petition, GM's position is based upon the following: an estimated 55,000 Takata passenger inflator deployments in GMT900 vehicles without a rupture; ballistic tests of 1,624 covered passenger inflators without a rupture or sign of abnormal deployment; test deployment of 12 inflators artificially exposed to additional humidity and temperature cycling

without a rupture or sign of abnormal deployment; and analysis, through stress-strength interference, indicating that the propellant in older covered passenger inflators has not degraded to a sufficient extent to create rupture risk. *See* Second Petition at pp. 13-16.

GM further states that the covered passenger inflators are not used by any other original equipment manufacturer and that those inflators have a number of unique design features that influence burn rates and internal ballistic dynamics, including greater vent-area-to-propellant-mass ratios, steel end caps, and thinner propellant wafers. *See* Second Petition at p. 11-12. In addition, GM states that the physical environment of the GMT900 vehicles better protects the covered passenger inflators from temperature cycling that can cause rupture. *Id.*

Finally, to supplement its internal analysis, GM has retained a third-party expert, Orbital ATK, to conduct a long-term aging study that will estimate the service life expectancy of the covered passenger inflators in the GMT900 vehicles. *See* Second Petition at pp. 17-18. GM anticipates that this study will be complete in August 2017. *Id.*

#### **IV. Consolidation.**

GM's Second Petition for Inconsequentiality is virtually identical to the Petition for Inconsequentiality submitted on November 15, 2016. First, both petitions involve the same covered passenger inflators (i.e., frontal passenger inflator types "SPI YP" and "PSPI-L YD"). Second, both petitions involve the same vehicle platform (i.e., the GMT900). Third, both petitions rely upon the same purported evidence to support the safety of the inflators (i.e., estimated field deployments, ballistic testing, and stress-strength interference analysis). Fourth, both petitions will rely upon the same forthcoming report by Orbital ATK. Accordingly, it is appropriate to evaluate and dispose of the two petitions simultaneously. In the interest of clarity,

consistency, and efficiency, the Agency is consolidating the Second Petition with the First Petition under Docket No. NHTSA-2016-0124.

**Authority:** 49 U.S.C. 30101, *et seq.*, 30118, 30120(h), 30162, 30166(b)(1), 30166(g)(1); delegation of authority at 49 CFR 1.95(a); 49 CFR parts 556, 573, 577.

Issued: August 31, 2017.

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