



November 3, 2015

## **FACT SHEET: NHTSA CONSENT ORDER ISSUED TO TAKATA**

### **FINDINGS**

- NHTSA’s investigation has discovered evidence that Takata violated several provisions of the Motor Vehicle Safety Act and the Federal regulations implementing the Act, including requirements that it notify NHTSA within a reasonable time (five days) of when it determined, or should have determined, the existence of a discovery of a defect.
- This includes evidence that Takata failed to provide notification of a defect within five days involving six specific recalls Takata later launched.
- NHTSA also uncovered evidence that Takata in several instances provided the agency with selective, incomplete or inaccurate information.
- In addition, NHTSA uncovered evidence indicating that, on a number of occasions, Takata supplied its customers with selective, incomplete or inaccurate data.

### **ADMISSIONS**

- Takata admits that it failed to notify NHTSA of a defect within the required five-day period in connection with six specific recalls.
- Takata admits that it failed to provide required explanations of documents it gave NHTSA under two investigative orders.

### **CIVIL PENALTIES**

- Takata is subject to a \$200 million civil penalty, the largest NHTSA has ever imposed.
- \$70 million of the penalty is due in cash.

- \$60 million is in the form of stipulated penalties, with portions become due if Takata fails to meet deadlines for the phase-out of its production of certain phase-stabilized ammonium nitrate-based air bag inflators to fulfill existing production contracts.
- Another \$70 million in the form of liquidated penalties, with portions due if Takata enters into any new production contracts for certain phase-stabilized ammonium nitrate-based inflators or if NHTSA discovers additional violations of the Safety Act or safety regulations.
- In setting the civil penalty amount, NHTSA considered factors including Takata's decision to terminate some employees, Takata's agreement to cooperate with NHTSA's Coordinated Remedy Program and the costs Takata will incur in complying with this Consent Order and the Consent Order issued on May 18, 2015.

#### **PHASE-OUT OF AMMONIUM NITRATE INFLATOR PRODUCTION**

- NHTSA does not have confidence in the long-term performance of Takata-made inflators using phase-stabilized ammonium nitrate propellant, particularly those without desiccant (a chemical additive that combats the effects of moisture).
- Takata shall not enter into any new contracts for sale of inflators using phase-stabilized ammonium nitrate, and will owe portions of stipulated civil penalties if it does so.
- Takata agrees to a schedule for the phase-out of supplying phase-stabilized ammonium nitrate inflators to fulfill existing contracts, to be completed no later than December 31, 2018.
- NHTSA can alter the phase-out schedule if necessary to protect the public from an unreasonable risk to safety.

#### **TESTING AND EVALUATION OF AMMONIUM NITRATE INFLATORS**

- Takata agrees to continue testing to determine the safety and service life of non-desiccated phase-stabilized ammonium nitrate-based inflators, and to begin safety and service life testing of inflators with desiccant.
- NHTSA can order additional recalls based on future field ruptures, test data or other evidence.

- If Takata cannot demonstrate that it has established root cause for inflator ruptures or demonstrate to NHTSA's satisfaction that its inflators are safe by December 31, 2018, for its non-desiccated PSAN inflators and December 31, 2019, for desiccated PSAN inflators, NHTSA can issue order(s) requiring Takata to declare a defect and issue a recall.

### **SAFETY CULTURE IMPROVEMENTS**

- Takata is required to provide a full history of ruptures in its inflators, including a report on Takata's internal decision-making and safety lapses.
- Takata must provide written notice of employee terminations related to inflator ruptures.
- Takata must designate a chief safety officer reporting directly to its board of directors.
- Takata must improve its processes for allowing employees to report safety problems and for protecting whistleblowers from retaliation.

### **INDEPENDENT MONITOR**

- An independent, third-party monitor, appointed by and answering to NHTSA but operating at Takata's expense, will monitor Takata's compliance with the May 18, 2015, and November 3, 2015, NHTSA Consent Orders and the Safety Act for five years.
- The Monitor may report potentially illegal or unethical conduct to NHTSA or the U.S. Department of Justice.
- Takata is required to fully cooperate with the Monitor, provide unrestricted access to company documents and other information, inform employees that they can report safety information to the Monitor and ensure that employees can report information to the Monitor without retaliation.
- Any report by the Monitor to NHTSA of additional violations of the Safety Act or Federal regulations will result in payment of deferred civil penalties.