DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0055]

Coordinated Remedy Order With Annex A; Coordinated Remedy Program Proceeding

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

ACTION: Coordinated Remedy Order.

DATES: *Effective date:* This Coordinated Remedy Order went into effect on November 3, 2015.

Order: This Coordinated Remedy Order (''Order'') is issued by the Administrator of the National Highway Traffic Safety Administration (''NHTSA''), an operating administration of the U.S. Department of Transportation. Pursuant to NHTSA's authority under the National Traffic and Motor Vehicle Safety Act of 1966, as amended and recodified (the ''Safety Act''), 49 U.S.C. 30101, *et seq.*, and specifically, 49 U.S.C. 30118–30120, 30120(a)(1), 30120(c)(2)–(3), 30166(b), 30166(c), 30166(e), 30166(g)(1), and 49 CFR 573.6, 573.14, this Coordinated Remedy Order establishes a Coordinated Remedy Program and sets forth the requirements and obligations of certain motor vehicle manufacturers [1] and TK Holdings, Inc., (''Takata'') in connection with the recall and remedy of certain types of Takata air bag inflators.

I. Nature of the Matter and Findings

1. On June 5, 2015, NHTSA opened the Coordinated Remedy Program Proceeding and public Docket Number NHTSA–2015–0055 to address the recalls of certain Takata air bag inflators, which together constitute the largest Safety Act recall in NHTSA's history and one of the largest consumer product recalls in United States history. *See Notice of Coordinated Remedy Program Proceeding for the Replacement of Certain Takata Air Bag Inflators*, 80 FR 32,197 (June 5, 2015). As of the date of this Order, the number of recalled air bag inflators (currently, approximately 23 million), impacted vehicles (currently, approximately 19 million), and affected vehicle manufacturers (currently, twelve), in combination with the potential for expansion of existing recalls and issuance of new recalls, and the remedy part supply challenges related to the existing recalls, presents an unprecedented level of complexity to the routine recall and remedy process. Given the potential severity of the harm to vehicle occupants when an inflator rupture occurs and the wide-spread exposure to the risk across a large vehicle population, the risk of harm presented by the defective Takata air bag inflators transcends the scope of the processes ordinarily followed in a recall under the Safety Act. Accordingly, for the reasons that follow, and upon consideration of the entire record in this proceeding, NHTSA now issues this Order.

Factual Background

2. An air bag inflator (''inflator'') is a component inside an air bag module that contains explosive materials [2] which, when ignited, rapidly release gases to inflate air bags that protect vehicle occupants in vehicle crashes. Because inflators must fit into small and unique spaces including vehicle steering wheels and front instrument panels (*i.e.*, dashboards), and because they must also satisfy specific performance requirements, inflators must meet exacting size and configuration requirements for each air bag module they are paired with and each vehicle in which they are installed. When functioning properly, air bag inflators are life-saving devices.

3. The first recall involving a rupturing Takata driver side frontal air bag inflator was initiated by Honda on November 11, 2008. At that time, the defect was thought to be the result of a specific manufacturing issue involving a propellant press at Takata's Moses Lake, Washington plant. Due to various purported discrepancies in Takata's record keeping for the affected parts, and changing theories as to the root cause of the defect, Honda expanded the scope of the recall several times between 2009 and 2011.

4. The first recall involving a rupturing Takata passenger side frontal air bag inflator was initiated by Takata on April 11, 2013, and involved BMW, Honda, Mazda, Nissan, and Toyota. At that time, the defect was thought by Takata to be the result of two specific manufacturing issues: (1) The possibility that the auto-reject function on a propellant press had been manually disabled, and (2) the possibility that certain propellant lots were exposed to uncontrolled moisture conditions at Takata's Monclova, Mexico plant. In 2013 and 2014, GM recalled vehicles to address separate manufacturing problems specific to a limited number of inflators Takata supplied only to GM.

5. Between August 2013 and April 2014, NHTSA received three Vehicle Owner Questionnaires (VOQs) that alleged air bag inflator ruptures in vehicles outside the scope of the prior driver side and passenger side frontal air bag inflator recalls. In late May 2014, Takata confirmed the three ruptures with NHTSA's Office of Defects Investigation (ODI), and notified ODI of an additional three ruptures (for a total of six rupture incidents between August 2013 and May 2014). All of these ruptures occurred in vehicles experiencing long-term exposure to hot and humid climate conditions in Florida and Puerto Rico.

6. On June 10, 2014, at NHTSA's urging, Takata and the affected vehicle manufacturers agreed to initiate various field actions in Florida, Hawaii, Puerto Rico, and the U.S. Virgin Islands. The data supporting these field actions indicated that certain Takata frontal air bag inflators in regions prone to consistent long-term [3] exposure to high absolute humidity (''HAH'') and high temperatures posed a safety risk. The field actions were designed to mitigate the demonstrated risks in the HAH region, to make inflators available for future testing, and to produce data to guide future actions.

7. On June 11, 2014, NHTSA opened a preliminary evaluation (PE14–016) to investigate the six identified rupture incidents involving driver side and passenger side frontal air bag inflators manufactured by Takata.

8. During the period of October through December 2014, at NHTSA's direction, field actions were converted to recalls and the recalls were expanded, though some recalls remained limited to certain regions with higher absolute humidity. Also during this period, NHTSA urged Takata and the affected vehicle manufacturers to, among other things, speed up the

[1] Currently, BMW of North America, LLC (''BMW''), FCA US, LLC (''FCA'') (formerly Chrysler), Daimler Trucks North America, LLC (''Daimler Trucks''), Daimler Vans USA, LLC (''Daimler Vans''), Ford Motor Company (''Ford''), General Motors, LLC (''GM''), American Honda Motor Company (''Honda''), Mazda North American Operations (''Mazda''), Mitsubishi Motors North America, Inc. (''Mitsubishi''), Nissan North America, Inc. (''Nissan''), Subaru of America, Inc. (''Subaru''), and Toyota Motor Engineering and Manufacturing (''Toyota''). In accordance with Paragraphs 45, 46, and 48 below, this list may expand at some future date to include other motor vehicle manufacturers who have sold or otherwise made available in the United States motor vehicles equipped with Takata air bag inflators containing phase-stabilized ammonium nitrate.

[2] More precisely, air bag inflators contain pyrotechnic propellants, stored high pressure gases, or a combination of the two. To aid the reader's understanding, by using more familiar terminology, this is described herein as an ''explosive.''

[3] Consistent long-term exposure means multiple years of mostly continuous exposure throughout the year. It is not seasonal exposure.

remedy programs by increasing the supply of remedy air bag inflators. NHTSA emphasized the need to promptly and effectively remedy the serious safety risk posed to consumers by the defective Takata air bag inflators. Further, as part of its ongoing investigation and oversight, NHTSA issued two Special Orders to Takata on October 30, and November 18, 2014, a Special Order to Honda on November 5, 2014, and General Orders to BMW, FCA, Ford, GM, Honda, Mazda, Mitsubishi, Nissan, Subaru, Toyota, and Takata on November 18, 2014. All these Special and General Orders were designed and issued by NHTSA to obtain additional data required to assess and mitigate the risk of harm to the motoring public.

9. On November 18, 2014, NHTSA demanded that the five vehicle manufacturers with affected driver side frontal air bag inflators expand their regional field actions and conduct nationwide actions. This decision was based on, among other things, NHTSA's evaluation of a driver side frontal air bag failure in a vehicle outside the existing regional recall area. In response, beginning in December 2014, BMW, FCA, Ford, Honda and Mazda initiated national service campaigns or safety improvement campaigns on vehicles with driver side frontal air bag inflators.

10. On November 26, 2014, NHTSA demanded that Takata submit Defect Information Reports (''DIRs'') of driver side frontal air bag inflators. While Takata declined to do so in a December 2, 2014 response, NHTSA continued to insist that Takata accept responsibility for the rupturing air bag inflators and file DIRs.

11. On February 24, 2015, NHTSA upgraded PE14–016 to an engineering analysis (EA15–001).

12. On May 18, 2015, after NHTSA's consistent demands, and pursuant to its legal obligations under the Safety Act, 49 U.S.C. 30118(c)(1) and 49 CFR 573.6(c), Takata filed four DIRs with NHTSA (15E–040, 15E–041, 15E–042, 15E–043) (''Takata DIRs''). In the Takata DIRs, Takata admitted that certain types of air bag inflators manufactured by Takata with a phase-stabilized ammonium nitrate-based propellant (specifically, the PSDI, PSDI–4, PSDI–4K, SPI, PSPI and PSPI–L) contain defects constituting an unreasonable risk to safety.

13. Between May 13, 2015 and June 24, 2015, BMW, FCA, Daimler Trucks,[4] Daimler Vans, Ford, GM, Honda, Mazda, Mitsubishi, Nissan, Subaru, and Toyota (the ''Initial Vehicle Manufacturers'') each filed DIRs with NHTSA for vehicles containing the air bag inflators covered by the Takata DIRs (the ''Inflator Recalls'').

14. As part of the Coordinated Remedy Program Proceeding, launched on June 5, 2015, NHTSA sought information from each of the Initial Vehicle Manufacturers, Takata, and other major inflator suppliers[5] (the ''Suppliers''). As an initial matter, this included gathering data from the Initial Vehicle Manufacturers, Takata, and the other Suppliers through correspondence, and a Special Order to Takata, sent on June 18 and 19, 2015.[6] Thereafter, each of these companies provided answers responsive to NHTSA's correspondence, which were available in the public docket.

15. Among other things, NHTSA engaged in numerous teleconferences and in-person meetings with the Suppliers to enhance NHTSA's understanding of, among other things, each Supplier's current production capacities, capabilities or plans for increasing production, existing contractual obligations, and product reliability. NHTSA also engaged in teleconferences and in-person meetings with the Initial Vehicle Manufacturers to enhance NHTSA's understanding of, among other things, each Vehicle Manufacturer's anticipated timelines for receipt of replacement air bag units, anticipated timelines for remedy program launch and completion, number of impacted vehicles, number of replacement air bag units needed, and plans and efforts for promptly conducting recall remedies and effectively reaching consumers.

16. On September 22, 2015, NHTSA gathered supplemental data from additional vehicle manufacturers that NHTSA had learned were supplied with Takata air bag inflators containing phase-stabilized ammonium nitrate (''PSAN'')[7] not covered by the Takata DIRs (collectively, the ''Potential Expansion Vehicle Manufacturers''). Thereafter, each of these companies provided public comments to the docket responsive to the questions and issues raised in NHTSA's correspondence.

17. On September 23 and 24, 2015, NHTSA convened problem-solving meetings with the Initial Vehicle Manufacturers to examine aggregate data and engage in a collaborative risk analysis to aid NHTSA in developing a principled, rational, risk-mitigation based approach for the prioritization and phasing of recall plans. Factors considered included those currently associated with a higher risk of inflator rupture, specifically: age of the inflator (with older inflators presenting a greater risk); geographic location of vehicles with the recalled inflators (with HAH areas presenting a greater risk); position of the inflator in the vehicle (with the driver side frontal air bag inflator presenting a greater risk of serious injury or death when a rupture occurs); and the presence of recalled inflators in both the driver and passenger side airbag modules. During the meetings, the Initial Vehicle Manufacturers provided input on factors supporting a technically supported risk-assessment methodology for the Inflator Recalls. Following the meeting, each Initial Vehicle Manufacturer submitted a vehicle prioritization list that applied these factors, and other factors specific to their products, that prioritized vehicles into three risk categories. NHTSA analyzed these submissions and determined that the Initial Vehicle Manufacturers generally identified reasonable and appropriate priority groups based on the evidence known at this time.

18. Throughout this process, the public has been able to engage in this dialogue through submissions to the public Docket, NHTSA–2015–0055. In addition to the actions set forth above, NHTSA reviewed and considered all public comments to the docket.

19. While Takata is a manufacturer of air bag inflators, other Suppliers also manufacture inflators, some of which closely match the performance requirements of the original Takata inflator and thus can be modified and safely installed in Takata air bag modules for use as remedy parts for the

[4] Daimler Trucks' remedy program of approximately 2,500 vehicles is being conducted in cooperation with FCA.

[5] ARC Automotive, Inc. (''ARC''), Autoliv Americas (''Autoliv''), Key Safety Systems (''Key Safety''), Toyoda Gosei North America Corporation (''Toyoda''), Daicel Safety Systems America, LLC (''Daicel''), and TRW Automotive (''TRW'') which has subsequently become ZF TRW (''ZF TRW'').

[6] The correspondence sent to Takata and each of the Suppliers and Initial Vehicle Manufacturers, and their responses, are available for inspection in public Docket Number NHTSA–2015–0055. Given NHTSA's ongoing investigation into the defective Takata air bag inflators under EA15–001, the correspondence sent to Takata was in the form of a Special Order, with a cover letter. As with the other industry responses to the correspondence of June 18–19, Takata's response to the Special Order was made publicly available as a comment to the Docket.

[7] Correspondence was sent to Jaguar Land Rover North America, LLC (''Jaguar''); Mercedes-Benz US, LLC (''Mercedes-Benz''); Spartan Motors, Inc. (''Spartan''); Suzuki Motor of America, Inc. (''Suzuki''); Tesla Motors, Inc. (''Tesla''); Volkswagen Group of America, Inc. (''Volkswagen''); and Volvo Trucks NA (''Volvo''). The correspondence to each of these vehicle manufacturers, and their responses, are available for public inspection in public Docket Number NHTSA–2015–0055.

Inflator Recalls. This is significant because Takata alone does not have sufficient manufacturing capacity to produce remedy inflators for the Initial Vehicle Manufacturers within an adequate timeframe. According to Takata, it was capable of manufacturing approximately 85,000 replacement kits per week as of October 30, 2014. Takata's production capacity increased to 91,000 replacement kits per week by December 1, 2014, and to 122,000 replacement kits per week by January 26, 2015. By July 2015, Takata reported to NHTSA that, in May 2015, it had produced approximately 730,000 remedy inflators and 1,167,000 remedy kits, which included inflators obtained from other Suppliers. Takata further reported that these numbers were expected to reach 850,000 remedy inflators and 1,900,000 remedy kits produced per month, including inflators obtained from other Suppliers, by October 2015. Takata also reported that, as of June 2015, it had produced a total of approximately 8,900,000 replacement inflators. However, this production is not all directed to the U.S. market; it also serves the global market requiring replacement air bag inflators. Even at the increased rate of nearly 850,000 remedy inflators per month by October 2015, if working alone it would take Takata at least twenty-seven (27) months to produce enough remedy inflators for the Inflator Recalls, assuming all of that production went solely to the United States market.

20. Further, some of the Takata driver inflators, sometimes referred to as containing propellant in the shape of a ''batwing,'' have been used as interim replacement parts that will degrade if continuously exposed to long-term to HAH conditions, and are themselves subject to recall. These inflators will not be used as a final remedy of driver side frontal air bags. Further, Takata's passenger side frontal air bag inflators subject to the Inflator Recalls have not previously been recalled for vehicles later than model year 2008.

21. The Initial Vehicle Manufacturers recognized the need to increase the remedy parts supply in order to have sufficient remedy parts available. To do so, they were required find alternative suppliers to meet their demands for remedy air bag inflator parts. The Initial Vehicle Manufacturers found that necessary alternative supply source in other inflator suppliers, specifically, Autoliv, Daicel, and ZF TRW (collectively, the ''Alternative Inflator Suppliers'').

22. According to Takata, in October 2015, the Alternative Inflator Suppliers were scheduled to provide over 1.9 million remedy inflator parts per month for installation in remedy air bag kits. This totaled approximately seventy percent (70%) of the 2.8 million remedy inflator kits produced by Takata that month for global demand. Nonetheless, the sheer volume of remedy parts required across the vehicle manufacturing industry, for both U.S. and foreign markets, has created challenges for the Initial Vehicle Manufacturers in obtaining sufficient remedy parts to remedy all of the recalled inflators within a reasonable time.

23. Despite the efforts of each of the Initial Vehicle Manufacturers to procure remedy parts in a timely fashion, some vehicle manufacturers will not be able to obtain sufficient remedy parts to launch their remedy programs, in part or in full, until late 2015 or early 2016, more than six (6) months after filing their initial DIRs in regard to the Inflator Recalls.

24. Further, pursuant to a November 3, 2015 Consent Order to Takata (''November 2015 Takata Consent Order''), additional Takata air bag inflators not previously subject to a recall may need to be replaced. This would cause the Potential Expansion Vehicle Manufacturers to join the existing field of Initial Vehicle Manufacturers (collectively, the ''Vehicle Manufacturers'') in need of remedy air bag inflator parts.

25. Each time Takata air bag inflator recalls are issued under the November 2015 Takata Consent Order, or current recalls are expanded, similar challenges will arise for the Vehicle Manufacturers regarding supply chain and the need for risk-assessments based on principled rationales that utilize the most-current available science and data.

26. Throughout this sequence of events, Takata has conducted inflator testing in an effort to determine the ''root cause'' of the inflator ruptures and, by testing modules recovered from vehicles that have been remedied, to determine which inflators posed the greatest risk of rupture. While production issues at Takata manufacturing plants in Monclova, Mexico and Moses Lake, Washington, were identified early on as the purported root cause in some rupture incidents, those theories (even if correct) do not account for the ongoing issues with inflator rupture. For example, inflators installed in vehicles spending many consecutive years of their service lives in hot and humid climates have also ruptured even though they appear to have been manufactured within Takata's specifications. While Takata now believes that the ruptures are related to long-term exposure to HAH conditions, their root cause testing has not produced any conclusive answers regarding why the inflators rupture.

27. Moreover, Takata has been unable to provide a definitive explanation for other inflators rupturing, including the rupture of an SSI–20 side air bag inflator on June 7, 2015, in a Volkswagen vehicle involved in a crash, or the rupture of a PSDI–X inflator during Takata's testing of an air bag module on September 29, 2015 with a resulting recall by Honda. Takata has also been unable to definitively explain the October 2015, rupture of an SSI–20 inflator during Takata quality control testing. It therefore appears to the agency that Takata continues to have ongoing quality control issues with the volatile, explosive compound it has chosen as the propellant for most of its air bag inflators: PSAN.

28. While the ultimate responsibility for determining root cause rests squarely with Takata, testing has also been conducted by NHTSA and third parties in an effort to establish the root cause of the defect and to verify the results of Takata's testing of inflators returned from the field. NHTSA has conducted testing through Battelle Memorial Institute, 3D Engineering Solutions, and the Transportation Research Center of Ohio, testing organizations located in Ohio, to verify Takata's test results and examine the root cause of the defect. Testing has also been undertaken by the Independent Testing Coalition (''ITC''), which is comprised of BMW, FCA, Ford, GM, Honda, Mazda, Mitsubishi, Nissan, Subaru, and Toyota. Orbital ATK, a testing company located in Utah, has commenced testing on behalf of the ITC, and hopes to conclude root cause analysis in 2016. Multiple individual vehicle manufacturers have also conducted testing in efforts to confirm Takata's results or establish root cause for the defect. While this multitude of independent testing efforts have largely confirmed the observations made and patterns identified from Takata's test results, none of these efforts has identified any specific root cause(s) for the propellant failures and inflator ruptures. While progress is being made, it is unknown when, or if, root cause will ever be definitively determined.

29. Without a conclusive determination of root cause, the source of the problems with certain Takata inflators remains unknown. What is known, however, is that the propellant in inflators covered by the Inflator Recalls and the recalls within the scope of this Order have, at various rates of frequency, a propensity to ignite and/or

burn in an unexpected way that may cause the pressure inside the inflator to increase too quickly, causing the inflator to rupture. That rupture causes the metal canister of the inflator to break away in hot, shrapnel-like fragments, which shoot out of the air bag into the passenger cabin and towards the driver or any occupants who are nearby.

30. As of October 30, 2015, there have been 99 confirmed incidents in the United States where a ruptured Takata air bag inflator allegedly caused death or injury. Many of these incidents resulted in serious injury to vehicle occupants. In seven of the incidents, the vehicle's driver died as a result of injuries sustained from the rupture of the air bag inflator. In other incidents, vehicle occupants suffered injuries including cuts or lacerations to the face or neck, broken or fractured facial bones, loss of eyesight, and broken teeth. The risk of these tragic consequences is greatest for individuals sitting in the driver seat, where one in ten individuals' whose air bag inflator ruptured has died.

Findings

Based upon the agency's analysis and judgment, and upon consideration of the entire record, NHTSA finds that:

31. (1) There is a risk of serious injury or death if the remedy program of each of the Initial Vehicle Manufacturers is not accelerated; (2) acceleration of each Initial Vehicle Manufacturer's remedy program can be reasonably achieved by expanding the sources of replacement parts; and (3) each Initial Vehicle Manufacturer's remedy program is not likely to be capable of completion within a reasonable time without acceleration.

32. Each air bag inflator with the capacity to rupture, as the recalled Takata inflators do, presents an unreasonable risk of serious injury or death. Seven individuals have already been killed in the United States alone, with at least 92 more injured. Since the propensity for rupture increases with the age of the inflator, and increases even more when the vehicle has been exposed to consistent long-term HAH conditions, the risk for injurious or lethal rupture increases with each passing day. While each of the Initial Vehicle Manufacturers has made efforts towards the remedy of these defective air bag inflators, acceleration and coordination of the inflator remedy programs is necessary to reduce this risk to public safety. Acceleration and coordination will enable vehicle manufacturers to establish priorities based on principled rationales for risk-assessment, coordinate on safety-focused efforts to successfully complete their respective remedy programs, and allow for the organization and prioritization of remedy parts, if and as needed, with NHTSA's oversight.

33. Acceleration of the inflator remedy programs can be reasonably achieved by, among other things, expanding the sources of replacement parts. This acceleration can be accomplished in part by a vehicle manufacturer contracting with any of the Alternative Inflator Suppliers for remedy parts as Takata cannot manufacture sufficient remedy parts in a reasonable time for the estimated 23 million inflators in the U.S. market alone that require remedy under the Inflator Recalls.

34. In light of all the circumstances, including the safety risk discussed above, the Initial Vehicle Manufacturers' recall remedy programs are not likely capable of completion within a reasonable amount of time without acceleration of each remedy program. It is critical to the timely completion of each remedy program that the Initial Vehicle Manufacturers obtain remedy inflators from sources other than Takata. Takata's inflator production for October 2015 will make up only around thirty percent (30%) of the remedy inflators produced that month. Further, Takata's ability to supply remedy parts going forward may decrease, such that other Suppliers will need to fill the resulting void.

35. Pursuant to the conditions for expansion of the recalls in the Takata DIRs for Recall Nos. 15E–042 and 15E–043, Paragraphs 27–30 of the November 2015 Takata Consent Order, and as otherwise agreed by Takata, and after consultation throughout this Coordinated Remedy Program Proceeding with Takata and all of the vehicle manufacturers affected by said Recalls, NHTSA further finds that continued testing and analysis of Takata air bag inflators is necessary. If circumstances warrant the issuance of an Order expanding the production or geographic scope of the Inflator Recalls, the agency will do so in accordance with the November 2015 Takata Consent Order.

36. The issuance of this Coordinated Remedy Order is an appropriate exercise of NHTSA's authority under the Safety Act, 49 U.S.C. § 30101, *et seq.,* as delegated by the Secretary of Transportation, 49 CFR §§ 1.95, 501.2(a)(1), to inspect and investigate, 49 U.S.C. § 30166(b)(1), to ensure that defective vehicles and equipment are recalled and remedied and that owners are notified of a defect and how to have the defect remedied, 49 U.S.C. §§ 30118–30120, to ensure the adequacy of the remedy, including through acceleration of the remedy program, 49 U.S.C. § 30120(c), to require vehicle manufacturers and equipment manufacturers to keep records and make reports, 49 U.S.C. § 30166(e), and to require any person to file reports or answers to specific questions, 49 U.S.C. § 30166(g).

37. This Coordinated Remedy Order, developed after taking into account the input and concerns of each of the Vehicle Manufacturers, Suppliers, Takata, other interested parties and the public, will reduce the risk of serious injury or death to the motoring public and enable the Initial Vehicle Manufacturers and Takata to implement, and complete, the necessary remedy programs on an accelerated basis.

Accordingly, it is hereby *ordered* by NHTSA as follows:

II. Terms of the Coordinated Remedy Order

Priority Groups and Target Recall Program Completion Deadlines for the Coordinated Remedy Program

38. Each Initial Vehicle Manufacturer has previously submitted to NHTSA a vehicle prioritization plan based on a risk-assessment that takes into account the primary factors related to Takata inflator rupture, as currently known and understood, and other factors specific to that vehicle manufacturer's products. The primary factors utilized by all of the Initial Vehicle Manufacturers are: (1) Age of the inflator (with older presenting a greater risk of rupture); (2) geographic location of the inflator (with continuous long-term exposure to high absolute humidity [''HAH''] areas,[8] as defined by each vehicle manufacturer, presenting a greater risk of rupture); and (3) location of the Takata inflator in the vehicle (with both driver side and passenger side frontal air bag inflators in the same vehicle presenting the greatest risk of rupture,[9] and driver side only

[8] Each vehicle manufacturer has defined an HAH region for its vehicle prioritization and recall remedy program, resulting in slight variations as to which states and territories are included in the HAH area. However, all of the prioritizations include in the HAH area vehicles that were originally sold, or ever registered, in Alabama, Florida, Georgia, Hawaii, Louisiana, Mississippi, Texas, Puerto Rico, American Samoa, Guam, Saipan, and the U.S. Virgin Islands. None of the slight variations impact the risk mitigation established through this Order.

[9] All recalled Takata inflators have previously been determined to pose an unreasonable risk of death or serious injury in a crash, as established in the filing of each of the many DIRs for the recalled inflators. Comparative statements of risk in the priority groups are provided to explain relative risk among the inflators, all of which pose an

Continued

presenting an elevated risk of rupture, resulting in serious injury or death). In order to timely and adequately complete its remedy program, each Initial Vehicle Manufacturer shall, pursuant to 49 U.S.C. 30120(a)(1) and (c), carry out its remedy program in accordance with its prioritization plan as submitted to NHTSA. A complete listing of the vehicles in each priority group (''Priority Group'') developed using the above risk factors is attached hereto as Annex A,[10] and is hereby incorporated by reference as if fully set forth herein. The Priority Groups are as follows:

a. Priority Group 1

Vehicles in Priority Group 1 are equipped with Takata inflators that pose the highest risk of rupture and thus the highest risk of injury or death to the vehicle occupants. Generally, Priority Group 1 vehicles are currently model year 2008 and earlier, and have spent time [11] in the HAH region, and have either a recalled driver side inflator or *both* recalled driver side and passenger side inflators in the same vehicle.

b. Priority Group 2

Vehicles in Priority Group 2 are equipped with Takata inflators that pose an intermediate risk of rupture; that is, a lower risk of rupture and resulting injury or death to vehicle occupants than the inflators and vehicles in Priority Group 1, but a higher likelihood of rupture and injury or death than vehicles in Priority Groups 3 and 4. Generally, Priority Group 2 includes: (1) All remaining vehicles with recalled *driver* side inflators (this includes, vehicles 2009 and newer, and/or vehicles with recalled driver inflators only that have not spent time in the HAH region), and; (2) vehicles with certain recalled passenger inflator types that have a higher rupture frequency and that have also spent time in the HAH region.

c. Priority Group 3

Vehicles in Priority Group 3 are equipped with Takata inflators that pose an unreasonable risk of serious injury or death to vehicle occupants and should be remedied as soon as possible following the remedy of the highest risk vehicles in Priority Groups 1 and 2. The likelihood of these inflators rupturing is lower than Priority Groups 1 and 2. Generally, Priority Group 3 includes the remaining vehicles, specifically, vehicles that are model year 2009 and later and either: (1) Are outside the HAH region and contain only a passenger side inflator, or; (2) are in the HAH region and contain a specific passenger side inflator type with a lower rupture rate (the PSPI type) than other passenger side inflator types.

d. Priority Group 4

Some Initial Vehicle Manufacturers are replacing recalled inflators with newly manufactured ''like-for-like'' inflators while they work towards an alternative, final remedy. Vehicles in Priority Group 4 include those vehicles with driver side frontal air bag inflators that have received, or will receive, an ''interim remedy,'' meaning they have been, or will be, remedied with a Takata inflator that has been recalled, and will require a second remedy once the final remedy is available.[12] Once repaired with the interim remedy, these vehicles are at the lowest risk of an inflator rupture because the inflator is new and has not yet been subject to long-term continuous exposure to HAH conditions. Unless specifically added at a later date to a higher Priority Group for re-remedy by their vehicle manufacturer, all remaining vehicles requiring a second, final, remedy of the inflator(s) are included in Priority Group 4.

39. Pursuant to their obligations to remedy a defect within a reasonable time, as set forth in 49 U.S.C. § 30120(a)(1) and § 30120(c)(2), each Initial Vehicle Manufacturer shall acquire a sufficient supply of remedy parts to enable it to provide remedy parts, in a manner consistent with customary business practices, upon demand to dealers within their dealer network by the timelines set forth in this Paragraph. Each Initial Vehicle Manufacturer shall ensure that it has a sufficient supply of remedy parts on the following schedule:

Priority group	Sufficient supply timelines
Priority Group 1	March 31, 2016.
Priority Group 2	September 30, 2016.
Priority Group 3	December 31, 2016.

40. Further pursuant to their obligations to remedy a defect within a reasonable time, as set forth in 49 U.S.C. § 30120(a)(1) and § 30120(c)(2), each Initial Vehicle Manufacturer shall implement and execute its recall remedy program pursuant to the Safety Act with the target deadline to complete the recall remedy program for all vehicles in Priority Groups 1 through 3 of December 31, 2017, and a target deadline to remedy all vehicles in Priority Group 4 of December 31, 2019, as shown below:

Priority group	Remedy completion target deadline
Priority Group 1	December 31, 2017.
Priority Group 2	December 31, 2017.
Priority Group 3	December 31, 2017.
Priority Group 4	December 31, 2019.

Remedy Completion Maximization Efforts

41. Pursuant to 49 U.S.C. 30166(e), within 90 days of this Order, a vehicle manufacturer recalling inflators subject to this Order shall provide to NHTSA and the Monitor (as set forth at Paragraph 44 below), a written recall engagement process or plan for maximizing remedy completion rates for all vehicles covered by the Inflator Recalls. Such a process or plan shall, at a minimum, include but not be limited to the methodology and techniques presented at the Retooling Recalls Workshop [13] held by NHTSA on April 28, 2015, at the U.S. Department of Transportation Headquarters.

42. Pursuant to 49 U.S.C. 30166(e), a vehicle manufacturer recalling inflators subject to this Order shall, upon request, provide to NHTSA and the Monitor any and all information demonstrating the reasonableness of the efforts made by that vehicle manufacturer to maximize remedy completion rates.

43. The facts relating to supply, demand, and root cause may change during this Coordinated Remedy Program. Pursuant to Paragraph 32 of the November 2015 Takata Consent Order, Takata shall continue to cooperate with NHTSA in all ways to coordinate and accelerate remedy programs, and to adequately remedy the air bag inflators covered by the Inflator Recalls.

Monitor

44. Pursuant to Paragraphs 35 through 46 of the November 2015 Takata

unreasonable risk of death or serious injury in a crash.

[10] Because information about the risk factors may change throughout this Coordinated Remedy Program, these prioritizations are subject to change by a vehicle manufacturer, with NHTSA's oversight of the recall program including vehicle prioritization.

[11] While continuous long-term exposure to HAH is an identified risk factor, the Priority Groups take this into account by including in the risk-assessment vehicles originally sold or ever registered in the HAH region. Vehicle manufacturers are able to obtain registration information and have used that data in formulating their risk-assessment based Priority Groups.

[12] NHTSA has entered into Remedy Agreements with BMW and Mazda, which can be found in the investigation file for EA15–001 on *www.safercar.gov.*

[13] Each of the Initial Vehicle Manufacturers, other than Daimler Vans, registered to attend this Workshop. Presentations from the Workshop are available at: *http://www.nhtsa.gov/nhtsa/symposiums/april2015/index.html#.*

Consent Order, Takata has agreed to retain, at its sole cost and expense, an independent monitor (the ''Monitor''). The Monitor's authority includes, among other things, certain monitoring, review and assessment of progress of the Coordinated Remedy Program and of compliance with this Order. The powers, rights and responsibilities of the Monitor are set forth more fully in the November 2015 Takata Consent Order, which are hereby incorporated by reference as if fully set forth herein.

a. The Monitor shall have the authority to take such reasonable steps, in the Monitor's view, as are necessary to be fully informed about the operations of the Coordinated Remedy Program and this Order.

b. It is expected that the Monitor will develop and implement written procedures and may make additional recommendations aimed at enhancing the Coordinated Remedy Program and ensuring that all Coordinated Remedy Program deadlines, including those in this Order, are met.

c. The Monitor is not intended to supplant NHTSA's authority over decisions related to the Coordinated Remedy Program, this Order, motor vehicle safety, or otherwise. If the Monitor identifies a problem or issue, the Monitor shall make appropriate recommendations to NHTSA and provide all supporting information, including information contrary to the Monitor's recommendation, to enable NHTSA to make an informed decision on that recommendation.

d. Takata and Vehicle Manufacturers, along with all of their respective officers, directors, employees, agents, and consultants, shall have an affirmative duty to cooperate with and assist the Monitor in connection with the Coordinated Remedy Program and this Order.

Potential Future Recalls

45. The provisions of the November 2015 Takata Consent Order regarding future recalls and possible future recalls, contained at Paragraphs 29–30 of that document, are hereby incorporated by reference into this Order. Accordingly, any future recall(s) of Takata inflators pursuant to, or contemplated by, Paragraphs 29–30 of that Order shall become part of the Coordinated Remedy Program established herein.

46. Upon Takata's filing of a DIR pursuant to 49 CFR § 573, the affected vehicle manufacturer(s) shall timely file a DIR. Upon the filing of such DIRs NHTSA may, pursuant to 49 U.S.C. §§ 30118–30119, 49 U.S.C. § 30120(c), 49 CFR § 573.14, and 49 U.S.C. § 30166(b), (c), and (e), convene a meeting with the affected vehicle manufacturers to take place within forty-five (45) days of Takata's DIR filing, at an appropriate location within the United States, as determined by NHTSA, to address issues related to the Coordinated Remedy Program including, but not limited to, establishing a risk-assessment framework for the prioritization of vehicles and/or phasing of remedy programs, as appropriate. Any such prioritizations shall be made publicly available, and shall be annexed to this Order, in a format similar to the Priority Group lists in Annex A of this Order.

Record Keeping & Reports

47. Pursuant to 49 U.S.C. § 30166(b), (c), (e), and (g), in carrying out any recall remedy program covered by this Order, each affected vehicle manufacturer and Takata shall make any report, submit any information, and accommodate any inspection and/or investigation, as requested by NHTSA or the Monitor.

Miscellaneous

48. NHTSA may, after consultation with affected vehicle manufacturers, and/or Takata, or upon a recommendation of the Monitor, modify or amend provisions of this Order to, among other things: account for and timely respond to newly obtained facts, scientific data, changed circumstances, and/or other relevant information that may become available throughout the term of the Coordinated Remedy Program. This includes but is not limited to, changes to the Priority Groups contained in Annex A; allowing for reasonable extensions of time for the timelines contained in Paragraphs 39 and 40; facilitating further recalls as contemplated by Paragraphs 45 and 46; or for any other purpose arising under, or in connection with, the Coordinated Remedy Program and/or this Coordinated Remedy Order.

49. This Coordinated Remedy Order shall become effective upon issuance by the NHTSA Administrator. In the event of a breach of, or failure to perform, any term of this Order by Takata or any vehicle manufacturer, NHTSA may pursue any and all appropriate remedies, including, but not limited to, actions compelling specific performance of the terms of this Order, and/or commencing litigation to enforce this Order in any United States District Court.

50. This Coordinated Remedy Order shall not be construed to create rights in, or grant any cause of action to, any third party not subject to this Order.

51. In carrying out the directives of this Coordinated Remedy Order, vehicle manufacturers and vehicle equipment manufacturers (*i.e.* suppliers) shall not engage in any conduct prohibited under the antitrust laws, or other applicable law.

It is so ordered:

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION

Dated: November 3, 2015.

Mark R. Rosekind,

Administrator.

ANNEX A

Coordinated Remedy Program Priority Groups

In the Priority Groups listed below, the area of high absolute humidity (''HAH'') is defined by each vehicle manufacturer individually, but in all instances includes vehicles originally sold or ever registered in Alabama, Florida, Georgia, Hawaii, Louisiana, Mississippi, Texas, Puerto Rico, American Samoa, Guam, Saipan, and the U.S. Virgin Islands. In limited instances, parts for some HAH recalls are currently only available to a limited area within the HAH with the highest risk of rupture. ''Non-HAH'' means any vehicle that has not been identified by the vehicle manufacturer as having been originally sold or ever registered in the HAH region, as defined by the vehicle manufacturer.

PRIORITY GROUP 1

BMW:		
2002–2006	BMW	3 Series, M3 (HAH)
Daimler Vans USA:		
2007–2008	Freightliner	Sprinter (HAH)
2007–2008	Dodge	Sprinter (HAH)
Daimler Truck North America-DTNA:		

2008–2009	Sterling	Bullet (HAH and non-HAH)
FCA:		
2006–2008	Chrysler	300, 300C, SRT8 (HAH)
2005	Chrysler	300, 300C, SRT8 (HAH and non-HAH)
2008	Dodge	Challenger (HAH)
2006–2008	Dodge	Charger (HAH)
2005	Dodge	Dakota (HAH)
2004–2005	Dodge	Durango (HAH)
2006–2008	Dodge	Magnum (HAH)
2005	Dodge	Magnum (HAH and non-HAH)
2004–2005	Dodge	Ram 1500, 2500, 3500 Pickup (HAH)
Ford:		
2005–2006	Ford	GT (HAH)
2005–2008	Ford	Mustang (HAH)
2004–2005	Ford	Ranger (HAH)
GM:		
2003–2007	Pontiac	Vibe (HAH)
2005	GM-Saab	9–2X (HAH)

Priority Group 1 continued . . .
Priority Group 1 continued from prior page . . .

Honda:		
2003	Acura	3.2CL (HAH and non-HAH)
2002–2003	Acura	3.2TL (HAH and non-HAH)
2001–2003	Honda	Accord (HAH and non-HAH)
2001–2003	Honda	Civic (HAH and non-HAH)
2004–2005	Honda	Civic (HAH)
2003–2005	Honda	Civic IMA-Hybrid (HAH)
2003	Honda	Civic IMA-Hybrid (non-HAH)
2002	Honda	CR–V (HAH and non-HAH)
2003–2004	Honda	CR–V (HAH)
2003–2006	Honda	Element (HAH)
2002	Honda	Odyssey (HAH)
2003	Honda	Pilot (HAH and non-HAH)
2004–2005	Honda	Pilot (HAH)
2006	Honda	Ridgeline (HAH)
Mazda:		
2003–2008	Mazda	Mazda6 (HAH)
2004–2008	Mazda	RX8 (HAH)
2006–2007	Mazda	Speed6 (HAH)
Mitsubishi:		
2004–2006	Mitsubishi	Lancer and Lancer Evolution (HAH)
2004	Mitsubishi	Lancer Sportback (HAH)
2006–2009	Mitsubishi	Raider (HAH)
Nissan:		
2002–2003	Infiniti	QX4 (HAH)
2002–2004	Nissan	Pathfinder (HAH)
2002–2004	Nissan	Sentra (HAH)
Subaru:		
2004–2005	Subaru	Impreza/WRX/STI (HAH)
2005	Subaru	Legacy, Outback (HAH)
Toyota:		
2007	Lexus	SC430 (HAH)
2003–2007	Toyota	Corolla (HAH)
2003–2007	Toyota	Matrix (HAH)
2005–2007	Toyota	Sequoia (HAH)
2003–2004	Toyota	Tundra (HAH)
2005–2006	Toyota	Tundra (non-HAH)

PRIORITY GROUP 2

BMW:		
2000–2001	BMW	3 Series (HAH)
2002–2006	BMW	3 Series (non-HAH)
2002–2003	BMW	5 Series (HAH and non-HAH)
2003–2004	BMW	X5 SUV (HAH and non-HAH)
Daimler Vans USA:		
2007–2008	Freightliner	Sprinter (non-HAH)
FCA:		
2006–2008	Chrysler	300, 300C, SRT8 (non-HAH)
2009–2010	Chrysler	300, 300C, SRT8 (HAH and non-HAH)
2005	Chrysler	300, 300C, SRT8 (HAH)
2007–2008	Dodge	Aspen (HAH and non-HAH)
2008	Dodge	Challenger (non-HAH)
2009–2010	Dodge	Challenger (HAH)

2006–2008	Dodge	Charger (non-HAH)
2009–2010	Dodge	Charger (HAH and non-HAH)
2005–2011	Dodge	Dakota (HAH and non-HAH)
2004–2008	Dodge	Durango (HAH and non-HAH)
2005	Dodge	Magnum (HAH)
2006–2008	Dodge	Magnum (non-HAH)
2004–2005	Dodge	Ram 1500 Pickup (HAH)
2003	Dodge	Ram 1500, 2500, 3500 Pickup (HAH and non-HAH)
2006–2009	Dodge	Ram 1500, 2500, 3500 Pickup (HAH and non-HAH)
2006	Dodge	Ram 2500 (HAH)
2007–2008	Dodge	Ram 3500 Cab Chassis (HAH and non-HAH)
2008–2010	Dodge	Ram 4500, 5500 Cab Chassis (HAH and non-HAH)
2007–2008	Dodge	Sprinter (non-HAH)
Ford:		
2005–2006	Ford	GT (HAH)
2005–2008	Ford	Mustang (non-HAH)
2009–2014	Ford	Mustang (HAH)
2006	Ford	Ranger (HAH)
GM:		
2003–2007	Pontiac	Vibe (non-HAH)
2007–2008	Chev/GMC	Silverado/Sierra (HAH)

Priority Group 2 continued . . .
Priority Group 2 continued from prior page . . .

Honda:		
2003–2006	Acura	MDX (HAH and non-HAH)
2004–2007	Honda	Accord (HAH and non-HAH)
2004–2005	Honda	Civic (non-HAH)
2004–2005	Honda	Civic Hybrid (non-HAH)
2005–2006	Honda	CR–V (HAH)
2003–2006	Honda	CR–V (non-HAH)
2007–2011	Honda	Element (HAH)
2003–2007	Honda	Element (non-HAH)
2003–2004	Honda	Odyssey (HAH)
2002–2004	Honda	Odyssey (non-HAH)
2006–2008	Honda	Pilot (HAH)
2004–2007	Honda	Pilot (non-HAH)
2006	Honda	Ridgeline (non-HAH)
Mazda:		
2003–2008	Mazda	Mazda6 (non-HAH)
2004–2006	Mazda	B-Series (HAH)
2004–2005	Mazda	MPV (HAH)
2004–2008	Mazda	RX8 (non-HAH)
2006–2007	Mazda	Speed6 (HAH)
Mitsubishi:		
2004–2006	Mitsubishi	Lancer, Lancer Evolution (non-HAH)
2004	Mitsubishi	Lancer Sportback (non-HAH)
2006–2009	Mitsubishi	Raider (non-HAH)
Nissan:		
2003	Infiniti	FX (HAH)
2001	Infiniti	I30 (HAH)
2002–2003	Infiniti	I35 (HAH)
2002–2003	Infiniti	QX4 (non-HAH)
2001–2003	Nissan	Maxima (HAH)
2002–2004	Nissan	Pathfinder (HAH and non-HAH)
2004–2006	Nissan	Sentra (HAH and non-HAH)
Subaru:		
2003–2005	Subaru	Legacy, Outback, Baja (HAH)

Priority Group 2 continued . . .
Priority Group 2 continued from prior page . . .

Toyota:		
2007	Lexus	SC430 (non-HAH)
2003–2007	Toyota	Corolla (non-HAH)
2003–2007	Toyota	Matrix (non-HAH)
2004–2005	Toyota	RAV4 (HAH and non-HAH)
2002–2004	Toyota	Sequoia (HAH)
2005–2007	Toyota	Sequoia (non-HAH)
2003–2004	Toyota	Tundra (HAH)
2005–2006	Toyota	Tundra (non-HAH)

PRIORITY GROUP 3

BMW:		
2000–2001	BMW	3 Series (non-HAH)

Daimler Vans USA:		
2007–2008	Freightliner	Sprinter (non-HAH)
2007–2008	Dodge	Sprinter (non-HAH)
Ford:		
2005–2006	Ford	GT (non-HAH)
2009–2014	Ford	Mustang (non-HAH)
2004–2006	Ford	Ranger (non-HAH)
GM:		
2007–2008	Chev/GMC	Silverado/Sierra (non-HAH)
2005	GM-Saab	9–2X (non-HAH)
Honda:		
2005	Honda	RL (HAH and non-HAH)
2008–2011	Honda	Element (non-HAH)
2008	Honda	Pilot (non-HAH)
Mazda:		
2004–2006	Mazda	B-Series (non-HAH)
Nissan:		
2003	Infiniti	FX (non-HAH)
2004–2005	Infiniti	FX (HAH and non-HAH)
2001	Infiniti	I30 (non-HAH)
2002–2004	Infiniti	I35 (HAH and non-HAH)
2006	Infiniti	M (HAH and non-HAH)
2001–2003	Nissan	Maxima (non-HAH)
Subaru:		
2004–2005	Subaru	Impreza/WRX/STI (non-HAH)
2003–2004	Subaru	Legacy, Outback, Baja (non-HAH)
Toyota:		
2002–2006	Lexus	SC430 (HAH and non-HAH)
2002–2004	Toyota	Sequoia (non-HAH)
2003–2004	Toyota	Tundra (non-HAH)

[FR Doc. 2015–28924 Filed 11–13–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–RSPA 2000–7486; PDs 8(R)–11(R)]

Hazardous Materials: California and Los Angeles County Requirements Applicable to the On-Site Handling and Transportation of Hazardous Materials

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Decision on petitions for reconsideration of administrative determinations of preemption.

Petitioners: Hasa, Inc., National Propane Gas Association, National Tank Truck Carriers, Inc., Pioneer Chlor Alkali Company, Inc., The Society of the Plastics Industry, Inc.

State and Local Laws Affected: California Health & Safety Code (CHSC), Chapter 6.95, Los Angeles County Code (LACoC), Titles 2 and 32.

Mode Affected: Rail.

SUMMARY: Federal hazardous material transportation law does not preempt California and Los Angeles County requirements on (1) the unloading of hazardous materials from rail tank cars by a consignee and (2) the consignee's on-site storage of hazardous materials following delivery of the hazardous materials to their destination and departure of the carrier from the consignee's premises or private track adjacent to the consignee's premises.

FOR FURTHER INFORMATION CONTACT: Vincent Lopez or Joseph Solomey, Office of Chief Counsel (PHC–10), Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001 (Tel. No. 202–366–4400).

SUPPLEMENTARY INFORMATION:

I. Background

This is a decision on petitions for reconsideration of PHMSA's determinations of preemption regarding certain of the State of California and Los Angeles County requirements applicable to unloading of hazardous materials from rail tank cars and the on-site storage of hazardous materials in rail tank cars or after unloading. The filing of these petitions for reconsideration rendered PHMSA's determinations of preemption non-final. With this decision on the petitions for reconsideration, the determinations of preemption that PHMSA was asked to reconsider become final.

A. Preemption Determinations (PDs) Nos. 8(R)–11(R)

In PDs Nos. 8(R)–11(R), published in the **Federal Register** on February 15, 1995 (60 FR 8774), PHMSA [1] considered certain requirements of the State of California and Los Angeles County applicable to unloading of hazardous materials from rail tank cars and the on-site storage of hazardous materials in rail tank cars or after unloading. In these determinations, PHMSA responded to applications by the Swimming Pool Chemical Manufacturers Association (SPCMA) and one of its members, Hasa, Inc. (Hasa), questioning whether Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.,* preempts the definition or classification of compressed gases and cryogenic fluids in the Uniform Fire Code (adopted in Title 32 of the Los Angeles County Code [LACoC]) and requirements on:

- Permits to store, transport, or handle these materials;
- unloading and storage of these materials, including the design and construction of tanks and containers;
- markings on containers of cryogenic liquids;

[1] Effective February 20, 2005, PHMSA was created to further the ''highest degree of safety in pipeline transportation and hazardous materials transportation,'' and the Secretary of Transportation redelegated hazardous materials safety functions from the Research and Special Programs Administration (RSPA) to PHMSA's Administrator. 49 U.S.C 108, as amended by the Norman Y. Mineta Research and Special Programs Improvement Act (Pub. L. 108–426, § 2, 118 Stat. 2423 (Nov. 30, 2004)), and 49 CFR 1.97(b), as redesignated at 77 FR 49964, 4987 (Aug. 17, 2012). For convenience, this decision refers to ''PHMSA'' in discussing actions taken by RSPA before February 20, 2005.