

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

1200 New Jersey Avenue SE  
Washington, DC 20590

\_\_\_\_\_  
In re: )  
 )  
EA16-003 )  
Air Bag Inflator Rupture )  
\_\_\_\_\_ )

**SPECIAL ORDER DIRECTED TO ARC AUTOMOTIVE, INC.**

To:  
Mr. Steve Gold  
Vice President – Product Integrity  
ARC Automotive, Inc.  
1729 Midpark Road, Suite 100  
Knoxville, TN 37921  
steve.gold@arcautomotive.com

This Special Order is issued by the National Highway Traffic Safety Administration (NHTSA), an Operating Administration of the United States Department of Transportation, pursuant to 49 U.S.C. § 30166(g)(1)(A) and 49 C.F.R. §§ 510.7-510.8.<sup>1</sup>

On July 13, 2015, the Office of Defects Investigation (ODI) opened a Preliminary Evaluation (PE15-027) to investigate certain air bag inflators designed by ARC Automotive, Inc. (ARC). NHTSA opened its defect investigation after learning of two driver air bag inflator field ruptures involving ARC designed inflators. On August 4, 2016, NHTSA upgraded the defect investigation to an Engineering Analysis (EA16-003) to further investigate allegations of inflator ruptures involving ARC driver air bag inflators, after learning of an ARC inflator field rupture in Canada that resulted in a fatality. The investigation scope was subsequently expanded when NHTSA learned of frontal passenger air bag inflator ruptures in testing. Since the opening of

---

<sup>1</sup> See 49 C.F.R. §§ 1.95, 501.8(d)(3) (delegations of authority).

EA16-003, the Agency has learned of multiple additional ARC inflator field ruptures involving the forceful propulsion of metal fragments into the passenger compartment.

On April 27, 2023, NHTSA sent a Recall Request letter to ARC, which tentatively concluded that a defect related to motor vehicle safety exists in the frontal driver and passenger air bag inflators under investigation and demanded that ARC issue a Part 573 Recall Report to address the safety defect. On May 11, 2023, ARC responded to the Recall Request letter by disagreeing with the Agency's tentative conclusion that a safety defect exists and refusing to issue a Part 573 Recall Report for the subject inflators.

NHTSA's defect investigation, EA16-003, examining the safety of the frontal driver and passenger air bag inflators manufactured by ARC, continues. To that end, NHTSA hereby requires that ARC file answers to questions under oath and produce certain documents.

ARC's response to this Special Order must be provided to NHTSA's Office of the Chief Counsel by June 14, 2023. The response should be sent to Ashley Simpson, Office of the Chief Counsel, at Ashley.Simpson@dot.gov or, for large submissions, through the DOT Secure Large File Transfer Solution system.

ARC's response must be signed under oath, *i.e.*, accompanied by a declaration, signed by a responsible officer of ARC, 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 ARC 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. 28 U.S.C. § 1746; 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 ARC to civil penalties of up to \$26,315 per day, up to a maximum penalty of \$131,564,183 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**

Unless otherwise stated in the text, the following definitions apply to the information request set forth below:

- **ARC**: “ARC” or “you” means ARC Automotive, Inc., all other aliases, and all of its/their past and present officers and employees, and representatives that have safety-related information, whether assigned to its/their principal offices or any of its/their field or other locations, including all of its/their divisions, subsidiaries (whether or not incorporated), licensees, and affiliated enterprises and all of their headquarters, regional, zone, and other offices and their employees, and all agents, contractors (*e.g.*, test facilities that conduct compliance tests), consultants, attorneys and law firms, and other persons engaged directly or indirectly (*e.g.*, employee of a consultant) by or under the control of ARC Automotive, Inc. (including all business units and persons previously referred to), who are or were involved in any way with any of the following related to air bag inflators and/or automated borescope:
  - a) design, analysis, modification, or production;
  - b) testing, assessment, or evaluation;
  - c) sales of ARC Automotive, Inc. inflators; or
  - d) consideration or recognition of potential or actual defects, reporting, record-keeping and information management, analysis, claims or lawsuits, mediations, or arbitrations.
  
- **Document**: “Document(s)” is used in the broadest sense of the word and shall mean 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, communications, electronic mail (e-mail) messages (existing in hard copy and/or in electronic storage), faxes, mailgrams, telegrams, cables, telex messages, notes, annotations, working papers, drafts, minutes, records, audio and video recordings, data, databases, other information bases, summaries, charts, tables, graphics, other visual displays, photographs, statements, interviews, opinions, reports, newspaper articles, studies, analyses, evaluations, interpretations, contracts, agreements, jottings, agendas,

bulletins, notices, announcements, instructions, blueprints, drawings, as-builts, changes, manuals, publications, work schedules, journals, statistical data, desk, portable and computer calendars, appointment books, diaries, travel reports, lists, tabulations, computer printouts, data processing program libraries, data processing inputs and outputs, microfilms, microfiches, statements for services, resolutions, financial statements, governmental records, business records, personnel records, work orders, documents generated through litigation, arbitration, or mediation, pleadings, mediation statements, discovery in any form, affidavits, motions, responses to discovery, all transcripts, administrative filings and all mechanical, magnetic, photographic and electronic records or recordings of any kind, including any storage media associated with computers, including, but not limited to, information on hard drives, floppy disks, backup tapes, and zip drives, electronic communications, including but not limited to, the Internet and shall include any drafts or revisions pertaining to any of the foregoing, all other things similar to any of the foregoing, however denominated by ARC Automotive, Inc., any other data compilations from which information can be obtained, translated if necessary, into a usable form and any other documents. For purposes of this request, any document which contains any note, comment, addition, deletion, insertion, annotation, or otherwise comprises a non-identical copy of another document shall be treated as a separate document subject to production. In all cases where original and any non-identical copies are not available, “document(s)” also means any identical copies of the original and all non-identical copies thereof. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by ARC Automotive, Inc. or not. If a document is not in the English language, provide both the original document and an English translation of the document.

- **Employee**: “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 employee has the right to control the details of work performance.
- **Field deployment**: “Field deployment” means an event occurring after an inflator has been incorporated into a motor vehicle and said vehicle has left possession and control of its OEM in which the air bag inflator is activated and causes or attempts to cause the air bag to inflate.
- **Field rupture**: “Field rupture” refers to an incident during a field deployment (or alleged incident), whether in the United State or abroad, in which some mechanism (*e.g.*, excessive internal pressure inside the inflator) causes the inflator body to burst or break apart at any time.
- **Subject inflators**: “Subject inflators” means hybrid, toroidal inflators that ARC manufactured for incorporation into driver and passenger frontal air bag modules.
- **Subject inflators produced**: “Subject inflators produced” refers to finished inflators that passed all inspections, testing, and other quality assurance processes and are considered ready to be sold, used, or installed.

- **Subject inflators rejected:** “Subject inflators rejected” refers to produced inflators that failed to pass one or more of inspections, testing, and other quality assurance processes and are considered not suitable for sale, use or installation.

## **INSTRUCTIONS**

Please follow the instructions below when providing responses to the numbered information requests in the next section.

1. Your response to the Special Order shall be sent to the Office of the Chief Counsel (NCC-100), National Highway Traffic Safety Administration by email to Ashley Simpson at Ashley.Simpson@dot.gov or through the DOT Secure Large File Transfer Solution system.<sup>2</sup>

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.

---

<sup>2</sup> In order to use the File Transfer System, please email Ashley.Simpson@dot.gov for a link.

5. After your response to each request, state whether you previously had any responsive documents that are no longer within your possession, custody, or control, including but not limited to because the documents were lost or destroyed. If such documents ever existed: describe the documents; identify the reason that the documents are no longer in your possession, custody, or control; identify the date you last had the documents; and identify who may have copies of such documents.

6. NHTSA requests that you not seek confidential treatment for your narrative responses to these Requests and intends to make your narrative responses public. *See Food Marketing Inst. v. Argus Leader Media*, 139 S. Ct. 2356, 2363 (2019).

7. 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, 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 the Chief Counsel (NCC-100), National Highway Traffic Safety Administration as instructed below. By accepting confidentiality requests related to the information or documents provided in response to this Special Order, NHTSA does not expressly or impliedly promise confidential treatment of such information or documents. *See Food Marketing Inst. v. Argus Leader Media*, S. Ct. 2356, 2363 (2019).

8. NHTSA is treating electronic submission as an acceptable method for submitting confidential business information (CBI) to the agency under 49 C.F.R. Part 512.4. Since Part 512 submissions are handled by NHTSA's Office of the Chief Counsel, any Part 512 submission should be sent to the Office of the Chief Counsel electronically. Specifically, any CBI

submissions sent via email should be sent to Ashley Simpson at Ashley.Simpson@dot.gov. For CBI submissions via a secure file transfer application, Ashley Simpson (Ashley.Simpson@dot.gov) must be notified when files are submitted and have access to retrieve the submitted files. Please refer to EA16-003 in your response to this letter and in the subject line of any confidentiality request submitted to the Office of the Chief Counsel.

At this time, submitters should not send a duplicate hardcopy of their electronic CBI submissions to DOT headquarters. Please note that these modified submission procedures are only to facilitate continued operations while maintaining appropriate social distancing due to COVID-19. Regular procedures for Part 512 submissions will resume upon further notice, when NHTSA and regulated entities discontinue operating primarily in telework status.

For questions about CBI issues, including these modified submission procedures, please contact Dan Rabinovitz in the Office of Chief Counsel at Daniel.Rabinovitz@dot.gov or 202-366-8534.

9. All documents shall be produced electronically, as described below, in a common format (e.g., Word, PDF, Microsoft Access) or other electronic formats commonly used by ARC and discernable to NHTSA.

- a. Hard copy documents shall be imaged in PDF format. They shall be provided as multi-page PDFs with document level optical character recognition (OCR).
- b. Electronically Stored Information (ESI) shall be converted to multi-page PDFs and produced along with document level OCR/extracted text.
- c. You shall organize the documents as instructed in the request to which it responds or, if no instruction is given in a request, in chronological order by project, report, or other similar categorization responsive to that numbered request.

- d. After the documents are so organized, and in sequential order to the request to which each response, you shall apply Bates Numbers to the entire production.
- e. You shall produce an index that lists the title of each document produced, the Bates Numbers on the document, and the request to which it corresponds.

10. When a request calls for a detailed, narrative response, do not identify business records or other documents in lieu of providing a written narrative. A response to a request for a written narrative that solely directs NHTSA to documents will be considered non-responsive and may result in civil penalties. 49 U.S.C. §§ 30163(a)(1), 30165(a)(3); 49 C.F.R. § 578.6(a)(3). A response to a request for a detailed, narrative response that includes references to specific Bates Number(s) in addition to a written narrative will not be considered a violation of this Instruction.

11. 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.

12. ARC’s response to this Special Order must be under oath, i.e., accompanied by an declaration, signed by a responsible officer of ARC, 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 ARC 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.

13. The requests in this Special Order are deemed to be continuing in nature so as to require additional or amended responses from you should you obtain or become aware of any new, additional, or differing responsive information or documents.

### **REQUESTS**

1. State whether ARC contends that air bag inflators are expected to occasionally experience a field rupture. If yes, state the frequency of field ruptures ARC considers to be expected and explain how ARC arrived at this frequency.

2. Did ARC notify any of its customers that its inflators are expected to occasionally experience field ruptures? If yes, identify each customer that received such a notification and describe the timing, contents, and other circumstances of the notification. If no, explain why no such notification was made.

3. In developing ARC's inflator design and manufacturing process for the subject inflators, state the frequency of field ruptures of the subject inflators ARC anticipated occurring as "random 'one-off' anomalies."<sup>3</sup> Explain how ARC arrived at this frequency.

4. State the frequency of field ruptures of the subject inflators ARC believes would evidence something more than "random 'one-off' manufacturing anomalies." Explain how ARC arrived at this frequency.

---

<sup>3</sup> See ARC's May 11, 2023 response to NHTSA's Recall Request letter, page 2.

5. State ARC's best estimate of the number of additional field ruptures of the subject inflators it believes will occur and provide an explanation of the methodology for that estimate. If ARC contends that no additional field ruptures of the subject inflators will occur, describe the basis for that contention.

6. Provide ARC's best estimate of the number of field deployments of the subject inflators that have occurred in the United States.

7. Provide a detailed narrative describing ARC's implementation of the borescope<sup>4</sup> into ARC's manufacturing process. This narrative should include, but is not limited to, describing (1) the borescope's criteria for acceptance/rejection of a subject inflator and why ARC decided to use those criteria, (2) ARC's desired outcome of the implementation, and (3) ARC's assessment of the actual outcome of the implementation.

8. Beginning in 2000 and for each year after, including the current year (2023), list the number of subject inflators rejected due to weld flash.<sup>5</sup>

9. State the name and title of the ARC employee responsible for approving the decision to implement the automated borescope.<sup>6</sup>

10. Provide a copy of the licensing agreement ARC and Delphi entered into on or around July 17, 2001.

11. Explain whether the licensing agreement requested in Request 10, above, allowed or required Delphi to use ARC's inflator design(s), manufacturing process(es), or both. Describe

---

<sup>4</sup> See *id.*, page 7.


<sup>5</sup> See *id.*, page 10.

<sup>6</sup> See *id.*, footnote 2.

in detail any discretion the licensing agreement gave Delphi related to ARC's inflator design(s) and manufacturing process(es).

Dated: May 31, 2023

ANN  
ELIZABETH  
CARLSON



Date: 2023.05.31  
15:09:16 -04'00'

---

Ann Carlson  
Chief Counsel