



U.S. Department
of Transportation

**National Highway
Traffic Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

Lucy Clark Dougherty
GNMA Vice President & General Counsel
General Motors Company
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Re: Failure to Fully Respond to Special Order in NHTSA's Timeliness Query TQ14-001
of Recall No. 14V-047

Dear Ms. Dougherty:

On March 4, 2014, the U.S. Secretary of Transportation, pursuant to a delegation of authority to the Chief Counsel of the National Highway Traffic Safety Administration ("NHTSA") directed a Special Order to General Motors LLC ("GM") in connection with the above listed Agency investigation regarding the timeliness of GM's recall of vehicles that contain a safety defect in which the vehicle's ignition switch may unintentionally move out of the "run" position. GM's response to that Special Order was due by April 3, 2014. GM has not fully responded and therefore is in violation of the Special Order. As stated in the Special Order, failure to respond fully or truthfully to the Special Order is subject to a civil penalty of up to \$7,000 per day. *See* 49 U.S.C. § 30165(a)(3); 49 C.F.R. § 578.6(a)(3).

GM did not respond to over a third of the requests in the Special Order by the April 3 deadline. The Special Order specifically instructed: "You are required to respond to every request listed in this Special Order." On April 4, 2014, you acknowledged that GM had not fully responded to the Special Order. You explained that GM did not fully respond because an investigation by Anton Valukas and his team was in progress. This was the first time GM had ever raised Mr. Valukas' work as a reason GM could not fully provide information to NHTSA in this timeliness investigation. In a supplemental response from April 7, GM failed to respond to numerous questions by answering only with a reference to Mr. Valukas' investigation. Mr. Valukas' investigation is irrelevant to GM's legal obligation to timely respond to the Special Order and fully cooperate with NHTSA.

GM previously indicated that it did not anticipate being able to respond to all of the "technical engineering questions" in the Special Order by the April 3 deadline. As memorialized by your March 20 email, GM explained that answers to these technical questions would be delayed "[g]iven the nature of the questions posed and the need to consult with engineers in

order to provide comprehensive and accurate responses.” NHTSA had no objection to GM taking additional time to respond to technical engineering questions, with the understanding that GM would fully respond to the remaining requests by the April 3 deadline. GM failed to do so.

Indeed, many of the requests to which GM failed to respond by the April 3 deadline are not “technical engineering questions” at all. For example, GM’s chronology indicated that a GM engineer approved changes to the ignition switch on April 26, 2006 and that Delphi began providing GM with the redesigned switch during the 2007 model year. Requests 63 and 64 asked GM whether it approved a change to the ignition switch at any other time. Additionally, GM’s chronology indicated that its Field Performance Evaluation Review Committee (“FPERC”), which makes recommendations to the Executive Field Action Decision Committee (“EFADC”), considered this issue in late 2012. Request 101 asked whether the FPERC requested any further analysis prior to making its recommendation. GM failed to respond to these requests. These are basic questions concerning information that is surely readily available to GM at this time. Moreover, it is deeply troubling that two months after recalling the vehicles, GM is unwilling or unable to tell NHTSA whether the design of the switch changed at any other time.

These are just some examples of the requests to which GM failed to respond as of the April 3 deadline and to which GM still has failed to provide a substantive response. As an initial matter, GM also failed to answer under oath as required. *See* 49 U.S.C. § 30166(g)(1)(A); 49 C.F.R. § 510.7. Due to GM’s failure to fully respond to the Special Order, I informed you on April 4 that NHTSA would demand civil penalties if GM did not provide a full response to all of the requests in the Special Order by the close of business on April 7.

GM still has failed to fully respond to the Special Order. NHTSA hereby demands a civil penalty of \$28,000, the statutory maximum of \$7,000 a day for each day following the April 3 deadline in which GM failed to fully respond. This penalty demand will continue to accrue by \$7,000 for each additional day in which NHTSA does not receive a complete response. To be clear, a complete response by GM means GM fully and substantively answers all questions and produces all responsive documents.

If GM does not fully respond to the Special Order immediately and pay all civil penalties accrued as of the date on which it does so, NHTSA may refer this matter to the U.S. Department of Justice to commence a civil action in Federal court to compel GM to fully respond to the Special Order and for civil penalties. *See* 49 U.S.C. §§ 30163(a)(1); 30166(h).

Sincerely,

A handwritten signature in blue ink that reads "O. Kevin Vincent" followed by a stylized flourish or initials.

O. Kevin Vincent
Chief Counsel

cc: M. Carmen Benavides, Director
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