



# Compulsory Takata Alpha Airbag Inflator Recall Order 2018

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I, the Hon Kris Faafoi, Minister of Commerce and Consumer Affairs, give notice under section 32 of the Fair Trading Act 1986, that suppliers of vehicles in trade fitted with Takata airbag inflators containing Phase Stabilised Ammonium Nitrate (PSAN) known as Alpha airbag inflators must:

- a) Recall all Alpha airbag inflators; and
- b) Repair all vehicles containing Alpha airbags inflators.

For the purpose of this notice an 'Alpha airbag inflator' is any airbag inflator made by Takata Corporation and its related bodies corporate using PSAN propellant and identified by the manufacturer as being subject to manufacturing defects that present an increased risk of misdeployment.

## Purpose

The purpose of this compulsory recall is to drive consumer uptake and to ensure a consistent response from affected vehicle suppliers in completion of the recall to protect New Zealanders from potential injury or death. It complements and accelerates work already being undertaken by the New Zealand motor vehicle industry on a voluntary basis.

Alpha airbag inflators are a subset of inflators in the wider global Takata airbag inflator recall. Alpha airbag inflators pose a significantly greater risk of misdeploying in an accident and sending fragments toward vehicle occupants. While there have been no identified incidents, injuries or deaths in New Zealand to date, the overseas incidents and the increased level of risk necessitates the prioritisation of the Alpha airbag inflator recall in New Zealand.

This Compulsory Recall Order prioritises replacement of Takata Alpha airbag inflators. Nothing in this notice reduces the onus on vehicle suppliers to complete the recall of non-Alpha, Takata airbag inflators within a reasonable period.

## Recall

### Commencement

1. This order comes into force 40 working days from the date the order is signed by the Minister.
2. The order remains in effect until all Alpha airbag inflators in New Zealand have been recalled, or until revoked or amended by the Minister of Commerce and Consumer Affairs.

## General

3. The recall must occur at the supplier's expense, and comply with the following obligations as to the manner.

## Disclosure of information to affected consumers

4. The recall must be disclosed to affected consumers, as a minimum; in the following manner:
  - a. Writing to the registered persons in respect of the vehicle as supplied from the Motor Vehicle Register administered by the Registrar of Motor Vehicles (the New Zealand Transport Agency).
  - b. If the supplier maintains a website, provide easily accessible information on the Takata airbag inflator recall that encourages and enables consumer uptake of the recall.
  - c. If the supplier maintains social media channels, provide regular posts with information on the recall that encourages and enables consumer uptake of the recall.
5. The above information disclosure must include in plain-English instructions on how consumers can get their vehicle remedied, free of charge, and the following statement:
  - a. *"Your vehicle is subject to a compulsory recall because it has been identified as having an Alpha airbag inflator. These airbag inflators may fail in an accident and explode sending fragments into vehicle occupants. Failure of the airbag inflator can cause serious injury or death."*

## Remedy to be provided

6. Affected vehicles must be repaired by replacing Alpha airbag inflators with:
  - a. Airbag inflators that use PSAN propellant with a desiccant that is not calcium sulphate; or,
  - b. An airbag that uses an appropriate alternative chemical propellant technology.
7. Affected vehicles must not be repaired by replacing Alpha airbag inflators with:
  - a. Alpha airbag inflators; or,
  - b. Second-hand airbag inflators.
8. On completion of the Alpha airbag inflator remedy, if further work is required to complete a non-Alpha airbag inflator recall, this must be disclosed to the consumer.
9. If an alpha airbag inflator has already been replaced with another recalled Takata airbag inflator then the supplier must within 1 month of the date this order comes into force advise the consumer to this effect and need for further remedy.

## Recall completion timeframe

10. Suppliers must complete all Alpha airbag inflator recalls no later than 31 December 2019, unless an alternate date on application, in writing, to the New Zealand Transport Agency and approved by the Minister of Commerce and Consumer Affairs.

## Public information disclosure

11. A supplier of affected vehicles must disclose to the public through the New Zealand Transport Agency on a monthly basis:
  - a. The number of affected vehicles in New Zealand at the time of reporting for which the supplier is responsible (liable), or has taken responsibility for (non-liable), that are affected by the global Takata airbag inflator recall.



- b. The subset number of vehicles identified with Alpha airbag inflators included in 11 a.
- c. The number of vehicles, reported under 11 a that have been remedied and no longer fitted with airbag inflators subject to recall.
- d. The number of vehicles reported under 11 b that have been remedied and no longer fitted with airbag inflators subject to recall.
- e. The number of vehicles that had Alpha airbag inflators that have been remedied but are still subject to the global Takata airbag inflator recall.
- f. Any other information identified by the New Zealand Transport Agency to ensure an effective recall.

### **Recall close-off disclosure**

- 12. Where an affected vehicle has not been remedied, and the supplier has taken all reasonably practicable steps to recall the vehicle, the supplier must disclose this and the vehicles VIN number to the New Zealand Transport Agency.
- 13. Where a consumer, having been advised of the recall, acknowledges the recall and declines to have the remedial work carried out, the supplier must disclose this and the vehicles VIN number to the New Zealand Transport Agency.

### **Enduring requirement to remedy**

- 14. Regardless of recall close-off, if subsequently a consumer presents a vehicle that has an Alpha airbag inflator, the supplier must replace the airbag.

### **Enforcement**

- 15. Failure to comply with this order constitutes an offence under section 40(1) of the Fair Trading Act 1986. Suppliers may be liable on conviction to a fine up to \$600,000 for a body corporate or \$200,000 for an individual.

### **Further effect of compulsory recall order**

#### **Prohibition of sale**

- 16. Pursuant to section 32(5) of the Fair Trading Act 1986, in-trade supply of vehicles fitted with Alpha airbag inflators is prohibited.

#### **Prohibition of import**

- 17. Pursuant to section 33 of the Fair Trading Act 1986, vehicles that contain Alpha airbag inflators are deemed to be prohibited imports under section 54 of the Custom and Excise Act 1996.

*As signed*

Dated, this 04<sup>th</sup> day of April 2018

Hon Kris Faafoi  
Minister of Commerce and Consumer Affairs

