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ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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December 15, 2014

The Honorable David Friedman
Deputy Administrator
National Highway Traffic
Safety Administration
1200 New Jersey Avenue, S.E.
West Building, W40-300
Washington, D.C. 205090

Deputy Administrator Friedman,

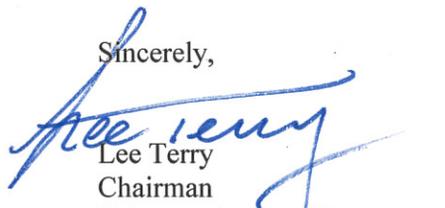
Thank you for appearing before the Subcommittee on Commerce, Manufacturing, and Trade on Wednesday, December, 2014 to testify at the hearing entitled "Takata Airbag Ruptures and Recalls."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions by the close of business on Wednesday, December 30, 2014. Your responses should be e-mailed to the Legislative Clerk in Word format at Kirby.Howard@mail.house.gov and mailed to Kirby Howard, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Lee Terry
Chairman
Subcommittee on Commerce,
Manufacturing, and Trade

cc: Jan Schakowsky, Ranking Member, Subcommittee on Commerce, Manufacturing, and Trade
Attachment

Additional Questions for the Record

The Honorable Lee Terry

1. What conversations has NHTSA had about prioritizing the flow of replacement airbag inflators? What factors have been relevant to NHTSA conversations about prioritizing certain geographic regions for replacement parts? What NHTSA personnel have taken part in any such conversations?
2. How does NHTSA determine whether to engage in its own independent testing of an auto-safety issue? What are the relevant factors that are considered? What NHTSA personnel would take part in any such conversations?
3. What conversations has NHTSA had over the last ten years over engaging in independent testing of air bag inflators? What relevant factors were examined in determining whether or not to conduct independent tests? What NHTSA personnel took part in any such conversations?
4. When was NHTSA first informed about an incident involving a ruptured Takata airbag inflator? Was NHTSA aware of any other incident like this or was this an unusual occurrence? Did NHTSA do any follow up with Takata or any other vehicle manufacturer after hearing about the first incident? If so, please detail those communications and actions.
5. After NHTSA alerted Honda to underreporting in its Early Warning Reports (EWRs) in 2012, did NHTSA conduct any further follow up with Honda in 2012? If so, please detail any steps NHTSA took in 2012 to address the underreporting. If no steps were taken in 2012, please explain why not.
 - a. Prior to 2014, was NHTSA satisfied that Honda had resolved their underreporting? If so, what was the basis for the agency's determination?
 - b. What caused NHTSA to issue a Special Order on November 3, 2014 regarding Honda's underreporting of EWRs? Why was a Special Order addressing the EWR reporting issue not issued in 2012 or 2013?
6. On November 26, 2014, NHTSA sent Takata a letter issuing a recall request for driver's side airbags due, in part, to "mounting data" demonstrating the existence of a safety defect. Please describe the "mounting data" NHTSA has acquired that supports its request to expand the regional field action to a national recall?
7. Does NHTSA employ an expert on chemicals such as those used in Takata's propellant? If yes, how long has the expert(s) been employed by NHTSA? If not, why not? If not, does NHTSA plan to hire a chemical expert who specializes in propellant?
8. Is NHTSA currently investigating why the agency closed an investigation into Honda in May 2010 after it had been opened in November 2009? If so, is there anything NHTSA can share today about why that investigation was closed only after 6 months?
 - a. There is an email chain from May 2010, shortly after this investigation was closed, between Takata and NHTSA where Takata representatives outline additional documentation they were compiling to send to NHTSA to supplement their original

responses when they received the Closing Resume for the investigation. Did NHTSA consider reopening the investigation to review additional materials submitted by Takata or Honda back in 2010?

9. Was NHTSA contacted about the three accident reports that occurred in Honda vehicles from May to August of 2007? If yes, what follow up, if any, did NHTSA perform at that time with Honda or Takata?
 - a. NHTSA has indicated, in light of the most recent rupture cases in California and North Carolina, that two rupture incidents are evidence of a trend worthy of a national recall—is this a new NHTSA standard? And why didn't the three reported 2007 ruptures trigger a similar response from NHTSA?
10. When did NHTSA become aware of the airbag inflator rupture in Santa Monica, California (which occurred in a 2005 Honda vehicle)? When did NHTSA become aware of the airbag inflator rupture in North Carolina (which occurred in a 2007 Ford Mustang)?
11. Please provide a timeline showing when NHTSA became aware of the CA and NC ruptures referenced above, what actions it took in response to those ruptures, and when it completed its investigation of the CA and NC ruptures.
12. What should NHTSA have done differently in the case of Honda's failure to report incidents involving death or injury in its EWRs?
 - a. What should NHTSA have done differently to better address the rupturing airbag inflator problem in 2005 when Takata first learned of the ruptured airbag in Alabama?
 - b. Is there anything NHTSA could have done to accelerate a resolution to the rupturing airbag issue between 2008 and 2011 when Honda was conducting recalls of its vehicles with Takata airbags? Could NHTSA have done anything to prevent further airbag ruptures after discovering that the bad stamp press was not the root cause?
 - c. Could NHTSA officials have noticed a pattern suggesting that Takata's evolving explanations for airbag ruptures were inadequate? What changes could be made to NHTSA—other than additional funds—such that NHTSA would be better positioned to perceive such a pattern?
13. On November 26, 2014, NHTSA issued a recall request letter urging a national recall of driver side airbags to Takata. In their December 2, 2014 response, Takata questioned NHTSA's decision to direct this demand to the manufacturer of original equipment. Why did NHTSA send the recall request letter to Takata rather than the motor vehicle manufacturers? Has NHTSA ever sent a recall request letter to a manufacturer of original equipment? If so, please provide a detailed explanation of each instance in which the agency took this action. If not, please provide a detailed explanation why the agency did so in this instance and who made that determination.
14. Do you believe that NHTSA has the authority to compel a manufacturer of original equipment to conduct a recall for a safety-related defect? If so, please provide the basis for this determination and provide a list of any previous examples where the agency exercised this authority.

15. NHTSA first only identified Florida, Hawaii, Puerto Rico, and the U.S. Virgin Islands as areas of high absolute humidity in its request to motor vehicle manufacturers to participate in a regional field action to collect potentially defective Takata airbag inflator parts. Has NHTSA modified that original list of states and territories to include other states and territories? If so, when and why did NHTSA make that determination and based on what measurement?

The Honorable Gregg Harper

1. Mr. Friedman, at the November 20 Senate Commerce Committee hearing, you said NHTSA “acknowledged” a plan authorizing dealers to disable potentially defective passenger side air bags where replacement parts were unavailable, as long as they also tell customers not to put someone in the passenger seat. Is NHTSA’s “acknowledgment” of this approach an endorsement, and should it be an option for all manufacturers of vehicles with passenger-side air bags subject to recall? As the nation’s top highway traffic safety official, can you tell this subcommittee that you will put into writing the legal and policy basis supporting the disabling of recalled air bags until replacement parts are available?

The Honorable Adam Kinzinger

1. As reported in a November 15, 2014 article in the *Detroit Free Press*, a young woman driving a 2006 Cobalt with a salvage title that her parents had bought for her died in a crash caused by one of GM's faulty ignition switches. Regrettably, the parents had gone to a dealership to get any outstanding recall issues on the vehicle remedied. The article highlighted that the dealership informed the consumer that they did not work on any car under a salvaged title.

Does NHTSA agree that automakers are required to apply their recall campaigns equally to vehicles with both clean and salvage titles? Does NHTSA agree that automakers must remedy recalls (through replacement parts, fixing or buying back recalled parts) for all vehicles regardless of title?

2. During recent testimony you stated:

“...I asked 12 major auto makers. I called them to Washington to talk to them about the need for a new normal when it comes to recalls. No more hiding information. No more hiding behind attorney/client privilege. No more waiting to prove beyond a shadow of a doubt there’s a problem. No more fighting us when we have clear evidence of defects. They need to act much more quickly.”

Would NHTSA agree to convening a meeting of automakers and professional automotive recyclers to address issues critical to ensure the safety of our nation's roads and vehicles?

The Honorable Jan Schakowsky

1. In the November 26, 2014, Recall Request Letter to Takata, NHTSA states that it may begin proceedings to seek penalties and remedies available by law. These civil penalties could be up to \$7,000 per violation, i.e., per vehicle that would have been subject to a national recall.
 - a. Please confirm that the maximum penalty NHTSA will be able to obtain from Takata for the airbag rupture defect is \$35 million.

- b. The Vehicle Safety Improvement Act of 2014 would increase the penalty per violation and eliminate the maximum penalty cap. NHTSA has testified before this Subcommittee in support of being able to impose higher penalties. Is this situation with Takata airbags a good example of how higher penalties could be a better deterrent to manufacturers who do not follow auto safety law?
 - c. What is NHTSA's process for obtaining civil penalties? If Takata does not cooperate, approximately how many months until Takata will actually pay penalties for the airbag rupture defect?
2. In response to NHTSA's Special Order to Honda regarding Honda's Early Warning Reporting (EWR) failures, Honda revealed that it failed to report more than 1,700 claims involving deaths or injuries. There have been reports that NHTSA advised Honda of discrepancies in January 2012. But NHTSA's Special Order to Honda was not issued until November 3 of this year.
 - a. Why did NHTSA not follow up with Honda after the Agency alerted Honda to these problems in 2012? And why did it take until the end of 2014 to have this underreporting resolved?
 - b. Briefly describe how the Early Warning Reporting system currently works and how EWR reports are useful to NHTSA's mission.
 - c. Eight of the unreported claims were of seven injuries and one death from Takata airbag ruptures. However, the other 1,721 unreported claims must include claims of other failures, such as failures of brakes, tires, locks, etc. Will NHTSA be reviewing the other 1,721 unreported claims for other possible safety issues? When will that review be completed?
 - d. Is NHTSA pursuing civil penalties against Honda for its failure to comply with the TREAD Act? Would those penalties also be subject to a maximum cap as discussed in the previous question?
 - e. Honda has announced that it will conduct a national recall of driver's side airbags. If it did not do so, and NHTSA was forced to seek penalties and remedies available by law, would NHTSA be able to seek penalties for the failure to recall as a separate series of violations, distinct from Honda's underreporting under the TREAD Act, or would those be considered a "related series of violations" and combined under the same maximum penalty cap?
3. Takata, the automakers, and you testified that the root cause of the airbag ruptures is still unknown. Takata claims that high humidity, high temperature, and the age of the vehicle are factors contributing to the ruptures. What is NHTSA doing to ensure that the new airbags currently being installed into cars in Florida will not have the same problems in five or 10 years?