

ONE HUNDRED FOURTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927

Minority (202) 225-3641

November 6, 2015

Dr. Mark Rosekind  
Administrator  
National Highway Traffic Safety Administration  
1200 New Jersey Avenue, S.E.  
Washington, DC 20590

Dear Dr. Rosekind,

Thank you for appearing before the Subcommittee on Commerce, Manufacturing, and Trade on Wednesday, October 21, 2015, to testify at the hearing entitled "Examining Ways to Improve Vehicle and Roadway Safety."

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 Friday, November 20, 2015. Your responses should be e-mailed to the Legislative Clerk in Word format at [Dylan.Vorbach@mail.house.gov](mailto:Dylan.Vorbach@mail.house.gov) and mailed to Dylan Vorbach, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515.

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

Sincerely,



Michael C. Burgess, M.D.  
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 Michael Burgess, M.D.**

1. You testified that the National Highway Traffic Safety Administration has an *Office* for Vehicle Electronics, Vehicle Software, and Emerging Technologies. The Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) directed NHTSA to establish a *Council* for Vehicle Electronics, Vehicle Software, and Emerging Technologies. Please clarify if the “Office” is the same entity as the Council that NHTSA was required to establish under MAP-21.
  - A. If the Office and the Council are different, please describe the differences between the two and indicate whether or not the Office and Council interact with each other and in what manner they interact.
  - B. If the Office and the Council are the same entity, when was the Office/Council established at NHTSA?
  - C. Other than the 2015 publication of “NHTSA and Vehicle Cybersecurity” that you referenced during the question and answer portion of the hearing, what other publications has the Office or Council produced on issues related to motor vehicle safety? Are there any pending publications expected to be produced by the Office/Council within the next 12 months? If so, what is/are the topic(s) of those publications?
2. What are the standard allowable nitrous oxide emissions for vehicles under current Environmental Protection Agency guidelines? Please also provide the allowable nitrous oxide emissions for vehicles in calendar year 2000.
3. How many vehicle safety recalls has NHTSA initiated over the last 10 years because a vehicle manufacturer denied the presence of a defect and refused to initiate its own recall? Of those cases, how soon after the defect was identified did NHTSA publicize the defect notice? Please provide the average number of days.
4. The staff discussion draft requires vehicle manufacturers to provide the vehicle identification numbers (VINs) of cars affected by a safety recall initiated by NHTSA within five business days before NHTSA can publicize the safety defect notice to consumers. If NHTSA publicizes a safety recall notice, as it did with respect to the Takata airbag inflator recalls on May 19, 2015, without having all affected VINs available on [safercar.gov](http://safercar.gov), what immediate action can consumers take to determine whether their vehicles are impacted by the recall?
  - A. In the case of the Takata example, what immediate action could consumers take on May 19, 2015 to determine whether their vehicles were affected by the safety recall notice?
5. Does Section 202 of the staff discussion draft change NHTSA’s ability to determine the presence of a safety defect and decision to publish a notice of defect or noncompliance in the first instance?
6. You testified that you could have obtained the Takata air bag recalls “years” earlier if your agency possessed “imminent hazard” authority. Please explain this in detail. What would your agency have done differently in the Takata air bag investigation if “imminent hazard” authority had been available? When would NHTSA have issued a recall with respect to Takata air bag inflator defects had it the agency had imminent hazard authority?

A. The Vehicle Safety Act already authorizes NHTSA to order a recall after deciding that a vehicle (or item of equipment) contains a safety-related defect. It appears that the only difference between your current authority and the “imminent hazard” authority you are seeking in Grow America is the fact that you wouldn’t have to provide the manufacturer with an opportunity to present its views before ordering a recall. Given that you’ve known Takata’s views for some time, what provision of your current statute prevented you from using your existing authority to order Takata to recall the air bags months or even years ago?

B. The Grow America Act describes an imminent hazard as “an emergency situation involving imminent hazard of death, personal injury, or significant harm to the public,” and would authorize your agency to “issue an order prescribing such restrictions and prohibitions as may be necessary to abate the situation”. What “restrictions and prohibitions” would you have prescribed in the Takata air bag case if Congress had given you this authority?

7. In January, Secretary Foxx announced a plan to add two automatic emergency braking systems to the list of recommended vehicle advanced technology features under its New Car Assessment Program (NCAP). In September, ten automakers committed to make automatic emergency braking a standard feature in new vehicles. NHTSA is also undergoing an update of the NCAP. When can we expect that update to be completed and how will it measure the performance of crash avoidance and congestion mitigation technologies entering the marketplace today?
8. Has NHTSA developed any privacy standards for auto manufacturers regarding how auto manufacturers should treat the data being generated or collected by motor vehicles or motor vehicle equipment beyond what has been provided for event data recorders? If not, does the agency have any plans to do so within the next 12 months?
9. Does NHTSA believe that the information and data generated from increased car connectivity can enhance vehicle and roadway safety? If so, please describe how. If not, please explain why not.
10. How many data privacy or security complaints has NHTSA received in the last 5 years? What actions has NHTSA taken to respond to or address those complaints?
11. You testified that “do not drive” warnings are issued by the manufacturer and not NHTSA. Currently, regulations require manufacturers to submit draft safety recall notification letters to NHTSA to review and approve before they are sent to customers. Does NHTSA believe it has the authority to require auto manufacturers to issue “do not drive” or “stop drive” warnings in these notices? If not, how did the agency make that determination and why wasn’t this authority requested in its Grow America proposal? What is the agency reviewing and approving in the draft notices that auto manufacturers submit to NHTSA prior to sending out safety recall notices to consumers?
12. Under what circumstances or conditions does NHTSA believe auto manufacturers should issue “do not drive” or “stop drive” warnings and notices to consumers? Have there been any cases in the last 5 years that NHTSA has recommended that an auto manufacturer issue a “stop drive” warning or notice and the manufacturer has refused to do so?
13. Do you believe that customers with vehicles equipped with recalled Takata air bags should stop driving those cars?
14. How many lives does NHTSA estimate will be saved if every rental vehicle under open recall is grounded by rental car companies as required by Section 4109(a) of the Grow America Act? How

many injuries does NHTSA estimate will be prevented if rental car vehicles are grounded as required by Section 4109(a) of the Grow America Act?

15. Has NHTSA identified any trends in the complaints it receives about the safety of after-market recycled parts? If so, please describe those trends.
16. When can we expect NHTSA to issue its Phase 2 Driver Distraction Guidelines? What additional considerations is NHTSA making in its development of the Phase 2 Guidelines?
17. What guidance does NHTSA currently provide to consumers on how to submit vehicle safety complaints?
18. In 2012, Congress passed MAP-21, which directed NHTSA to “prescribe regulations permitting any written disclosures or notices and related matters to be provided electronically” within 18 months of the bills enactment. Such regulations allow States to permit electronic odometer disclosures. Why hasn’t NHTSA followed through with a rule?
  - A. How long does it take for a State to be granted a waiver from NHTSA if the State applies to electronically receive and process odometer disclosures?
  - B. How many States have sought this waiver since 2012? Are there any applications pending today? If so, can you provide an estimate for when that waiver should be granted or denied?
  - C. Have any waivers been denied? Under what circumstances would NHTSA deny a waiver?
19. How is NHTSA currently working with States to improve the public’s awareness of safety recalls?
20. The Federal Highway Administration has estimated that 12.5% of fuel wasted in traffic is a direct result of crashes. You have testified in front of this Committee that V2V technology has the potential to eliminate or mitigate up to 80% of non-impaired crashes. Do you agree with the assertion that there is “no link” between the technologies that could be eligible for CAFE credits (including DSRC connected vehicles) and potential fuel savings?
21. At the hearing, you described the credits proposed in Title V as a “trade-off” between safety and fuel economy, but in numerous other public materials, the Department of Transportation has touted the potential environmental and fuel saving benefits of the kinds of technologies that could earn these credits. For example, Secretary Foxx stated in NHTSA’s press release accompanying the Advanced Notice of Proposed Rulemaking for V2V, “This technology could move us from helping people survive crashes to helping them avoid crashes altogether – saving lives, saving money and even *saving fuel* thanks to the widespread benefits it offers” (emphasis added). Do you disagree with Secretary Foxx?
22. Are you familiar with the “Applications for the Environment: Real-Time Information Synthesis (AERIS) Program” within the Intelligent Transportation Systems Joint Programming Office? If so, what is its purpose?
23. In your oral testimony, you stated, “New, used, or rental vehicles that have a known defect should be remedied before they’re on the road.” You later stated, “I will repeat to be clear, new, used, and rental -- if it has a defect it should be off the road.”

A. There are an estimated 46 million vehicles on the road under open recall today. Should all those vehicles “be off the road”?

**The Honorable Brett Guthrie**

In your testimony before the Subcommittee, you stated: “In the GROW AMERICA Act, Secretary Foxx proposed significant enhancements to NHTSA safety authorities, including...authority to prevent rentals or used-car sales of vehicles under safety recall...[Sec. 4109]”. As NHTSA is a data-driven agency that bases its policy decisions on hard data and facts, I would appreciate a chance to review the data and analyses NHTSA relied on to support the inclusion of Sec. 4109 in the GROW AMERICA Act. Specifically, I would request that you provide the analyses and methodologies you used in answering the following questions:

1. How many lives does NHTSA estimate will be saved if every rental vehicle under open recall is grounded by rental companies as required by Sec. 4109(a) of the Grow America Act?
2. How many injuries does NHTSA estimate will be prevented if the rental car grounding requirement in Sec. 4109(a) is enacted?
3. What will be the annual cost to the economy if Sec. 4109(a) is enacted?
4. In the latest year for which figures are available, how many fatalities were there in which the occupant died in a rental vehicle that was under open recall, and the defect or non-compliance was the cause of the crash?
5. How many lives does NHTSA estimate will be saved if Congress enacts Sec. 4109(b) of the Grow America Act which prohibits the sale by dealerships of all used vehicles under open recall?
6. How many injuries does NHTSA estimate will be prevented if the used car sales prohibition in Sec. 4109(b) is enacted?
7. What will be the annual cost to the economy if Sec. 4109(b) is enacted?
8. Has NHTSA studied the likelihood that enactment of Sec. 4109(b) may reduce, instead of increase, recall completion rates because trade-in values of recalled vehicles will be diminished under this section and more vehicles will be sold in the unregulated private market?
9. Does *every* vehicle recalled for non-compliance (such as a wrong phone number in an owner’s manual) present an unreasonable risk to actual safety that warrants the vehicle’s immediate grounding?