

**U.S. House of Representatives
Committee on Energy and Commerce
Subcommittee on Commerce, Manufacturing, and Trade
October 21, 2015 Hearing:
“Examining Ways to Improve Vehicle and Roadway Safety”
NHTSA Administrator Mark R. Rosekind, Ph.D.**

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 21st 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.

RESPONSE: The Office Electronic Systems Safety Research and Council for Vehicle Electronics, Vehicle Software, and Emerging Technologies are different entities.

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.

RESPONSE: Within NHTSA’s Vehicle Safety Research program, the Office of Electronic Systems Safety Research was created in 2012. Its mission is to implement research programs that will build a scientific base to support NHTSA’s (the agency) decisions in the areas of electronics reliability, cybersecurity, vehicle control systems and emerging technologies that use sensors to achieve higher levels of automation.

The Council, as established by MAP-21 in 2012, formalized an internal agency working group in the area of vehicle electronics. The Council expands NHTSA’s existing automotive electronics expertise by providing a forum for coordinating, communicating, and disseminating information on emerging technologies throughout the agency.

Managers and staff from the Vehicle Safety Research program are members of and participate in Council meetings, ensuring regular interaction.

B. If the Office and the Council are the same entity, when was the Office/Council established at NHTSA?

RESPONSE: The Office of Electronic Systems Safety Research and Council for Vehicle Electronics, Vehicle Software, and Emerging Technologies are not the same entity. Both the Office and Council were established in 2012.

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?

RESPONSE: The Council is an internal coordinating body. It does not produce publications.

The Office of Electronic Systems Safety Research publishes research project reports when they are completed. These technical reports are published on the NHTSA website or in public dockets. Web publications can be found at www.nhtsa.dot.gov by clicking on the Research link. Examples of recent technical publications from this Office include:

- Human Factors Evaluation Of Level 2 and Level 3 Automated Driving Concepts (DOT HS 812 182);
- Assessment of the Information Sharing and Analysis Center Model (DOT HS 812 076);
- A Summary of Cybersecurity Best Practices (DOT HS 812 075);
- Characterization of Potential Security Threats in Modern Automobiles: A Composite Modeling Approach (DOT HS 812 074);
- National Institute of Standards And Technology Cybersecurity Risk Management Framework Applied to Modern Vehicles (DOT HS 812 073).

The Office of Electronic Systems Safety Research also published a Federal Register Notice on Automotive Electronic Control Systems Safety and Security, outlining NHTSA automotive cybersecurity and electronic reliability programs, and solicited public feedback (79 Fed. Reg. 60574, Oct. 7, 2014). Over the next year, the Office of Electronic Systems Safety Research will continue to publish technical reports as projects are completed, such as reports on automated vehicles, automotive cybersecurity, and functional safety/electronics reliability.

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.

RESPONSE: Nitrous oxide, or N₂O, is a greenhouse gas pollutant primarily emitted by agricultural sources, although motor vehicles are also an important source. For Model Year (MY) 2012 and later light-duty vehicles, the EPA standard is 0.010 g of N₂O/mile. The Committee may find more information about EPA's light-duty N₂O standards at 77 Fed. Reg. at 62799-801 (Oct. 15, 2012). EPA did not determine that nitrous oxide was a pollutant requiring regulation under the Clean Air Act until 2009, so there were no applicable Federal standards for N₂O 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.

RESPONSE: NHTSA has influenced nearly 1,500 vehicle recalls over the last 10 years. Manufacturers almost always conduct recall campaigns after NHTSA requests that they do so. If the manufacturer declines to conduct a recall in response to NHTSA's formal request, the Associate Administrator for Enforcement may issue an Initial Decision that a safety-related defect exists. An Initial Decision will be followed by a Public Meeting, at which the manufacturer and interested members of the public can present information and arguments on the issue. During the meeting itself, the manufacturer may attempt to refute the agency's evidence in addition to presenting new information. Public interest groups, other manufacturers, trade associations, and consumers may also present information that will be considered and evaluated by NHTSA's Administrator in making a Final Decision on whether a safety-related defect exists. If a manufacturer still declines to conduct a recall, the entire investigative record is then presented to NHTSA's Administrator, who may issue a Final Decision that a safety defect exists and order the manufacturer to conduct a recall.

It is exceedingly rare for the agency to engage in this process to force a manufacturer to conduct a safety recall. NHTSA has initiated the foregoing steps for only three safety recalls in the last 10 years. In all three of these cases, manufacturers eventually agreed to issue defect notices, but only after NHTSA made an Initial Decision. The agency did not need to proceed to issue a Final Decision as the manufacturer agreed to initiate a recall prior to that step. In NHTSA-initiated recalls, the agency publishes both Initial Decisions and Final Decisions immediately after execution.

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, what immediate action can consumers take to determine whether their vehicles are impacted by the recall?

RESPONSE: Consumers whose VINS are available on safercar.gov can take immediate action. Consumers whose VINs are not yet identified can examine the recall notice and other documents to ascertain if the make, model and model year of their vehicle is included in the recall. They may also contact their dealer or the vehicle manufacturer to confirm if the build date of their vehicle puts it within the scope of the recall. However, using the VIN lookup tool is the best method for confirming if a consumer's vehicle is covered by a recall, which is why we urge consumers to use the tool on a recurring basis, as information is updated, to make sure their car is safe.

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?

RESPONSE: Until more specific information became available so individual owners could check for a recall on their particular vehicle, consumers could review information on NHTSA's website and contact the vehicle manufacturer to determine if their particular make, model and model year was within the potential scope of the recall.

Many aspects of the Takata recall were unprecedented and very challenging, such as the number of inflators involved and the number of different manufacturers involved. Linking specific vehicles and VINs to the inflators supplied by Takata to these manufacturers was difficult and took time. The VINs for vehicles impacted by the Takata recall were available as soon as the various vehicle manufacturers could complete the task of compiling accurate lists.

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?

RESPONSE: Section 202 would not impact NHTSA's ability to make an *Initial* (non-binding) Decision that a vehicle contains a safety-related defect or is in noncompliance with a safety standard. However, it would impede and delay, perhaps significantly, NHTSA's ability to notify the public of that decision and to make a *Final* Decision ordering a recall. The proposal would prevent NHTSA from publishing a notice of an Initial Decision that a vehicle contains a defect or is in noncompliance unless and until NHTSA notifies each affected manufacturer and supplier, acquires part numbers for all involved parts, obtains a comprehensive list of VINs for the vehicles that would be impacted, and obtains information on whether remedies are available. Although this process for initiating a recall is only needed when a manufacturer does not agree that there is a defect or noncompliance, the amendment would require NHTSA to draft the notice of its Initial Decision "in coordination with the affected manufacturer or manufacturers," creating what is in essence a conflict of interest. These provisions dilute NHTSA's authority to compel a recall, and therefore may create a disincentive for manufacturers to conduct voluntary recalls.

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 the agency had imminent hazard authority?

RESPONSE: While we are pleased that Takata finally agreed on May 19, 2015, to declare defects under our statute, Takata may have done so sooner, perhaps significantly so, if the agency had imminent hazard authority. After opening our investigation in June 2014, NHTSA had numerous discussions with Takata and the vehicle manufacturers about conducting recalls. Those discussions went nowhere. As a result, in November 2014, NHTSA publicly called on the vehicle manufacturers to conduct nationwide recalls of certain driver side inflators, and sent a

recall request letter to Takata. The agency's demands were rebuffed, even though the inflator ruptures were known to create a likelihood of death or serious injury. If NHTSA had imminent hazard authority, the agency could have taken immediate action in the fall of 2014 in the form of an agency order, requiring Takata and the vehicle manufacturers to conduct a recall.

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?

RESPONSE: The existing legal process under 49 U.S.C. §§ 30118(a) and (b), implemented in 49 C.F.R. Part 554, includes a full investigation and administrative proceeding before we can issue a Final Decision that a defect exists. After Takata rejected the agency's initial, informal requests for a recall, NHTSA sent Takata a recall request letter, consistent with its process under 49 U.S.C. § 30118(a), in November 2014. In early-December, Takata responded, and again refused to conduct the requested recall. The agency then began preparing for an administrative proceeding; however, before it formally commenced such a proceeding, Takata finally agreed to submit Part 573 Reports, declaring a safety-related defect. Under GROW AMERICA's imminent hazard authority, the agency would not have to go through the administrative proceeding before making a determination that a defect exists that presents an imminent risk of death or injury.

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?

RESPONSE: GROW AMERICA's imminent hazard authority would have allowed NHTSA to quickly take certain actions. NHTSA could have prescribed any and all restrictions necessary to protect the American public from the risk of harm posed by the rupturing Takata inflators, including, but not limited to, ordering a recall much earlier than when Takata agreed to declare a defect on May 19, 2015. NHTSA could also have ordered, in whole or in part, the various actions the agency ordered on November 3, 2015, again much earlier than Takata agreed. Those actions included accelerated recall repairs to millions of affected vehicles, prioritization of recalls, and establishing deadlines for future recalls of other Takata inflators.

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?

RESPONSE: On December 8, 2015, the Department announced significant changes to NHTSA's NCAP program. NHTSA plans to finalize its decision regarding the NCAP upgrade in late 2016. NHTSA intends to measure the performance of crash avoidance technologies using the test procedures described in the Federal Register notice requesting public comments.

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?

RESPONSE: No. We currently do not anticipate a need to publish any guidance in this area because the automobile industry has already developed its own guidelines, "Consumer Privacy Protection Principles: Privacy Principles for Vehicle Technologies and Services" (<http://www.autoalliance.org/index.cfm?objectid=CC629950-6A96-11E4-866D000C296BA163>). However, we are coordinating with the Federal Trade Commission on motor vehicle data collection specifically for the V2V rulemaking activities.

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.

RESPONSE: Yes, vehicle-to-vehicle (V2V) communications have the potential to greatly improve vehicle safety, which is why NHTSA has committed to Secretary Foxx to send a Notice of Proposed Rulemaking to require V2V communications for all new light vehicles to the Office of Management and Budget for review by the end of 2015. V2V communications send out a basic safety message 10 times per second and provide 360 degree situational awareness of surrounding vehicles, such as location, speed, direction, without collecting or sharing personal information about the driver. These unique features allow V2V communications to enable a variety of vehicle safety technologies, particularly intersection crash warning technologies, which are difficult or impossible to address using conventional sensing systems. V2V technologies stand out in addressing intersection crashes, which are among the most deadly crashes on our roads. Just two V2V applications, intersection movement assist and left-turn across path warnings, may help avoid more than half of these types of crashes – nearly 600,000 crashes and more than 1,000 lives potentially saved every year.

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?

RESPONSE: In the 5 years prior to the July 2015 publication of the *Wired* magazine article that immediately preceded the Chrysler entertainment system security recall, NHTSA received two complaints in which the primary allegation was that a computer module in a vehicle had been “hacked” to the degree that the ability to control the vehicle may have been compromised. Our examination and analysis of these incidents, which included interviews of the complainants, indicated that one vehicle may have experienced issues caused by aftermarket accessories and the other would likely only be susceptible to attack through a direct wired connection to the onboard diagnostics port. Since the publication of the *Wired* article and subsequent Chrysler recall, NHTSA has received about eight complaints scattered across models and model years relating to vehicle computer security. These complaints either stated a general concern about the security of vehicle computer systems, alleged that vehicles had been “hacked” in unspecified ways, or ascribed costly repairs or undiagnosed electrical problems to “hacking.”

NHTSA conducted follow-up interviews to determine if the incidents presented a safety risk. The agency has not identified any complaint data indicative of a safety risk but remains very concerned about the potential safety consequences of unauthorized control and/or modification of vehicle computer systems.

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?

RESPONSE: NHTSA does not have the authority to order consumers not to drive their vehicles. In appropriate circumstances, NHTSA may require a manufacturer to advise consumers not to drive their vehicles until a safety-related defect or noncompliance is remedied.

NHTSA’s Recall Management Division reviews a draft of the entire safety recall notice for every recall and approves the draft or requires changes before the manufacturer sends the notice to vehicle owners.

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?

RESPONSE: NHTSA believes that “do not drive” or “stop drive” warnings and notices should be issued in instances where the safety risk posed by a defect is severe or catastrophic, and there is a high probability that the defect will manifest itself when the vehicle or equipment item is in use. Within the last five years, manufacturers have issued a handful of “do not drive” instructions in recall notices, and no manufacturer has refused to issue a “do not drive” or “stop drive” after NHTSA recommended that they do so.

13. Do you believe that customers with vehicles equipped with recalled Takata air bags should stop driving those cars?

RESPONSE: No, but we do urge these customers to have recall remedies performed as quickly as possible, particularly for cars located in the hot and humid areas of the U.S. As demonstrated by the prioritization in NHTSA’s Coordinated Remedy Plan, the greatest risk posed by Takata air bags exists in driver inflators in certain vehicles located in the hot and humid regions. Even for those vehicles, testing of air bags recovered from repaired vehicles and monitoring of field events indicate that ruptures are very rare. Given the fact that a vehicle must be in a frontal crash that is sufficiently severe to require a frontal air bag deployment and the air bag itself must contain the defect before a rupture can occur, NHTSA does not presently believe that owners should stop driving their 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?

RESPONSE: The data for the requested estimates do not exist because, in general, data sources do not track a vehicle’s rental status. However, the U.S. rental fleet numbers several million vehicles, and there is no reasonable safety justification to treat this universe of vehicles differently than new car sales, where a known defect must be remedied. A consumer renting a vehicle is not well situated to know the recall status of that vehicle, and therefore especially vulnerable in this situation.

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.

RESPONSE: NHTSA has not identified any defect trends. However, the agency is particularly concerned about the sale of recalled Takata air bags by automobile recyclers and private individuals through online outlets such as E-Bay. NHTSA is currently working with E-Bay to identify and remove listings offering recalled Takata air bag modules for sale and to prevent new listings for these parts from appearing on the site. NHTSA has also contacted another online service specializing in listing salvage parts to accomplish similar goals.

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?

RESPONSE: NHTSA expects to issue the Phase 2 Driver Distraction Guidelines in the near future. In developing the Phase 2 Guidelines, we are considering public input from our stakeholder meeting, meetings with technology providers, and comments to the Phase I guidelines.

17. What guidance does NHTSA currently provide to consumers on how to submit vehicle safety complaints?

RESPONSE: In late September 2015, NHTSA enhanced its online complaint form to include additional guidance to consumers on how to submit vehicle safety complaints. Our Safety Hotline personnel have been trained to provide comparable guidance when processing complaints from telephone calls. Each section and field of the form has descriptive/explanatory sentences that guide consumers on the information that is needed in that section and/or field. All required fields throughout the form are clearly indicated with asterisks. Finally, each page of the form has two "Chat Help" buttons that consumers can click to obtain live chat assistance to answer any questions that they might have about filling out the form.

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 bill's enactment. Such regulations allow States to permit electronic odometer disclosures. Why hasn't NHTSA followed through with a rule?

RESPONSE: In the Department's August 13, 2014 letter to the Committee on Commerce, Science, and Transportation, NHTSA stated that we were unable to meet the 18-month deadline in MAP-21 for this rulemaking because of other higher priority safety rulemakings and the need for additional research on electronic odometer information reporting, which was then underway by the American Association of Motor Vehicle Administrators (AAMVA). After reviewing the AAMVA report, which was published in December 2014, we determined that additional research was still necessary because this rulemaking involves unique issues that the agency has not faced before. For example, some unique issues included: how to identify the equivalent of written signature for enforcement actions for forgery, the level of security sufficient for electronic servers, and achieving compatibility of electronic systems across States, among others.

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?

RESPONSE: The waiver process, including analysis of the petition, publication of an initial determination in the Federal Register, a comment period and analysis of the comments, and issuance of a final determination, has averaged about 22 months. Five States have gone through the waiver process prior to 2012.

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?

RESPONSE: Since 2012, one State petitioned for approval of alternative odometer disclosure requirements. The agency issued an initial determination denying the request and expects to issue a final determination in the next 6 months.

C. Have any waivers been denied? Under what circumstances would NHTSA deny a waiver?

RESPONSE: None of the petitions have been denied in their entirety. Some petitions have been denied in part and granted in part.

The Motor Vehicle Information and Cost Savings Act requires NHTSA to approve alternate motor vehicle mileage disclosure requirements submitted by a State unless NHTSA determines that such requirements are not consistent with the purpose of the disclosure required by the Act.

Under this authority, NHTSA may deny the petition, for example, if the alternative disclosure scheme offered by a State does not use a secure title, does not create a sufficient “paper trail” for detecting and prosecuting odometer fraud, or does not adequately prevent alteration or forgery of odometer disclosure statements.

19. How is NHTSA currently working with States to improve the public's awareness of safety recalls?

RESPONSE: NHTSA regularly interacts with the American Association of Motor Vehicle Administrators and the State DMVs, and has provided guidance to State DMVs about ways to increase recall completion, particularly through promoted use of the agency’s VIN look up tool, whether at physical locations or on their websites for renewing vehicle registrations. GROW AMERICA contains our proposed pilot grant that would help determine the feasibility of linking safety recall notification with vehicle registration and registration renewals.

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?

RESPONSE: Once widely implemented in the vehicle fleet, a variety of crash avoidance technologies (including V2V communications-based warning technologies) have the potential to save fuel for the fleet as a whole. In general, crashes cause congestion, so fewer crashes should equal less congestion, and any technology that helps drivers avoid crashes may help the fleet as a

whole to save fuel. However, for the reasons noted in the response to the following question, NHTSA does not believe that these crash avoidance technologies should be eligible for CAFE credits.

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?

RESPONSE: As noted in the response to the previous question, NHTSA agrees that crash avoidance technologies may contribute to fuel savings. The credits proposed in Title V, however, are premised on the assumption that the vehicle that avoids the crash is the one that saves the fuel, when in reality, the fuel savings accrue to the fleet as a whole. NHTSA and EPA have worked hard in the CAFE and GHG programs to ensure that vehicle manufacturers have to make real improvements to their fuel economy and GHG emissions, and we are concerned that the specific credit values provided for in Title V do not have a sound scientific basis and could reduce overall fuel economy improvements.

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?

RESPONSE: The objective of the multi-modal AERIS research program is to focus on technologies and applications that generate, obtain and use environmentally relevant real-time transportation data that could provide environmental benefits such as fuel use reductions and emission reductions. More details on this program led by ITS-JPO can be found at <http://www.its.dot.gov/aeris/>

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"?

RESPONSE: Any vehicle under a safety recall presents a risk to public safety. The only acceptable goal is repair of 100 percent of defective vehicles, and the agency will not be satisfied until we reach that goal. That is why we held an all-day event on April 28, 2015 to solicit ideas from industry, safety advocates, Congress and the public on how to

improve recall completion rates. Requiring that used cars and rental cars with open recalls are repaired before they are sold or rented is an essential element of our plans to boost recall completion rates. It is simply unacceptable for dealers or rental agencies to put the keys of a recalled vehicle in the hands of a consumer before the vehicle is repaired, which is why GROW AMERICA includes that prohibition. GROW AMERICA also proposes a pilot grant program to explore using State motor vehicle departments to inform consumers at the time of registration if their vehicle is under recall. NHTSA is engaged in a broad range of additional activities to boost recall completion rates and will continue to seek new ways to meet the goal of 100 percent completion for all safety recalls.

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?

RESPONSE: The data for the requested estimates do not exist because, in general, data sources do not track a vehicle's rental status. However, the U.S. rental fleet numbers several million vehicles, and there is no reasonable safety justification to treat this universe of vehicles differently than new car sales, where a known defect must be remedied. A consumer renting a vehicle is not well situated to know the recall status of that vehicle, and is therefore especially vulnerable in this situation.

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?

RESPONSE: The data for the requested estimates do not exist because, in general, data sources do not track the recall remedy status of vehicles offered for sale. However, with tens of millions of used cars sold annually in the U.S., there is no reasonable safety justification to treat this universe of vehicles differently than new car sales, where a known defect must be remedied.

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?

RESPONSE: We do not believe that recall completion rates would be reduced. Manufacturers are required to provide a recall remedy free of charge for vehicles that are at 10 years old or less and customarily provide such remedies for free when vehicles are older than 10 years.

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?

RESPONSE: No. Vehicles are recalled because they either do not comply with Federal motor vehicle safety standards (FMVSS) or because they have a safety-related defect creating an unreasonable risk. Non-compliance with the FMVSS does not necessarily present an unreasonable risk. In circumstances where an instance of non-compliance such as a labeling or marking issue occurs, manufacturers may petition NHTSA for a determination that the non-compliance is inconsequential. If that petition is granted, no recall occurs.