

In response to the November 6, 2015 letter from Chairman Burgess to NADA President Peter Welch to answer questions for the record regarding the October 21, 2015 House Subcommittee on Commerce, Manufacturing and Trade hearing entitled "Examining Way to Improve Vehicle and Roadway Safety", NADA submits the following responses to questions posed by the Honorable Lois Capps:

- 1. At the hearing, I asked you whether auto dealers should be allowed to rent or loan consumers a vehicle with an unrepaired safety recall. You said, "Not if the car is unsafe to drive." According to NHTSA Administrator Rosekind's testimony, all cars under safety recall are deemed "unsafe" to drive. At the hearing the Administrator clearly stated that "if [a car] has a defect it should be off the road." Under what circumstances would it be appropriate for a dealer to rent or loan its customers a vehicle with an unrepaired safety recall?**
 - A. In general, should auto dealers be allowed to rent or loan unrepaired recall cars that have the potential to catch fire?**
 - B. In general, should auto dealers be allowed to rent or loan unrepaired recall cars with brakes that can potentially fail while driving?**
 - C. In general, should auto dealers be allowed to rent or loan unrepaired recalled cars that contain faulty steering wheels, seat belts or airbags?**

Response to Question 1.

In connection with every recall, the National Highway Traffic Safety Administration (NHTSA) and the involved manufacturer make a determination whether vehicle owners should be advised that the vehicles being recalled are unsafe to operate. This has been true ever since the National Traffic and Motor Vehicle Safety Act (the Act) was passed into law some 40 years ago and is true whether the recall is for a safety defect or a noncompliance with a Federal Motor Vehicle Safety Standard (FMVSS). When a vehicle is determined to be unsafe to operate, a "stop drive" admonition is included in the recall notices required by the Act to be sent to vehicle owners and vehicle dealers and in other communications relating to the recall. Once a dealer receives notice of a NHTSA or manufacturer determination that the recalled vehicle is subject to a "stop drive" admonition, it would be inappropriate for a dealer to rent or loan that vehicle, irrespective of the safety defect or FMVSS noncompliance at issue. Dealers rely on the expert judgment of NHTSA and the vehicle manufacturers to determine when a safety defect or FMVSS noncompliance warrants a "stop drive" admonition.

- A. Same answer as (1).
- B. Same answer as (1).
- C. Same answer as (1).

2. You expressed NADA's view that dealers should be allowed to rent or loan unrepaired recalled cars unless those cars are subject to "Stop Drive" notices. To clarify, is it NADA's position that it is an acceptable practice for auto dealers to rent or loan unrepaired recalled vehicles unless they are part of the very small percentage of recalls that are Stop Drive recalls?

A. The rented PT Cruiser that killed Raechel and Jacqueline Houck had a defective steering component that was not subject to a "stop drive" recall. Should auto dealers be allowed to rent or loan unrepaired recalled cars with defective steering components?

B. The rented Honda containing an exploding Takata air bag that killed Jewel Brangman was not subject to a "stop drive" recall. Should auto dealers be allowed to rent or loan unrepaired recalled cars with faulty airbags?

C. The GM Ignition Switch, which was found to be responsible for over 100 deaths and hundreds of injuries, was not a "Stop Drive" recall. In general, should auto dealers be allowed to rent or loan unrepaired recalled cars with a defective ignition switch?

D. The Toyota unintended acceleration recall was not a "Stop Drive" recall. Should auto dealers be allowed to rent or loan unrepaired recalled Toyota cars with sticking accelerator pedals?

Response to Question 2.

As indicated in response to question (1), it is NADA's view that if NHTSA or the involved manufacturer determines that a vehicle subject to a safety defect or FMVSS noncompliance recall is unsafe to operate and, as a result, issues a "stop drive" admonition in the recall notices it sends to owners and dealers, then the dealer should not rent or loan the vehicle until after it is remedied, irrespective of the reason for the recall. Dealers rely on the expert judgment of NHTSA and the vehicle manufacturers as to when a safety defect or FMVSS noncompliance warrants a "stop drive" admonition and thus the number of recalls and vehicles to which such an admonition should apply.

A. Same answer as (2).

B. Same answer as (2).

C. Same answer as (2). Note that the Department of Transportation was specifically requested by Senators Markey and Blumenthal to issue a "stop drive" admonition with respect to all GM vehicles recalled for a defective ignition switch (No.14V-047).¹ The agency declined that request, stating: "*In appropriate circumstances,*

¹ Attached letter to U.S. Department of Transportation Secretary Anthony Foxx from Senators Markey and Blumenthal (April 28, 2014)

the National Highway Traffic Safety Administration (NHTSA) may require a manufacturer to advise owners not to drive their vehicles until a safety-related defect or noncompliance is remedied. In this case, however, NHTSA has thoroughly evaluated the interim guidance that GM has issued to all affected vehicle owners and determined that such an action is not necessary at this time.”²

This position is consistent with NHTSA’s long-standing application of its expert judgment to safety recalls.

D. Same answer as (2).

- 3. You stated at the hearing that 6% of recalls are "Stop Drive" recalls. Can you provide the subcommittee with the source for this number?**

Response to Question 3.

The Alliance of Automobile Manufacturers.

- 4. In 2014, there were a record number of safety recalls involving almost 64 million vehicles; so far in 2015, over 40 million vehicles have been recalled. Were any of these recalls in 2014 Stop Drive recalls?**

Response to Question 4.

NADA does not have that information. We recommend asking NHTSA for that information.

- 5. Can you provide for the subcommittee the number of recalls since January 1, 2014 that have been Stop Drive recalls, and how many vehicles were affected?**

Response to Question 5.

NADA does not have that information. We recommend asking NHTSA for that information.

- 6. When a consumer owns a car that has a safety recall without "Stop Drive" instructions, how soon should they get it repaired? And why?**

Response to Question 6.

² Attached letter to Senator Markey from Secretary Foxx (May 6, 2014)

When an owner of a vehicle receives any safety recall notice, he or she should get the vehicle repaired at his or her earliest convenience. If repair parts and protocols are available, the remedy can be performed as soon as the vehicle is brought to an authorized dealer. Unfortunately, however, it can take weeks, months, or even years between when a safety recall is announced and when the manufacturer provides the parts and protocols necessary to complete the remedy. Fortunately, notices for safety recalls involving “stop drive” admonitions typically detail the process for obtaining a loaner vehicle and for having the recalled vehicles towed to an authorized dealer when appropriate.

- 7. You stated during the hearing that NHTSA has the authority to require a manufacturer to issue a "Stop Drive" recall. Will you provide the subcommittee with the citation for that authority?**

Response to Question 7.

See 49 U.S.C. §30118 and 49 C.F.R. §577.6.