

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

April 28, 2016

Dr. Mark Rosekind  
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 Thursday, April 14, 2016, to testify at the hearing entitled "NHTSA Oversight."

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 Thursday, May 12, 2016. Your responses should be mailed to Giulia Giannangeli, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to [Giulia.Giannangeli@mail.house.gov](mailto:Giulia.Giannangeli@mail.house.gov).

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

Attachment - Additional Questions for the Record

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

1. Congress included many reforms in the safety title of the FAST Act. Among those reforms included direction to NHTSA to implement 17 recommendations issued by the Department of Transportation Office of Inspector General following a comprehensive audit of the agency's internal processes. NHTSA has pledged to implement all 17 recommendations by June 30<sup>th</sup> of this year. Please provide a full breakdown of NHTSA's progress toward implementing all 17 recommendations.
2. In March, NHTSA staff held a briefing with Energy and Commerce Committee staff about the implementation progress of the 17 recommendations from the IG's Audit Report. During the call, NHTSA staff indicated that to fulfill recommendation #15 - which calls for the development and implementation of guidance on the amount and type of information needed to determine whether a potential safety defect warrants an investigation proposal and investigation - the agency would be putting together "risk matrices" to help determine whether a potential safety defect warrants an investigation. At the time, NHTSA staff indicated that it had only developed one matrix on stalling, but had pledged to the Inspector General that it would develop 10 more. Have any additional risk matrices been developed? If so, what topics do they cover beyond stalling? If not, when can we expect those to be developed, what topics or risks will they cover, and will they be made available to view by the public?
3. The FAST Act directs the Secretary to improve public awareness of safety recall information. Has the agency issued any public service announcements to improve the public awareness of safety recall information? Have you been able to determine the effectiveness of those public service announcements in increasing recall completion rates? If NHTSA has not issued any PSAs, does the agency have any plans to do so?
4. What do you see as the agency's policy priorities for the rest of the year?
  - a. Are there any rulemakings that you project will be initiated this year beyond the requirements included in the FAST Act?
  - b. Are there plans to develop any additional guidelines beyond the phase II guidelines that have already been submitted to OMB?
  - c. Any plans to restructure the Administration, including working groups and advisory committees that we should be aware of?
5. Do you believe the insurance industry could play a role in maximizing recall completion rates? If so, please explain. If not, please explain why not. Has NHTSA had any conversations to date with representatives from the insurance industry about the industry's involvement in maximizing recall completion rates?
6. In late 2014, Toyota issued a NHTSA-approved notice authorizing Toyota dealers to disconnect recalled passenger-side Takata airbags. On the Takata page of the Safercar.gov website, NHTSA states that it does not recommend the disablement of

recalled airbags (<http://www.safercar.gov/rs/takata/takata-faq.html>). Has any other OEM issued a NHTSA-approved notice to its dealers authorizing the disablement of recalled Takata airbags?

7. Cybersecurity is a growing concern as more incidents of vehicle hacking are reported in the media. Should cyber vulnerabilities in vehicles be approached differently, in terms of the recall response from the agency and reporting requirements from automakers, than traditional safety defects found in motor vehicles? Please explain.
  - a. Do you think there is any harm in publicizing the vehicle cybersecurity vulnerability, as done with traditional safety defects in Part 573 reports, before consumers have had an opportunity to get their vehicles repaired?
8. NHTSA recently issued a request for public comment on a proposed Enforcement Guidance Bulletin. What is the goal of that proposal and how do you see it relating to efforts to address cybersecurity within the auto industry? Does NHTSA intend to create cybersecurity standards for auto manufacturers?
9. The recently enacted FAST Act contains three tire-related provisions for which rulemakings are required: tire performance standards for rolling resistance and wet traction; mandatory tire registration by tire sellers at point of sale; and a tire recall lookup tool on NHTSA's web site. What is the agency's timetable for implementing each of those rulemakings?
10. Administrator Rosekind, the agency has indicated that it is looking at additional authorities it might need to sufficiently regulate and oversee the development and deployment of autonomous vehicles. What additional authorities do you believe the agency needs from Congress to adequately regulate and oversee the safe development and deployment of autonomous cars?
11. As part of the FAST Act, NHTSA is required to study the feasibility of searching multiple VINs, also referred to as "batching," which would allow the industry to monitor the recall status of used vehicle inventory more effectively. What is the status of this study? Is NHTSA coordinating with the industry (including manufacturers, dealers, and auctions)? When will the study be completed?
12. NHTSA has not completed a rulemaking required under the 2007 Energy Independence and Security Act (EISA) that mandated consumer information about tire fuel efficiency, wet traction and tread wear. The White House announced in December 2014 that NHTSA would finalize that rule by 2017. According to NHTSA's most recent schedule, a proposed rule is now expected to be sent to the Office of Management and Budget by April 21 after it had been expected to be sent in February. What is the agency's revised timetable for completing this rulemaking within the White House imposed deadline?
13. In February, the GAO completed a report on NHTSA's oversight of safety defects and new automotive technology. The GAO refrained from recommending that the agency put together a strategic plan because the Transportation Research Board had already made

that recommendation, and the GAO said NHTSA would be releasing a strategic plan this Spring. Is that still the case? When can we expect that strategic plan to be completed? Who at NHTSA is working on putting it together?

14. Is the Security Credential Management System for V2V fully operational? And if so, how many vehicles equipped with V2V communications capability will be supported by the SCMS? If the SCMS is not fully operational, when do you expect it to be up and running?
15. The FAST Act directs the Secretary of Transportation to establish and administer a high-visibility enforcement program to reduce alcohol-impaired or drug-impaired operation of motor vehicles, and increase the use of seatbelts by occupants of motor vehicles. The FAST Act also includes requirements related to the administration of National Priority Safety Programs to help reduce highway deaths and injuries, and directs the Secretary to conduct a study on marijuana-impaired driving in consultation with heads of other Federal agencies. What is NHTSA's role in the implementation and administration of the high-visibility enforcement program, the National Priority Safety Program, and the study on marijuana-impaired driving? When do you expect each of those FAST Act requirements to be implemented? When will the marijuana-impairment study be completed?
16. How is NHTSA engaged in the TTIP negotiations between the US and the EU on auto sector regulatory convergence? What actions is NHTSA taking to make sure the final TTIP agreement includes meaningful regulatory convergence of existing US and EU auto standards? What is NHTSA doing to drive the development and adoption of common US-EU auto safety standards for future safety rules and what principles guide such activity?

#### **The Honorable Gregg Harper**

1. Administrator Rosekind, the FAST Act includes a requirement for vehicle manufacturers to include component or part information in their Part 573 report to the agency when a safety recall involves a specific component or part. Is that information now being provided by vehicle manufacturers' in their recall reports to the agency?
  - a. Follow Up: Are there additional steps NHTSA can take to make sure the component part information provided by manufacturers in their Part 573 reports is readily available to aftermarket suppliers and recyclers?
2. In addition to reaching 100% recall completion, what do you see as the agency's policy priorities for the rest of the year?

#### **The Honorable Brett Guthrie**

1. You have the ability to issue a “do not drive” order for recalled vehicles, which emphatically tells consumers to park the car and have it towed to a dealership for repairs. What is the standard for issuing a “do not drive” order and how often does this occur?
2. Regarding the Administration’s implementation of what is referred to as the “One National Program”—regulating fuel economy for light duty vehicle fleets—my understanding is that despite this noble goal there still actually exist three separate sets of regulations: EPA, NHTSA, and California. Is it correct that differences between the EPA and NHTSA programs still exist because they were created under two different statutes?
1. Could you explain why it’s the case that there are differences between the usable life of credits under the two federal programs, five years under NHTSA and up to ten years under the EPA program?
  - a. Why should an automaker who earns credits under the very stringent EPA program be penalized in its ability to use credits from that product under the NHTSA program simply because NHTSA has a shorter expiration period?
2. My understanding is that there are differences between the EPA and NHTSA fleet transfer programs that affect how credits earned by exceeding the requirements for one fleet (such as a light truck fleet) can be used to cover deficiencies in another fleet (such as a car fleet). First, is my understanding correct, and second, could you explain what those differences are?
3. Beyond credit transfers and usable life, could you summarize other major differences between the NHTSA and EPA programs that may make compliance more difficult in one program than the other?
  - a. Is it possible that an automaker could be fully in compliance with one of the federal programs and yet find itself to be out of compliance in the other, and therefore possibly subject to fines?
  - b. How much does the auto industry pay in CAFE-related fines today?
  - c. It has been reported that the disparity between credits that are expired under the NHTSA program but are still available under the EPA program could trigger fines totaling hundreds of millions of dollars in the near future. Does this seem plausible to you?
  - d. Are there instances where you would find it appropriate for a manufacturer to face NHTSA fines even though they have taken steps to meet all the requirements under the EPA program?
4. Would the Administration support amending the CAFE program to make it more flexible and address some of these differences between the two programs?

**The Honorable Pete Olson**

1. Today, auto manufacturers and suppliers based in in my district and throughout the United States are delivering new vehicles that meet consumer demand for fuel efficiency and comply with federal fuel economy standards. One of the critical roles that NHTSA plays is validating vehicle safety as new and innovative materials are being utilized to make vehicles become lighter weight. In Section 31401 of MAP-21, this Committee directed the NHTSA Council for Emerging Technology to focus on innovative vehicle design by implementing the NHTSA Plastic and Composite Intensive Vehicle Safety Roadmap (Report No. DOT HS 810 863). The Appropriations Committee also directed NHTSA to continue its implementation of the Safety Roadmap in its Fiscal Year 2016 bill.
2. Can you update this Committee on the activities NHTSA is undertaking this year on lightweight vehicles to meet the MAP-21 mandate and the FY 16 appropriations report?

MAP-21 Language (PUBLIC LAW 112–141—JULY 6, 2012):

SEC. 31401. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION  
ELECTRONICS, SOFTWARE, AND ENGINEERING EXPERTISE.

(a) COUNCIL FOR VEHICLE ELECTRONICS, VEHICLE SOFTWARE, AND  
EMERGING TECHNOLOGIES.—

(1) IN GENERAL.—The Secretary shall establish, within the National Highway Traffic Safety Administration, a Council for Vehicle Electronics, Vehicle Software, and Emerging Technologies (referred to in this section as the “Council”) to build, integrate, and aggregate the Administration’s expertise in passenger motor vehicle electronics and other new and emerging technologies.

(2) IMPLEMENTATION OF ROADMAP.—The Council shall research the inclusion of emerging lightweight plastic and composite technologies in motor vehicles to increase fuel efficiency, lower emissions, meet fuel economy standards, and enhance passenger motor vehicle safety through continued utilization of the Administration’s Plastic and Composite Intensive Vehicle Safety Roadmap (Report No. DOT HS 810 863).

(3) INTRA-AGENCY COORDINATION.—The Council shall coordinate with all components of the Administration responsible for vehicle safety, including research and development, rulemaking, and defects investigation.

**The Honorable Jan Schakowsky**

1. NHTSA gave Takata until 2018 to prove that ammonium nitrate inflators that do not contain desiccant are safe and until 2019 to prove that ammonium nitrate inflators that do contain desiccant are safe. Takata has agreed to phase out ammonium nitrate from its manufacturing process by the end of 2018.

- a. Can a consumer still purchase a brand new car with a non-desiccated ammonium nitrate Takata airbag in it?
  - b. Can a consumer still purchase a brand new car with a desiccated ammonium nitrate Takata airbag in it?
  - c. Are all non-desiccated ammonium nitrate Takata airbags under recall or just the subset that is seven years old or older?
  - d. Might these airbags being sold in new cars be subject to a future recall for the same defect that is the subject of the current recalls?
  - e. How easily can a consumer buying a new car right now find out what airbag is in the car and ensure he or she does not buy a car with a Takata airbag?
2. We are still hearing reports that drivers of vehicles under recall for a Takata airbag are bringing their cars in to be repaired and being told that the parts are not ready. While these customers wait, they are being given mixed messages. Some have been told to keep driving, others told to switch off the airbags, and still others told to have passengers sit in the backseat rather than the front. One news report showed NHTSA saying both that you should never turn off the airbag and that you can turn it off in certain situations.
  - a. Does NHTSA have a sense of when the parts will be ready?
  - b. What should consumers do while they wait for parts to replace the potentially deadly inflators?
3. As I mentioned during the hearing, Jeff Carlson, the recently elected Chairman of the National Automobile Dealers Association (NADA), said several weeks ago that we should not have legislation requiring dealers to fix all recalls on used cars before they are sold because only six percent of recalls are "hazardous." Mr. Carlson's statement was apparently based on a finding by the Alliance of Automobile Manufacturers that auto manufacturers chose to issue a "do not drive" warning in only six percent of safety recalls.
  - a. Does NHTSA require manufacturers to recall vehicles if a defect is not safety-related?
  - b. Does NHTSA categorize defects that lead to recalls by level of severity or does NHTSA believe all recalls should be taken care of as soon as possible?
  - c. Do you agree with Mr. Carlson's statement that only six percent of recalls are hazardous?
  - d. Does NHTSA issue "do not drive" warnings? Is NHTSA involved in any way in an auto manufacturer's decision to issue a "do not drive" warning?

- e. Do you support requiring dealers to repair all recalls on used cars before they can be sold?

**The Honorable Joseph P. Kennedy, III**

1. I was pleased that the Raechel and Jacqueline Houck Safe Rental Car Act became law as part of the Fixing America's Surface Transportation (FAST) Act on December 4, 2015. However, the bill was weakened before its passage. Under the law, some dealerships will continue to be able to provide consumers with loaner cars that are as unsafe as the cars consumers are bringing in to the shop for repair.
  - a. Is it also your understanding of the FAST Act provision that some dealers will be able to provide consumers with loaner vehicles that are subject to an open recall? For example, can a consumer bringing her car in to a repair shop to have her faulty Takata airbag replaced be given a loaner car equipped with a faulty Takata airbag?
  - b. Do you support prohibiting dealers from being able to provide consumers with loaner cars that are subject to an open recall?
2. There have been reports of carbon monoxide poisoning in cases where drivers left their vehicles running in their garages by accident, after getting out of the car without pushing the ignition button to turn off the vehicle. While the car runs in the garage, the home fills with potentially deadly carbon monoxide. What is NHTSA doing to address this problem?
3. Keyless ignition vehicles also have been linked to a roll-away hazard. In 2011, there were reports that keyless BMWs could roll away because the electronic ignition system did not shift the car into "park" when the driver left the vehicle with the keyless fob. What steps has NHTSA taken to address that risk?

**The Honorable G.K. Butterfield**

1. My district suffered a terrible loss years ago when there was a horrible school bus crash in which all of the students on board were killed. Seat belts might have saved some of those lives. In 2012, during a Commerce, Manufacturing, and Trade Subcommittee hearing, I asked former NHTSA Administrator Strickland for the agency's position on seat belts on school buses. At that time, he told the Subcommittee that NHTSA did not support requiring school buses to be equipped with seat belts.

I was very glad to see that in November, you announced that NHTSA had changed its position.

- a. Please explain what caused NHTSA to change its policy on this issue.
- b. What will be the agency's next steps on this issue? Are you considering a rulemaking?

- c. How long do you expect it to take to have a seat belt available for every child on every school bus?