

United States Senate

WASHINGTON, DC 20510

January 30, 2015

The Honorable Dr. Mark Rosekind
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE, West Building
Washington, DC 20590

Dear Administrator Rosekind:

Congratulations on your recent confirmation as Administrator of the National Highway Traffic Safety Administration (NHTSA). Please accept our best wishes as you assume leadership of this critically important safety agency. We were proud to support you through your Senate confirmation and look forward to working with you and a reinvigorated agency that is aggressive, proactive, and responsive in pursuing its safety mission. With that in mind, we write requesting an update on NHTSA's oversight of the enforceable recalls and voluntary service campaigns associated with the Takata airbag defect.

Various media outlets reported yesterday evening that a man in Houston was killed in an accident on January 18, 2015, involving a Honda Accord equipped with a Takata airbag that may have ruptured. The 2002 Accord was the subject of an enforceable safety recall in 2011 for the driver-side airbag inflator. Millions of unrepaired cars just like this one remain on the road today, posing an imminent risk to the drivers and passengers riding in them.

We trust that you agree it is imperative that these dangerous and deadly airbags be taken off the roads and repaired as quickly as possible. The Takata airbag recalls and service campaigns include models by 10 different automakers and cover more than 12 million vehicles in the United States. Frighteningly, the vast majority of these vehicles are still on our nation's roads. Based on figures provided to NHTSA by Honda and Toyota, less than six percent of vehicles affected by these recalls and service campaigns had been repaired, as of November 2014.¹ Please provide: (1) the total number of vehicles with defective Takata airbags that are under enforceable recalls; (2) the total number of vehicles with defective Takata airbags that are subject to voluntary service campaigns; and (3) the total number of vehicles in each of the categories above that have been repaired.

During the Senate Commerce Committee hearing on the Takata airbag defect on November 20, 2014, Takata's representative explained that the maximum number of replacement airbags it could produce each month was 300,000 but that the company hoped to ramp up monthly production to 450,000 by January 2015. With more than 12 million impacted vehicles in the United States, it will take over two years to repair all of them.

¹ Letter from Dino Triantafyllos, Chief Quality Officer, Toyota North America, to Frank S. Borris, Director, Office of Defects Investigation, National Highway Traffic Safety Administration (Nov. 5, 2014) (online at www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/UCM466951/INRL-PE14016-60757.pdf);

Letter from Jay Joseph, Assistant Vice President, Product Regulatory Office, American Honda Motor Co., Inc., to Frank S. Borris, Director, Office of Defects Investigation, National Highway Traffic Safety Administration (Nov. 5, 2014) (online at www-odi.nhtsa.dot.gov/acms/cs/jaxrs/download/doc/UCM466945/INRL-PE14016-60743.pdf).

NHTSA has authority under Section 30120(c)(3) of the Federal Motor Vehicle Safety Standards Act to compel Takata to share information with other airbag manufacturers in order to expedite the repair process and ensure a sufficient number of replacement parts are available. At the November hearing, your predecessor committed to make a determination on whether this statutory authority could be safely used. You were also asked during your December 3, 2014, nomination hearing if you would support the use of all tools to make available a sufficient number of replacement airbags in the name of public safety, including this one. We were pleased to hear you say that you were committed to using all tools possible to save lives. Now that you have had some time to settle into your new position, we respectfully request an update as to whether a determination has been made regarding NHTSA's plan to use its Section 30120(c)(3) authority and, if not, when such a determination will be made.


Finally, we ask that you undertake in-house testing of the Takata airbag inflators that are the subject of the service campaigns or recalls or that you allow third parties to access the inflators so they can conduct independent testing and analysis of the inflators and their possible defect patterns. It is our understanding that the Department of Justice and NHTSA filed a January 20, 2015, Notice of Appearance in a case against Takata pending in Federal District Court in South Carolina.


In the declaration attached to that appearance, Mr. Frank Borris, Director of NHTSA's Office of Defects Investigation, stated that "all inflators that are removed as part of these recall efforts are being shipped directly from the dealers who repair the recalled vehicles to Takata's facility in Auburn Hills, Michigan." The recalled inflators are then tested directly by Takata for defects. The declaration also notes, however, that NHTSA is not currently conducting any independent testing but is merely "exploring whether it will develop and implement its own testing program to augment the testing efforts by Takata and the vehicle manufacturers' coalition."

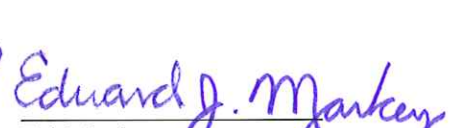
This is a classic example of the fox guarding the henhouse, and it should be remedied immediately. Takata and the vehicle manufacturers have a very obvious pecuniary interest in the outcome of the testing and investigation. Furthermore, millions of Americans are currently waiting on replacement inflators – and need to know that the new parts are safe and that they fix the problem. That assurance can only be given if NHTSA or other independent parties can test defective inflators, as well as the new replacements, and verify that the replacements actually fix this very serious defect.

The absence of a timely response has been unsettling. Now that you are familiar with the relevant issues, we hope you will provide a prompt answer. The American public is counting on NHTSA to do the right thing and use all of the authority at its disposal to prevent more avoidable deaths, injuries, and damages. We appreciate your prompt attention to this important matter.

Sincerely,


Bill Nelson
Ranking Member
Committee on Commerce,
Science, and Transportation


Richard Blumenthal
Ranking Member
Subcommittee on Consumer
Protection, Product Safety,
Insurance, and Data Security


Ed Markey
Member
Committee on Commerce,
Science, and Transportation