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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

October 26, 2016

The Honorable Mark Rosekind
Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Administrator Rosekind:

I write to you regarding General Motors LLC's (GM) petition to delay by one year its obligation to file a Defect Information Report (DIR) that would cover certain vehicles containing Takata airbag inflators.¹ While the Takata Amended Consent Order permits affected automakers to petition for changes to the DIR schedule to account for new or additional data or evidence,² I urge the National Highway Traffic Safety Administration (NHTSA) to carefully scrutinize GM's petition – and any other future petitions from any other automaker to amend the DIR schedule – and to permit changes only if NHTSA's experts determine that all available evidence definitively and conclusively establishes the safety of the inflators in question.

Given the great complexity associated with the root cause of Takata airbag inflator ruptures – and the potentially fatal danger posed by a rupturing inflator – NHTSA has taken a proactive approach to these recalls. “[O]ut of an abundance of caution,” NHTSA determined that “all vehicles containing non-desiccated frontal Takata PSAN [phase-stabilized ammonium nitrate-based propellant] inflators should be under recall by December 31, 2019.”³ To seek a modification or amendment to NHTSA's recall schedule, automakers must demonstrate that either:

“(i) There has not yet been, nor will be for some period of years in the future, sufficient propellant degradation to render the inflators contained in the particular class of vehicles unreasonably dangerous in terms of susceptibility to rupture; or

¹ General Motors, LLC, General Motors LLC's Petition to Amend Takata DIR Schedule, Docket No. NHTSA-2016-0098; Notice 1 (Sept. 20, 2016) [hereinafter “GM Petition”].

² National Highway Traffic Safety Administration, In re: EA15-001 Air Bag Inflator Rupture, Amendment to November 3, 2015 Consent Order, at 8 (May 4, 2016).

³ *Id.* at 7-8.

(ii) the service life expectancy of the inflators installed in the particular class of vehicles is sufficiently long that they will not pose an unreasonable risk to motor vehicle safety if recalled at a later date.”⁴

GM states that its unique inflator and vehicle design may explain why recovered inflators have so far performed as designed, but it acknowledges that further testing is needed to determine the full service life of the inflators that it seeks to delay recalling.⁵ GM has retained Orbital ATK, an engineering firm, to conduct a long-term aging study that will estimate the service life of the affected inflators, but this study will not be completed until approximately August 2017.⁶ GM explains, “Deferring the inclusion of these inflators in a Takata equipment DIR for one year will permit the completion of GM and Orbital’s long-term testing plan and facilitate an appropriate risk prioritization.”⁷

I am concerned that such a petition may be putting the cart before the horse. GM notes that it has collected and tested 998 inflators from 2007-2008 Model Year vehicles from Zone A – high temperature and high humidity states – and all inflators deployed safely.⁸ However, prior to the fatal rupture of the airbag inflator in a 2006 Ford Ranger, Ford Motor Company had tested 1,900 Ranger inflators and found no signs of abnormalities.⁹

In the absence of comprehensive testing that clearly establishes the safe lifespan of these specific inflators, the requested relief may be inconsistent with NHTSA’s proactive focus on safety. NHTSA should alter its DIR schedule only when the evidence presented by an automaker demonstrates with certainty the safety of its inflators. Furthermore, granting an extension to one automaker could set a precedent that further complicates the Takata recalls by encouraging other automakers to submit similar requests.

NHTSA’s recall schedule rightly focuses on removing all non-desiccated ammonium nitrate-based inflators from the road *before* they pose any risk to safety. While future testing may support GM’s current beliefs regarding the safety of its inflators, NHTSA must consider the safety risk of a single inflator rupture in the most extreme case. It is in this context that I share my general concern that granting any petition to delay a recall – in the absence of conclusive evidence that definitively establishes the safety of the inflators in question – could have a substantial impact on public safety. Therefore, I urge NHTSA to carefully and rigorously review GM’s petition – and any other similar petitions filed before clear and comprehensive testing is complete – to amend NHTSA’s recall schedule.

⁴ National Highway Traffic Safety Administration, *NHTSA Enforcement Guidance Bulletin 2016-03; Procedure for Invoking Paragraph 17 of the May 4, 2016 Amendment to the November 3, 2015 Takata Consent Order*, 81 Fed. Reg. 47854, at 47856 (July 22, 2016) (Notice).

⁵ GM Petition at 5.

⁶ *Id.* at 3.

⁷ *Id.*

⁸ *Id.* at 8.

⁹ *Ford Recalls 400,000 Ranger Pickup Trucks to Replace Takata Air Bags*, USA Today (Jan. 26, 2016).

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Thank you in advance for your consideration of my views on this critical issue.

Sincerely,

A handwritten signature in blue ink that reads "Bill Nelson". The signature is written in a cursive, flowing style.

BILL NELSON
Ranking Member

cc: The Honorable John Thune, Chairman