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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

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

February 10, 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 follow-up on our phone conversation of February 4, 2016, regarding the National Highway Traffic Safety Administration's (NHTSA) decision to allow the continued production and use of Takata airbag inflators containing ammonium nitrate, as well as the role of NHTSA in managing the overall Takata recall crisis.

As you know, I have been deeply involved in the oversight of your agency with regard to the massive recall of Takata airbags, which now affects approximately 24 million vehicles in the U.S. As the Ranking Member of the Senate Committee on Commerce, Science, and Transportation, not only have I directly inquired on the status and efficacy of the ongoing recall, but my Committee staff produced a report titled "Danger Behind the Wheel: The Takata Airbag Crisis and How to Fix Our Broken Auto Recall Process," which highlighted a number of serious safety and quality lapses within Takata that occurred years before vehicles were first recalled.

Based on that report, as well as a number of recent media stories questioning the safety of all Takata ammonium nitrate-based airbag inflators, I am very concerned about the continued production and use of Takata airbags that contain ammonium nitrate-based inflators. The countless incidents of rupturing inflators, including recent events and recalls involving relatively new vehicles with these types of inflators, raise serious questions as to whether Takata's ammonium nitrate propellant is inherently dangerous. In fact, your own Consent Order tacitly acknowledges this fundamental danger by prohibiting Takata from entering into any new supply contracts for airbags that contain ammonium nitrate-based inflators.

The Consent Order, however, explicitly allows for the continued production and sale of airbags that contain ammonium nitrate-based inflators pursuant to existing contracts between Takata and automakers. Specifically, Takata may continue to supply inflators containing non-desiccated ammonium nitrate under existing contracts until December 31, 2018. Takata may also continue to supply inflators containing desiccated ammonium nitrate under existing contracts indefinitely.

Consequently, this grandfathering appears to essentially bless the ongoing production,

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distribution, and installation of ammonium nitrate-based inflators in countless new vehicles for years to come. Furthermore, because the length of these existing contracts is unclear, so too is the universe of new vehicles that will be sold with potentially lethal ammonium nitrate-based inflators.

Given the danger these products pose to the American driving public, I ask that you provide me with a detailed accounting of the universe of ammonium nitrate-based inflators that could be supplied under Takata's existing contracts with automakers. Furthermore, I urge to you immediately consider exercising NHTSA's authority under the Consent Order to accelerate the phase-out schedule for non-desiccated ammonium nitrate inflators and to create a phase-out schedule for desiccated ammonium nitrate inflators.

Additionally, NHTSA has yet to issue a recall for all vehicles with ammonium nitrate-based inflators. Given recent reports of a new batch of defective and dangerous Takata airbags in certain Volkswagen and Honda models, including rupturing airbags in relatively new vehicles, I am concerned that the current approach may be needlessly incremental and fail to adequately protect public safety. Thus, I urge you to look into the possibility of expanding the scope of the current recall to include all Takata ammonium nitrate-based airbag inflators. Please provide me with a detailed assessment of the feasibility of doing so, including an analysis of the effect such an expansion would have on the current prioritization recall schedule, including its impact on the availability of safe replacement parts for vehicles in high absolute humidity states such as Florida.

The overall piecemeal approach to the Takata recall appears to be confusing many consumers who are wondering whether their vehicles contain a potentially unsafe Takata ammonium nitrate-based inflator but have not yet been recalled. In addition, this approach has the potential to impair NHTSA's ability under section 30120 (c)(3) of the Federal Motor Vehicle Safety Standards Act to coordinate and maximize production of additional non-ammonium nitrate-based replacement inflators. Accordingly, I urge you to redouble your efforts to do everything possible under your authorities to eliminate this confusion and take additional steps to ensure faster consumer notification and safe remedies.

Thank you for the steps your agency has taken to address this safety crisis and protect the American public. I look forward to your prompt response.

Sincerely,



Bill Nelson
Ranking Member

CC: The Honorable John Thune, Chairman