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ONE HUNDRED TWELFTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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December 7, 2011

The Honorable David L. Strickland  
Administrator  
National Highway Traffic Safety Administration  
U.S. Department of Transportation  
1200 New Jersey Avenue S.E., West Building  
Washington, D.C. 20950

Dear Administrator Strickland:

The Committee on Oversight and Government Reform has been examining the implications of the proposed Model Year (MY) 2017-2025 fuel economy/greenhouse gas emissions regulations. Among the Committee's chief concerns has been the potential for adverse safety consequences resulting from the dramatic ramp up of fuel efficiency standards.<sup>1</sup> As you are aware, the proposed regulations rely heavily on the commercial deployment of electric vehicle technology, and provide manufacturers significant incentives to produce electric vehicles.<sup>2</sup> The Administration has heavily touted the Chevrolet Volt as an alternative technology vehicle that could "meet or surpass" the fuel efficiency targets by 2025.<sup>3</sup> In light of the Administration's clear promotion of electric vehicle technology, we are deeply troubled by the fact that the National Highway Traffic Safety Administration (NHTSA) has deliberately suppressed public knowledge of the safety risk posed by the Chevrolet Volt. Accordingly, the Committee is broadening its fuel economy investigation to include an examination of NHTSA's treatment of the fire hazard posed by the Chevrolet Volt's lithium-ion battery system.

NHTSA, the Environmental Protection Agency (EPA), and the California Air Resources Board (CARB) have steadfastly assured the Committee that the fuel economy/emissions regulations will have no effect on vehicle safety. In testimony before the Oversight and Government Reform Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending in October 2011, you stated:

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<sup>1</sup> See Letter from Darrell Issa, Chairman, H. Comm. on Oversight and Gov't Reform, to Ray LaHood, Secretary, Dep't of Transportation (Sept. 30, 2011).

<sup>2</sup> 2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards, 76 Fed. Reg. 74,854, 75,010 (Dec. 1, 2011) ("EPA is providing temporary regulatory incentives for the commercialization of [electric vehicles], [plug-in hybrid electric vehicles], and [fuel cell vehicles]. EPA believes that these advanced technologies represent potential game-changers with respect to control of transportation [greenhouse gas] emissions . . .").

<sup>3</sup> *Id.* at 75,086.

We at the National Highway Traffic Safety Administration do not require any manufacturer to do anything that would have a negative impact on safety. Past safety tradeoffs occurred because manufacturers chose at the time to build smaller and lighter vehicles to help them meet the CAFE standards in years past. . . . [W]e try to make sure that proposed standards are safety neutral in two ways. First, we set footprint-based standards that do not encourage manufacturers to build smaller vehicles to even out the larger ones. And second, although manufacturers can choose whatever technologies they want to meet our standards, we demonstrate that in our analysis that there is a feasible technology path that the industry could pursue to meet the standards that do not require unsafe levels of mass reduction. The National Highway Traffic Safety Administration will be continuing this safety-neutral approach in the upcoming CAFE proposal as we undertook this work in model year standards for 2012 through 2016.<sup>4</sup> [emphasis added]

At the same hearing, Margo Oge, EPA's Director of Transportation and Air Quality, echoed your comments: "As it will become evident from the proposal, the proposal will be safety-neutral, that means we have taken that into consideration as one of the many factors that both the agencies have to evaluate."<sup>5</sup> CARB has also asserted that fuel economy/emission standards do "not affect safety from the technologies [CARB] project[s] for the fleet."<sup>6</sup>

However, recent media reports have disclosed serious safety deficiencies with the lithium-ion battery system of the Chevrolet Volt.<sup>7</sup> In particular, these reports indicate that a Chevrolet Volt battery caught fire in June 2011 while the vehicle was in storage three weeks after a side-impact crash test.<sup>8</sup> Subsequent tests have documented at least two more fires occurring in Volt batteries damaged during crash simulations.<sup>9</sup> The safety concerns have become so great that General Motors first announced that it would provide "loaner" vehicles to Volt owners, and then announced that it would buy back all Volts from worried owners.<sup>10</sup>

Despite the serious risk posed by these vehicles, NHTSA delayed disclosing the safety deficiencies in the Volt battery system. According to reports, NHTSA became aware of the battery fire in June 2011 – shortly after the crash test – but did not publicly disclose the problem until November 2011.<sup>11</sup> NHTSA was aware of the safety deficiencies in the Volt battery as the agency finalized negotiations on the fuel economy/emissions regulation in July 2011. NHTSA

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<sup>4</sup> "Running on Empty: How the Obama Administration's Green Energy Gamble Will Impact Small Businesses & Consumers": Hearing before the Subcomm. on Regulatory Affairs, Stimulus Oversight and Gov't Spending of the H. Comm. on Oversight and Gov't Reform, 112th Cong. (2011) (statement of NHTSA Administrator David L. Strickland).

<sup>5</sup> *Id.* (question and answer with Margo Oge, Director of EPA Office of Transportation and Air Quality).

<sup>6</sup> Letter from Mary Nichols, Chairman, Cal. Air Resources Bd., to Darrell Issa, Chairman, H. Comm. on Oversight and Gov't Reform, att. 1, at 6 (Nov 23, 2011).

<sup>7</sup> See, e.g., Sharon Terlep, *U.S. Will Test Chevy Volts Further*, Wall St. J., Nov. 14, 2011.

<sup>8</sup> *Id.*

<sup>9</sup> See Nick Bunkley, *Formal Defect Inquiry of Volt Battery Begins*, N.Y. Times, Nov. 25, 2011.

<sup>10</sup> Bill Vlasic & Nick Bunkley, *G.M. Offers to Buy Back Hybrid Volts From Owners*, N.Y. Times, Dec. 1, 2011.

<sup>11</sup> Huw Evans, *Chevrolet Volt Battery Issues Growing, Safety Findings May Have Been Suppressed*, AutoGuide.com, Dec. 5, 2011.

was aware of the safety deficiencies when President Obama announced agreement on the regulations on July 29, 2011.<sup>12</sup> NHTSA was aware of the safety deficiencies when you testified before the Subcommittee on October 12, 2011.<sup>13</sup> NHTSA was aware of the safety deficiencies when NHTSA and EPA issued the joint Notice of Proposed Rulemaking (NPRM) on November 16, 2011, which touted the Volt as an example of a vehicle that would exceed the proposed standards.<sup>14</sup> Yet, at no point did NHTSA publicly acknowledge any deficiencies or safety concerns with alternative technologies needed to meet the increased fuel economy/emissions mandates.

The safety deficiencies of the Chevrolet Volt battery system expand the Committee's long-standing concern about adverse safety consequences of the fuel economy/greenhouse gas emissions regulations. To assist the Committee in better understanding the safety deficiencies of the Chevrolet Volt and NHTSA's investigation of the problems, we request a staff briefing as soon as practicable. In addition, we request that you answer the following questions and provide the requested documents for the period January 1, 2011, through the present:

1. Please provide a detailed narrative of NHTSA's knowledge of the Chevrolet Volt battery system safety deficiencies. In addition, please answer the following questions:
  - a. When did NHTSA officials or employees become aware of the potential for fire stemming from the battery system of the Chevrolet Volt?
  - b. When did you, as Administrator of NHTSA, become aware of the potential for fire stemming from the battery system of the Chevrolet Volt? Please provide documents and communications sufficient to support your response.
  - c. When did NHTSA alert Secretary Ray LaHood of the potential for fire stemming from the battery system of the Chevrolet Volt? Please provide documents and communications sufficient to support your response.
  - d. When did NHTSA alert EPA of the potential for fire stemming from the battery system of the Chevrolet Volt? Please provide documents and communications sufficient to support your response.
  - e. When did NHTSA alert CARB of the potential for fire stemming from the battery system of the Chevrolet Volt? Please provide documents and communications sufficient to support your response.

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<sup>12</sup> See The White House, Remarks by the President on Fuel Efficiency Standards (July 29, 2011).

<sup>13</sup> "Running on Empty: How the Obama Administration's Green Energy Gamble Will Impact Small Businesses & Consumers": Hearing before the Subcomm. on Regulatory Affairs, Stimulus Oversight and Gov't Spending of the H. Comm. on Oversight and Gov't Reform, 112th Cong. (2011).

<sup>14</sup> See Press Release, Dep't of Transportation & Env'tl. Prot. Agency, We Can't Wait: Obama Administration Proposes Historic Fuel Economy Standards to Reduce Dependence on Oil, Save Consumers Money at the Pump (Nov. 16, 2011); 2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards, 76 Fed. Reg. 74,854, 75,086 (Dec. 1, 2011).

- f. When did NHTSA alert the Executive Office of the President of the potential for fire stemming from the battery system of the Chevrolet Volt? Please provide documents and communications sufficient to support your response.
2. Please provide a detailed description of NHTSA's response to the Chevrolet Volt battery system safety deficiencies.
3. On Dec. 6, 2011, Secretary LaHood reportedly stated that the Volt is "safe to drive."<sup>15</sup> It is unclear how this conclusion can be reached before NHTSA has conducted a full evaluation of the cause of the vehicle fires. Accordingly, please provide the factual basis for this assertion.
4. Were you aware of the safety deficiencies in the Chevrolet Volt battery system at the time you testified before the Subcommittee on Regulatory Affairs, Stimulus Oversight, and Government Spending in October 2011? If so, why did you choose not to disclose the concerns to the Committee, especially in light of the Committee's extensive discussion about the Volt during the hearing?<sup>16</sup>
5. Do you stand by your testimony at the October 2011 subcommittee hearing that the fuel economy/emissions regulations will be "safety-neutral"?<sup>17</sup> In coming to this conclusion, had you or your staff incorporated the knowledge that NHTSA had in its possession regarding the fire hazard posed by the lithium-ion battery system in the Chevrolet Volt?
6. If NHTSA became aware of the potential for fire stemming from the battery system of the Chevrolet Volt in June 2011, why did NHTSA wait until November 2011 to publicly disclose the concerns?
7. As you remember, there was considerable public outrage when Toyota Motor Corp. delayed disclosing faulty accelerator pedal concerns in an attempt to further study the problem.<sup>18</sup> At a Committee hearing on the topic in February 2010, Secretary LaHood pledged "when it comes to safety, there will be no compromises. There will be no cozy relationships. There will be no sweetheart deals. You have my commitment on that. Not under my watch."<sup>19</sup>

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<sup>15</sup> Associated Press, *Transportation Secretary Says Chevy Volt Is Safe to Drive Despite Probe of Battery Fires*, Wash. Post, Dec. 6, 2011.

<sup>16</sup> See "Running on Empty: How the Obama Administration's Green Energy Gamble Will Impact Small Businesses & Consumers": *Hearing before the Subcomm. on Regulatory Affairs, Stimulus Oversight and Gov't Spending of the H. Comm. on Oversight and Gov't Reform*, 112th Cong. (2011).

<sup>17</sup> *Id.* (statement of NHTSA Administrator David L. Strickland).

<sup>18</sup> See, e.g., Ralph Vartabedian & Ken Bensinger, *Toyota Execs Debated When to Disclose Accelerator-Pedal Problem*, L.A. Times, Apr. 8, 2010.

<sup>19</sup> "Toyota Gas Pedals: Is the Public at Risk?": *Hearing before the H. Comm. on Oversight and Gov't Reform*, 111th Cong. (2010) (question and answer with Secretary Ray LaHood).

- a. In light of the public outrage over Toyota's delayed disclosure, why did NHTSA – the agency charged by Congress with regulating automotive safety – delay in disclosing safety problems with the Chevrolet Volt for five months?
  - b. Did NHTSA delay disclosure of the safety problems so as not to impede progress on negotiations for the MY 2017-2025 fuel economy/greenhouse gas emissions regulations?
  - c. Please fully explain what factors influenced NHTSA's decision to delay disclosure of the safety problems of the Chevrolet Volt. Provide documents and communications sufficient to support your response.
  - d. Please provide the Committee with a description of NHTSA's guidelines for responding to reported fire hazards. Is it routine to withhold from the public knowledge of the hazard for over five months?
8. President Obama's campaign strategist, David Axelrod, has suggested that the President's re-election campaign could benefit from the Administration's efforts to stabilize General Motors.<sup>20</sup> Former NHTSA Administrator Joan Claybrook opined that the reason for NHTSA's delay in disclosing the safety problems of the Chevrolet Volt was the "fragility of the Volt sales."<sup>21</sup>
- a. Did NHTSA delay disclosure of the safety problems so as not to harm sales of the Chevrolet Volt?
  - b. Did NHTSA delay disclosure of the safety problems so as to benefit the public perception of General Motors?
  - c. Did anyone within the Executive Office of the President request that NHTSA delay the public release of the fire risk posed by the Chevrolet Volt?
  - d. Did anyone within the Executive Office of the President communicate with NHTSA about the risk posed by the Chevrolet Volt?
9. Please provide all documents and communications referring or relating to safety concerns for lithium-ion batteries in general and the Chevrolet Volt in particular.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

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<sup>20</sup> See Axelrod: Obama's Slogan Could be "GM Is Alive, Bin Laden Is Dead," Real Clear Politics, Nov. 1, 2011.

<sup>21</sup> Evans, *supra* note 11.

The Honorable David L. Strickland  
December 7, 2011  
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We request that you provide the requested documents and information as soon as possible, but no later than 5:00 p.m. on December 21, 2011. Please directly respond to each question and request as numbered herein. When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

If you have any questions about this request, please contact Kristina Moore or David Brewer of the Committee Staff at 202-225-5074. Thank you for your attention to this matter.



Darrell Issa  
Chairman

Sincerely,



Jim Jordan  
Chairman  
Subcommittee on Regulatory Affairs,  
Stimulus Oversight,  
and Government Spending



Mike Kelly  
Member of Congress

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

The Honorable Dennis Kucinich, Ranking Member  
Subcommittee on Regulatory Affairs, Stimulus Oversight, and Government Spending



ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
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Majority (202) 225-5074  
Minority (202) 225-5051

**Responding to Committee Document Requests**

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
  - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
  - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
  - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when they were requested.
8. When you produce documents, you should identify the paragraph in the Committee's request to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. The time period covered by this request is included in the attached request. To the extent a time period is not specified, produce relevant documents from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.



17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

### Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email, regular mail, telexes, releases, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might

otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.