

ONE HUNDRED SIXTEENTH 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 17, 2019

Heidi King  
Deputy Administrator  
National Highway Traffic Safety Administration  
1200 New Jersey Ave. SE  
Washington, D.C. 20590

Dear Deputy Administrator King:

The Committee is resuming its traditional role of oversight to ensure that the agencies under its jurisdiction are acting in the best interest of the public and consistent with their legislative authority. Given your role as Deputy Administrator of the National Highway Traffic Safety Administration (NHTSA), it is your responsibility to make certain NHTSA performs its duties according to those standards.

We appreciate your willingness to appear before the Committee when called upon and hope we can continue to count on you to be responsive to all Congressional inquiries in a timely fashion. It is our intention to work collaboratively with you and the hardworking employees of NHTSA to advance the goal of reducing deaths, injuries, and economic losses from motor vehicle crashes.

To that end, it is incumbent upon the Committee's leadership and its members to oversee and ensure NHTSA is in fact fulfilling its mission. We ask that you update the Committee with information detailing NHTSA's current workload, the work of its bureaus and offices, and its interactions with the public through its handling of consumer complaints and Freedom of Information Act requests. We have attached a series of questions that encompass those issues and respectfully request that you provide a complete written response no later than May 17, 2019.

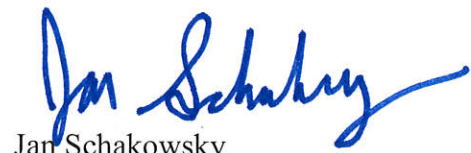
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We appreciate your assistance in this matter. If you have any questions regarding this inquiry, please contact Lisa Goldman of the Committee staff at (202) 225-2927.

Sincerely,



Frank Pallone, Jr.  
Chairman



Jan Schakowsky  
Chair  
Subcommittee on Consumer  
Protection and Commerce

Enclosures

1. To help the Committee better understand the National Highway Traffic Safety Administration's (NHTSA) current workload and backlog, please provide the total number of all items currently pending and a short description of each item. Please include all rulemakings, petitions, applications, complaints, investigations, requests, reports, initiatives, and other items pending before NHTSA. Categorize these items according to the bureau or office primarily responsible for action and the amount of time that has elapsed since each item was initiated or filed.

Division	< 6 mos.	6 mos. – 2 yrs.	2 yrs. – 5 yrs.	> 5 yrs.
Communications & Consumer Education				
National Center for Statistics & Analysis				
Vehicle Safety Research				
Rulemaking				
Enforcement				

2. Provide the number of Vehicle Safety Complaints NHTSA received in 2016, 2017, 2018, and to date in 2019. Also provide the corresponding number of safety complaints that resulted in the opening of an investigation in each year.
3. Separately for each office within the Divisions in the table in Question 1, provide the number of staff members currently employed and the number of vacancies. For each vacancy, provide the title of the vacant job and how long it has been vacant.
4. Separately for each office in NHTSA's Enforcement Division, provide the following information for each year 2016, 2017, 2018 and 2019:
  - a. The number and type of Preliminary Evaluations, Engineering Analysis, and Formal Investigations open as of January 1<sup>st</sup> of that year.
  - b. The number and type of Preliminary Evaluations, Engineering Analysis, and Formal Investigations opened during that year.

- c. The number and type of Preliminary Evaluations, Engineering Analysis, and Formal Investigations closed or otherwise resolved during that year with no enforcement action taken, and the reason closed (e.g., no violation found, etc.).
  - d. A list of all enforcement actions taken that year, categorized by the enforcement action taken.
5. The Department of Transportation's 2018 Inspector General's (IG) Report on NHTSA's management of vehicle recalls revealed severe deficits in the agency's processes and oversight in the recall process.<sup>1</sup> The IG recommended six ways that NHTSA could address these problems.<sup>2</sup> In a letter to Chairman Pallone dated October 17, 2018, you provided an anticipated timeline for completing the IG recommendations as follows: December 3, 2018, for Recommendation 6; January 2, 2019, for recommendation 4; February 2, 2019, for Recommendation 5, and June 3, 2019, for Recommendations 1-3.<sup>3</sup> Please update the Committee on the progress the agency has made implementing each of the recommendations. If the timeline for completion of any recommendation has changed, please provide the new anticipated completion date and explain why the date was changed.

6. Of ongoing concern to the Committee is NHTSA's repeated failure to meet statutory rulemaking deadlines. The Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21) Act, and the Fixing America's Surface Transportation (FAST) Act, enacted in 2012 and 2015, respectively, required the agency to undertake several rulemaking proceedings to increase the safety of automobiles and empower consumers as they purchase, operate, and maintain their vehicles. Nearly nine years later, many of these required rules have yet to be finalized, and some have not been taken up at all. And despite previous requests for information, you have failed to supply sufficient responses for some of the required rules.<sup>4</sup> For some required rules, you stated you expected action to be taken in 2018. Please provide updates on the following MAP-21 and FAST Act requirements. Include a list of all overdue rulemakings that are required by statute, provide an explanation for why each rule has not been completed, and projected timeline for all necessary actions necessary to achieve full compliance with the statutory provision. If final rules have been issued, cite the publication

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<sup>1</sup> United States Department of Transportation, Office of Inspector General, *NHTSA's Management of Light Passenger Vehicle Recalls Lacks Adequate Processes and Oversight* (IG Report), Report No. ST2018062 (July 18, 2018).

<sup>2</sup> *Id.* at p. 27.

<sup>3</sup> Letter from Heidi King, Deputy Administrator, National Highway Traffic Safety Administration, to Rep. Frank Pallone, Jr., Ranking Member, House Committee on Energy and Commerce (Oct. 17, 2018).

<sup>4</sup> House Committee on Energy and Commerce, *Hearing on Oversight of the National Highway Traffic Safety Administration*, 115th Cong. (Feb. 14, 2018).

of that rule in the Federal Register. And, as previously requested, please provide an explanation for the delays.

- a. Side impact performance standards for child restraint systems<sup>5</sup>
- b. Frontal impact test parameters<sup>6</sup>
- c. Improvement of child restraint anchorage systems<sup>7</sup>
- d. Rear seat belt warning systems<sup>8</sup>
- e. Encouraging consumers to report vehicle defects<sup>9</sup>
- f. Electronic notice of vehicle recalls<sup>10</sup>
- g. Corporate responsibility for NHTSA reports<sup>11</sup>

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<sup>5</sup> Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21), Pub. L. No. 112-141 (2012), Sec. 31501(a). A final rule was required by October 1, 2014. A Notice of Proposed Rulemaking was issued but final rules have not. See National Highway Traffic Safety Administration, *Federal Motor Vehicle Safety Standards: Child Restraint Systems—Side Impact Protection, Incorporation by Reference*, Notice of Proposed Rulemaking (Jan. 28, 2014).

<sup>6</sup> MAP-21, Sec. 31501(b). A final rule was required by October 1, 2016. A Notice of Proposed Rulemaking was issued but final rules have not. See National Highway Traffic Safety Administration, [ ], Notice of Proposed Rulemaking (Jan. 28, 2014).

<sup>7</sup> MAP-21, Sec. 31502. The law requires that the rulemaking be initiated by Oct. 1, 2013, and final rules or a report by Oct. 1, 2015. A Notice of Proposed Rulemaking was issued but the agency has taken no further action. See National Highway Traffic Safety Administration, *Federal Motor Vehicle Safety Standards: Child Restraint Systems, Child Restraint Anchorage Systems, Incorporation by Reference*, Notice of Proposed Rulemaking, Docket No. NHTSA 2014-0123 (Jan. 23, 2015).

<sup>8</sup> MAP-21, Sec. 31503. A rulemaking proceeding was required to be initiated by October 1, 2014, and a final rule or report by October 1, 2015. The agency issued a request for comments on a proposal to require rear seatbelt warning system in 2010 but has not taken any action since. See National Highway Traffic Safety Administration, *Federal Motor Vehicle Safety Standards; Occupant Crash Protection*, Request for Comments, Docket No. NHTSA-2010-0061 (June 29, 2010).

<sup>9</sup> MAP-21, Sec. 31306. A final rule was required by Oct. 1, 2013. A Notice of Proposed Rulemaking was issued on Nov. 28, 2016, but the agency has taken no action since. See National Highway Traffic Safety Administration, *Vehicle Defect Reporting Requirements*, Notice of Proposed Rulemaking, Docket No. NHTSA-2015-0096 (Nov. 28, 2016).

<sup>10</sup> Fixing America's Surface Transportation Act (FAST Act), Pub. L. No. 114-94 (2015), Sec. 24104(a). A final rule was required by August 2018. Although a NPRM was issued, a final rule has not. See National Highway Traffic Safety Administration, *Updated Means of Providing Recall Notification*, Notice of Proposed Rulemaking, Docket No. NHTSA-2016-0001 (Sept. 1, 2016).

<sup>11</sup> FAST Act, Sec 24112. A final rule was required by Dec. 4, 2016.

- h. Measures to prevent tampering with tire pressure monitoring systems<sup>12</sup>
  - i. Crash avoidance information on manufacturer stickers<sup>13</sup>
  - j. Tire fuel efficiency standards<sup>14</sup>
  - k. Registration of independent tire sellers<sup>15</sup>
  - l. Whistleblower incentives and protections<sup>16</sup>
  - m. Retention of motor vehicle safety records<sup>17</sup>
7. In the recently-released Automated Vehicles (AV) guidance, *AV 3.0*, the Department of Transportation under this Administration reiterated its commitment to allow the AV industry to rapidly expand without Federal safety regulations.<sup>18</sup> According to the report, NHTSA “plans to seek comment on proposed changes to particular safety standards to accommodate automated vehicle technologies and the possibility of setting exemptions for certain standards” for certain automated driving system (ADS)-equipped vehicles.<sup>19</sup> Please provide the Committee with more information about the proposed changes to safety standards and setting exemptions from safety standards. How will the proposed changes increase safety? How will the increase in safety be measured before providing exemptions from long standing safety standards? What safety standards will be changed? From which safety standards will exemptions be set? When does the agency plan to issue the proposed rule(s)? What is the agency’s projected timeline for issuing final rules?
8. In questions for the record following the Committee’s hearing titled “Oversight of the National Highway Traffic Safety Administration,” Chairwoman Schakowsky asked about new motor vehicle safety standards that may be needed for new technologies used in self-driving cars. In your response to the question, you noted that “the National Highway Traffic and Motor Vehicle Safety Act does not allow NHTSA to set new safety standards in the absence of objective information as to whether potential standards are reasonable, practicable, and appropriate” and that “further research is needed before we can consider

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<sup>12</sup> FAST Act, Sec. 24115. The proposed rule was required by Dec. 4, 2016, final rule was required by Dec. 4, 2017.

<sup>13</sup> FAST Act, Sec. 24322. A final rule was required by Dec. 4, 2016.

<sup>14</sup> FAST Act, Sec. 24332. The final rules were required by Dec. 4, 2017.

<sup>15</sup> FAST Act, Sec. 24333.

<sup>16</sup> FAST Act, Sec. 24352. Regulations required by June 4, 2017.

<sup>17</sup> FAST Act, Sec. 24403. A final rule was required by June 4, 2017.

<sup>18</sup> “The right approach to achieving safety improvements begins with a focus on removing unnecessary barriers and issuing voluntary guidance, rather than regulations that could stifle innovation.” Department of Transportation, *Automated Vehicles 3.0: Preparing for the Future of Transportation* (Oct. 4, 2018).

<sup>19</sup> *Id.* at pg. 7.

whether or how new standards may be appropriate.”<sup>20</sup> Please provide an update on all research activities undertaken by, or in cooperation with, NHTSA regarding these new technologies to determine whether potential standards are reasonable, practicable, and appropriate based on the collection and analysis of objective information.

9. For each of the advanced technologies listed below, please update the Committee on NHTSA’s research activities to determine whether new safety standards are reasonable, practicable, and appropriate as well as all current initiatives regarding the technology, including whether the agency has or plans to adopt a performance standard or mandate regarding such technology. If the agency has no such plans, please explain why.

- a. Automatic emergency braking, including dynamic brake support, crash-imminent braking, high-speed automatic emergency braking, and pedestrian-detection systems
- b. Forward collision warning
- c. Lane departure warning
- d. Lane keeping support
- e. Blind spot detection
- f. Automatic crash notification
- g. Driver attention monitoring and verification systems

10. For each year 2016, 2017, 2018, and 2019, provide a list of all requests made to the agency pursuant to the Freedom of Information Act (FOIA). For each request, whether completed or still pending, indicate:

- a. The date the request was received;
- b. The name of the requesting party;
- c. The nature of the request;
- d. The date NHTSA responded to the request;<sup>21</sup>
- e. Whether NHTSA provided the information requested in full or in part and whether the request was denied in full or in part;
- f. Whether the requesting party appealed NHTSA’s decision to deny in whole or in part the request;
- g. Whether NHTSA required that the requestor pay a fee and, if so, the amount of the fee.

11. For each year 2016, 2017, 2018, and 2019, provide a list of each letter sent to NHTSA from a member of Congress to which NHTSA has not yet provided a response. For each letter provide a description of the issues it raises and the date it was received by NHTSA.

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<sup>20</sup> House Committee on Energy and Commerce, *Hearing on Oversight of the National Highway Traffic Safety Administration*, 115th Cong. (Feb. 14, 2018).

<sup>21</sup> If the CPSC provided a series of responses, list each one separately.

12. For each year 2016, 2017, 2018 and 2019, provide an analysis of the efforts NHTSA has undertaken to increase workforce diversity within the agency, including efforts to increase the hiring and promotion of qualified candidates to management.