



Chairman
J. MENDEL
Honda

President
M. STANTON

February 22, 2010

The Honorable Darrell E. Issa
Ranking Member
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515-6143

VEHICLE MANUFACTURERS

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Dear Ranking Minority Member Issa:

Thank you for your February 16, 2010 letter seeking the Association of International Automobile Manufacturers' views on the National Highway Traffic Safety Administration's performance on detecting and remedying auto defects.

Enclosed is AIAM's response to your questions. Please let me know if we may be of further assistance.

AFFILIATES

ADVICS
Bosch
Delphi
Denso
JAMA

Sincerely,

A handwritten signature in black ink that reads "Michael J. Stanton". The signature is written in a cursive style with a long, sweeping underline.

Michael J. Stanton
President & CEO

Cc: The Honorable Edolphus Towns, Chairman

February 22, 2010

**ASSOCIATION OF INTERNATIONAL AUTOMOBILE MANUFACTURERS, INC (AIAM)
RESPONSE TO FEBRUARY 16, 2010 REQUEST
FROM THE HONORABLE DARRELL ISSA FOR AIAM'S VIEWS ON NHTSA'S
PERFORMANCE ON DETECTING AND REMEDYING AUTO DEFECTS**

1. In your opinion, is the capacity of NHTSA, in terms of both resources and staff sufficient to adequately regulate auto safety in the United States? Please explain your answer.

In AIAM's view, the National Highway Traffic Safety Administration (NHTSA) is a sophisticated regulator that is competent and assertive in carrying out its statutory mandates. For example, in 2009, vehicle manufacturers implemented 492 recall campaigns that affected approximately 16.4 million vehicles. Some of these recalls were influenced by NHTSA investigations. However, as explained in greater detail below, by virtue of its broad statutory authority, NHTSA in fact oversaw and monitored each vehicle recall campaign conducted in the United States. As of January 2010, NHTSA's Office of Defect Investigations is in the process of conducting more than 40 active investigations involving motor vehicles or motor vehicle equipment. In sum, we do not have specific information concerning the agency's budget and staff, but we observe that NHTSA has been and continues to be a competent and aggressive regulator.

AIAM and our member companies firmly believe that NHTSA should regulate highway transportation safety from the viewpoint of knowledge, data and empirical evidence. To do this effectively and efficiently, NHTSA should always start from a perspective of statistically significant data. Only through the application of scientific methods of understanding cause and effect can NHTSA continue to improve the safety of America's roadways.

Thus, AIAM has joined with other organizations in support of increasing funds for two important NHTSA data collection programs, the Fatality Analysis Reporting System (FARS) and the National Automotive Sampling System (NASS). Information collected from FARS and NASS form the database that enables government officials, researchers, industry, as well as health and safety organizations to develop, implement, and evaluate safety countermeasures addressing motor vehicle crashes. Budget cuts for NASS have reduced the capability of this program to less than one quarter of its intended design size of 19,000 crash cases and about one-third of the planned 75 data collection teams nationwide. Over the past ten years, the budgets for both the FARS and NASS data collection programs have been for the most part level-funded, with only slight increases to account for inflation. NHTSA's traffic and vehicle safety programs are some of the most cost-effective public health countermeasures in the federal government, and AIAM believes that substantial additional funding for these NHTSA programs is well justified. Improvements to the FARS and NASS data collection programs will help ensure that federal funds for initiatives to encourage safety belt use, reduce impaired driving, protect children, and improve vehicle safety are well spent and save lives.

In terms of defect investigations, NHTSA monitors large volumes of data submitted to the agency pursuant to the existing TREAD Act requirements (death or injury incidents; damage claims; warranty claims; consumer complaints; and field reports) and aggressively investigates potential safety issues that come to its attention. NHTSA also oversees all recall campaigns being carried out by vehicle manufacturers, even if such campaigns are being implemented voluntarily.

2. Please characterize the ability of NHTSA to effectively regulate and ensure motor vehicle safety in the U.S., in terms of funding, staffing, and legal authority in comparison to regulatory regimes in Japan, Germany, Canada, and Great Britain.

NHTSA has broad regulatory authority to effectively regulate and ensure motor vehicle safety in the United States. NHTSA has promulgated stringent vehicle safety standards and enforces compliance with those standards through statutory prohibitions on the sale of defective or noncompliant vehicles to customers.

With respect to enforcement, NHTSA has ample authority to require manufacturers to recall vehicles that have safety-related defects or do not meet Federal safety standards. In addition to the authority to compel recalls, NHTSA oversees all recall campaigns conducted by vehicle manufacturers in accordance with their affirmative responsibilities under Federal law to notify NHTSA of safety related defects and noncompliance. More specifically, each vehicle manufacturer is required to notify NHTSA of any defect or a noncompliance within 5 business days of making a defect determination. This is required even if the manufacturer does not yet know how to remedy the issue or what the affected vehicles population might be.

Additionally, each manufacturer conducting any safety recall must submit to NHTSA quarterly reports showing how the campaign implementation is progressing. NHTSA also regulates the content and timing of all defect notifications to consumers and reviews all recall letters before they are sent to customers. Moreover, NHTSA has specific regulatory authority to accelerate the manufacturers recall campaign if it determines it is necessary to do so. NHTSA is thus authorized to ensure successful completion of all recall campaigns. Its Office of Defect Investigations has a robust and formalized process for investigating potential safety issues. During this investigation process, the agency uses its statutory authority to compel large document productions and usually obtains from the manufacturer data on complaints, crashes, injuries, warranty claims, design modifications, and part sales. When appropriate, this investigation process results in manufacturers conducting recall campaigns. The agency is not lacking in authority to investigate possible defects or to compel recalls when it is necessary.

AIAM does not have extensive information on foreign vehicle safety regulatory schemes but based on information from some of our members, we understand that the U.S. regulatory scheme is unique because it requires manufacturers to promptly notify the government of a safety defect, even in the absence of a government investigation. This early notification requirement is in contrast to some foreign regulatory schemes that may require a government notification only after the manufacturer has made all preparations to launch a recall campaign. Again, this allows NHTSA to ensure rapid and successful implementation of all recall campaigns.

3. Please describe in general terms the process typically used by vehicle manufacturers to identify, investigate, and remedy defects occurring in vehicles in the U.S. and in other markets.

The details of the processes used by vehicle manufacturers to identify and investigate potential safety issues is best addressed by individual manufacturers both in the United States and abroad.

We note that NHTSA can and does investigate whether the manufacturers performed their obligations in investigating and identifying safety defects in a timely manner. If a manufacturer is found to have violated its duty to properly investigate or report a safety defect, NHTSA has the authority to impose substantial civil penalties.

4. Please describe in general terms the process typically used by vehicle manufacturers to communicate to NHTSA the existence of a defect and the remedy to be provided.

Title 49 of the Code of Federal Regulations, Part 573 requires that a vehicle manufacturer that has determined that there is a safety defect or a noncompliance with an applicable safety standard in its vehicles must notify NHTSA within 5 working days. This notification must, at a minimum, identify the model of the vehicles that contain the defect and describe the nature of the defect so that NHTSA can immediately begin monitoring the situation. The manufacturer must also provide a chronology of events leading up to the defect finding and describe the plan for remedying the defect and provide a schedule for notification of dealers and vehicle owners.

5. Are vehicle manufacturers required to report to NHTSA the existence of potential defects in markets outside the U.S.?

Pursuant to the TREAD Act, 49 CFR Part 579; Subpart B requires vehicle manufacturers to report to NHTSA within 5 working days when a vehicle manufacturer has decided to conduct a safety recall campaign in a foreign country (or was mandated to do so by a foreign government) on a vehicle that is identical or substantially similar to a vehicle that is for sale in the United States. So, NHTSA is made aware of all foreign recall campaigns (voluntary or otherwise) that could affect vehicles in the U.S. If a recall is not also being conducted in the U.S., a vehicle manufacturer must explain why.

In addition to foreign defect reporting described above, pursuant to the TREAD Act, 49 CFR Part 579; Subpart C requires manufacturers to report each incident involving one or more deaths that is claimed to have been caused by a possible defect in the manufacturer's vehicle, if that vehicle is identical or substantially similar to a vehicle that that is for sale in the United States. So, NHTSA is also made aware of all overseas fatalities that are claimed to be possibly related to a safety defect.

6. Please describe any non-Federal regulatory or legal requirements covering consumer complaints and defects.

State law provides a variety of means for addressing potential motor vehicle defects. Under state law, parties may file product liability lawsuits to seek recovery for loss relating to a defect.

In addition, states have a variety of “lemon laws” and warranty requirements that provide opportunity for remedy for consumers.

7. In a typical year, how many campaigns are conducted by vehicle manufacturers to remedy motor vehicle defects? How many of these campaigns are the result of pressure from NHTSA?

AIAM does not collect this information, However, NHTSA maintains a recall file, accessible from the NHTSA website at <http://www-odi.nhtsa.dot.gov/downloads/>, that contains information on all NHTSA safety-related defect and compliance campaigns since 1967. Included in this file is a field which indicates whether the recall was initiated by the manufacturer or NHTSA’s Office of Defects Investigation or Office of Vehicle Safety Compliance. To assist the Committee, AIAM queried the file for the 5 years ending December 31, 2009 and calculated that during that period there were on average 485 recalls of motor vehicles and motor vehicle equipment per year, with 73% initiated by the manufacturer and 27% initiated by NHTSA.

8. Please describe in general terms the process typically used by vehicle manufacturers to communicate to affected customers the existence of a defect and the remedy to be provided.

The process for notifying owners regarding vehicle defects is regulated (Title 49 of the Code of Federal Regulations, Part 577) and, as described above, supervised by NHTSA. Specifically, NHTSA reviews recall notification letters before they are sent to the affected customers. Notification is made to the registered owners and lessees by first class mail. The notification letters describe the nature of the defect and the potential harm. The letters explain to the customers how their vehicles will be remedied and what steps, if any, they should take before that remedy is completed. Finally, the letters provide procedural information on when to bring vehicles to dealerships for repairs and remind customers that the repairs will be made free of charge. Follow-up notifications are sometimes sent if the customer response to the initial notification is low.

9. Please estimate the number of crashes occurring annually that are attributable to motor vehicle defects and other causes.

In July 2008, NHTSA submitted a report to Congress, the National Motor Vehicle Crash Causation Survey (NMVCCS). The objective of NMVCCS was to collect on-scene information on the events and associated factors leading up to crashes that involve light vehicles. In their analysis of crashes, the researchers estimated that in 1.2% of crashes the critical reason for the pre-crash event could be attributed to the vehicle (Report # DOT HS 811 059, Table 8). Table 9 in the report categorizes these vehicle-related critical reasons by major component area, but does not identify whether the component failure was attributable to a defect or other cause such as improper repair, previous damage, lack of maintenance, etc.

Data regularly submitted to NHTSA pursuant to the TREAD Act statutory mandate (“Early Warning Data”) as well as many other internal quality control and monitoring procedures employed by various AIAM members help both NHTSA and AIAM members to detect potential safety defect trends and to address them promptly. As indicated above, the industry has recalled approximately 16.4 million vehicles in 2009 alone. Consequently, AIAM believes that an

extremely small percentage of vehicle crashes occurring annually are attributable to safety defects. An overwhelming majority of issues are resolved proactively by the manufacturers or detected by NHTSA, often before any crashes occur at all.

10. While the number of fatalities resulting from motor crashes annually in the U.S. has declined, please estimate the number of fatalities that might be avoided were defects identified and remedied sooner.

AIAM does not have information to respond to this question. As indicated above, however, an overwhelming majority of issues are resolved proactively by the manufacturers or detected by NHTSA, often before any crashes occur. Nevertheless, although we lack specific data, the NHTSA study identified in our response to question 9 and our general experience indicate that the number of defect-related fatalities is quite small in relation to total highway fatalities.

While NHTSA must continue to pursue aggressive programs to identify and remedy defects that occur, AIAM notes that substantial manufacturer resources also continue to be devoted to avoiding the occurrence of design defects.

11. Considering that motor vehicle and motor vehicle systems have grown more complex over the years, please describe the defect trends observed over time.

While the number of recalls conducted annually has gradually increased, this increase is proportional to the increased number of vehicles on U.S. highways. Another factor leading to an increased volume of vehicles recalled is the increasing commonality of parts. While this factor may lead to larger volumes, it also allows manufacturers and NHTSA to detect potential defect trends earlier. In general, AIAM members believe the safety and overall quality of our products continues to increase and improve year after year.

12. Please describe in general terms the process typically used by vehicle manufacturers to develop and validate safety-critical motor vehicle systems, in particular with respect to ensuring that electronic systems are resistant to electromagnetic interference.

Product safety is of paramount importance to vehicle manufacturers. Vehicle manufacturers use a variety of computer simulations, component tests, and full-vehicle tests to develop and validate safety-critical motor vehicle systems. Specifics on how these tests are conducted would vary by manufacturer.