National Transportation Safety Board
Washington, DC 20594

Office of the Chairman

June 20, 2019

Docket Management Facility, M–30
US Department of Transportation
West Building Ground Floor
Room W12-140
1200 New Jersey Avenue SE
Washington, DC 20590

Attention: Docket No. NHTSA–2019–0019

Dear Sir or Madam:

The National Transportation Safety Board (NTSB) has reviewed the National Highway Traffic Safety Administration's (NHTSA) request for public comment on a proposed collection of information, which was published in 84 *Federal Register* 17233 on April 24, 2019. NHTSA intends to perform a toxicology evaluation of blood specimens obtained from seriously or fatally injured people involved in motor vehicle crashes who are taken to a small group of trauma centers and morgues. Specifically, the request asks for public comment on the following:

> (i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
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> (ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
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> (iii) How to enhance the quality, utility, and clarity of the information to be collected; and
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> (iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

The NTSB finds the proposed collection of information to be necessary, proper, and useful; the methodology to be valid; the quality and clarity of the proposed collected information to be appropriate; and the collection techniques to be suitable. For the reasons provided below, the NTSB supports NHTSA's research efforts to better understand the prevalence of alcohol and other drug use among motor vehicle crash victims admitted to selected trauma centers and morgues.

As a result of its investigation of a 1983 fatal aviation crash in which two cargo pilots were each found to have used substances that impaired their decision-making and flying abilities, the NTSB issued the following safety recommendation to the Federal Aviation Administration (FAA):[1]

A-84-93

> Establish at the Civil Aeromedical Institute the capability to perform state-of-the-art toxicological tests on the blood, urine, and tissue of pilots involved in fatal accidents to determine the levels of both licit and illicit drugs at both therapeutic and abnormal levels.

In response, the FAA established its Forensic Sciences Laboratory in Oklahoma City, Oklahoma. For more than three decades, this laboratory has performed extensive toxicological tests on every fatally injured pilot involved in a civil aviation accident in the United States.[2] Consequently, we have a better understanding of drug use trends among these pilots.[3]

However, fatally injured drivers are not currently evaluated for alcohol and other drug use as completely as fatally injured pilots. For example, in 2017, according to the NHTSA Fatality Analysis Reporting System annual report file, only 57 percent of fatally injured drivers were tested for drugs other than alcohol.[4] The tests that were performed varied by state and jurisdiction, including which drugs were tested for, how the test was performed, what type of specimen was tested, and what level of drug was considered "positive." The NTSB has made several recommendations regarding driver drug testing over the years. In 2012, the NTSB held a forum to identify the most effective, scientifically based actions needed to reduce substance-impaired driving crashes.[5] As a result of that forum, the NTSB issued the following safety recommendation to NHTSA:[6]

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[1] (a) National Transportation Safety Board, *Central Airlines Flight 27, Hughes Charter Air, Gates Learjet Model 25 (N51CA), Newark Internaltional Airport, Newark, New Jersey, March 30, 1983*, AAR-84/11 (Washington, DC: National Transportation Safety Board, 1984). (b) One pilot had used marijuana, and the other pilot had used an antihistamine that is no longer available in the United States. Both died as a result of the accident. (c) Safety Recommendation A-84-93 is classified "Closed—Acceptable Action." This recommendation and relevant excerpts of associated correspondence exchanged to determine the recommendation status are available via the NTSB Safety Recommendations Database. The database also provides a chart explaining all of the possible recommendation statuses.

[2] That is, every such pilot from whom appropriate specimens can be recovered.

[3] National Transportation Safety Board, *Drug Use Trends in Aviation: Assessing the Risk of Pilot Impairment*, SS-14/01 (Washington, DC: National Transportation Safety Board, 2014).

[4] This percent was derived from FARS data accessed and analyzed via NHTSA's Query FARS Data wepage on May 6, 2019.

[5] The forum, *Reaching Zero: Actions to Eliminate Substance-Impaired Driving*, was held in Washington, DC, May 15–16, 2012.

[6] See the NTSB's November 21, 2012, letter to NHTSA issuing Safety Recommendations H-12-32 and -33. Safety Recommendation H-12-33 is classified "Open—Acceptable Response."

H-12-33

> Develop and disseminate to appropriate state officials a common standard of practice for drug toxicology testing, including (1) the circumstances under which tests should be conducted, (2) a minimum set of drugs for which to test, and (3) cutoff values for reporting the results.

In its November 21, 2012, letter to NHTSA issuing Safety Recommendation H-12-33, the NTSB noted that—

> Although collecting consistent postaccident drug data alone will not solve the problem, it will give researchers and policymakers a better understanding of the prevalence of drug use among drivers, as well as provide tools with which to assess the risks associated with various substances. And, importantly, it will provide a reliable and valid marker of the effectiveness of laws, enforcement, education, and other countermeasures to address drugged driving.

In 2018, NHTSA established a toxicology data collection expert working group to improve overall understanding of the national scope and prevalence of drug-impaired driving. The working group is developing draft standards for the forensic toxicology community to follow to encourage the standardization of drug testing across jurisdictions.

This request for public comment shows NHTSA is taking another step to better evaluate the use of alcohol, over-the-counter and prescription medications, and other drugs by individuals involved in serious or fatal motor vehicle crashes. The NTSB believes this work is crucial to NHTSA's proper performance of its agency functions, particularly addressing the safety hazards caused by driver impairment. The NTSB notes the blood specimens will be left over from those already drawn and used for medical care and that demographic data will be deidentified. Consequently, there will be no evident burden placed on the public or the individuals involved in the research.

The NTSB fully supports NHTSA's research efforts to better understand the prevalence of different drugs used among the seriously and fatally injured motor vehicle crash victims taken to the trauma centers and morgues participating in the work. Thank you for the opportunity to provide comments.

Sincerely,

Robert L. Sumwalt, III
Chairman