

December 1, 2017

Mr. Jeffrey Giuseppe
Associate Administrator for Enforcement
National Highway Traffic Safety Administration
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

RE: NHTSA Docket 2016-0065, Request for Comments on a Collection of Information, 82 Fed. Reg. 45941, October 2, 2017

Dear Mr. Giuseppe:

The Alliance of Automobile Manufacturers¹ (Alliance) and the Association of Global Automakers² (Global Automakers) provide the following comments in response to NHTSA's Request for Comments on NHTSA's proposed renewal of an information collection identified by OMB Control Number 2127-0004. This information collection generally covers the information required to be reported by manufacturers to NHTSA and to vehicle owners and dealers about safety-related defects and noncompliances. These comments are addressed to the Paperwork Reduction Act (PRA) criteria, as explained in OMB's implementing regulations.

In addition to seeking comment on the information collection burden estimates for the longstanding requirements of the Vehicle Safety Act and NHTSA's regulations at Parts 573 and 577, NHTSA also seeks comment on its estimates of the time and cost burdens associated with the supplemental recall communications occurring in the Takata airbag inflator recalls. The Alliance and Global Automakers will address each of these two categories separately and, as discussed in more detail below, recommends that these should be considered two separate information collections. The Alliance and Global Automakers believe that the information collection request related to routine recalls (Part 573 and Part 577 requirements) is relatively straightforward and could likely be approved in short order. The request as it relates to the

¹ The Alliance of Automobile Manufacturers is an association of 12 vehicle manufacturers which account for roughly 77% of all car and light truck sales in the United States. These members are BMW Group, FCA US LLC, Ford Motor Company, General Motors, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche Cars North America, Toyota, Volkswagen Group of America, and Volvo Car USA.

² The Association of Global Automakers represents the U.S. operations of international motor vehicle manufacturers, original equipment suppliers, and other automotive-related trade associations. These members include American Honda Motor Co., Aston Martin Lagonda of North America, Inc., Ferrari North America, Inc., Hyundai Motor America, Isuzu Motors America, Inc., Kia Motors America, Inc., Maserati North America, Inc., McLaren Automotive Ltd., Nissan North America, Inc., Subaru of America, Inc., Suzuki Motor of America, Inc., and Toyota Motor North America, Inc.

Takata recalls is far more complex and, as shown below, incomplete. As the Takata recalls involve many new and different information collection methods beyond the requirements of Part 573 and 577, we believe the burdens and practical utility of these collections are unique and would be most effectively evaluated in their own separate information collection request.

I. The Safety Defect and Noncompliance Reporting Requirements In General.

The Alliance and Global Automakers submit that NHTSA has underestimated some of the time required to prepare Defect Information Reports (DIRs) and Noncompliance Information Reports (NCIRs), to prepare and distribute the associated public notices and to administer routine recalls. NHTSA identified the following tasks associated with safety recall notices and estimated the associated time and cost burdens for a major vehicle manufacturer as follows:

Task	NHTSA’s Estimated Time or Cost for a Major Vehicle Manufacturer
Maintaining required owner, purchaser, dealer and distributor lists	8 hours/year
Preparing a DIR or NCIR	20 hours/recall
Updating of DIR/NCIR to add details relating to the schedule for dealer notification and preparing/sending dealer notifications	40 hours/recall
Filing copies of all external communications about the defect/noncompliance with an index and summary	0.5 hours/recall
Preparing a reimbursement plan for pre-notification remedies	4 hours/year
Tailoring the reimbursement plan for a given recall	0.5 hours/recall
Disseminating reimbursement plan information	12 hours/year
Administering the VIN-based recall lookup system	200 hours/year
Updating the VIN-based recall lookup system at least weekly	52 hours/year per recall
Preparing quarterly reports on recalls	Ten minutes/recall
Additional time related to filing quarterly reports	4 hours/year
Updating and managing the on-line portal account	2 hours/year
Updating DIR/NCIR with new change or addition regarding recalled components	1 hour/recall (estimated that only 20% of recalls need updating)
Drafting owner notification letters, submitting them to NHTSA for approval and finalizing them for mailing to owners	8 hours/recall
Drafting and sending interim notices when needed	10 hours/recall (estimated that 12% of recalls require interim notices)
Costs of owner notification	\$1.50/first class mail notice

Based on input from Alliance and Global Automakers' members, it is evident that some of these estimates are too low. While different companies have different ways of managing their recalls, and thus different ways of allocating costs, a "best fit" of the information collected from the companies reflects the following differences in the estimates (bolded entries reflect changes from the NHTSA estimates):

Task	Industry's Estimated Time or Cost
Maintaining required owner, purchaser, dealer and distributor lists	Unclear what is included in this task. If it includes obtaining the data and curating it for accuracy on a weekly or biweekly basis, this estimate is far too low.
Preparing a DIR or NCIR	40 hours/recall
Updating of DIR/NCIR to add details relating to the schedule for dealer notification and preparing/sending dealer notifications	No change
Filing copies of all external communications about the defect/noncompliance with an index and summary	3 hours/recall
Preparing a reimbursement plan for pre-notification remedies	No change
Tailoring the reimbursement plan for a given recall	1.5 hours/recall
Disseminating reimbursement plan information	No change
Administering the VIN-based recall lookup system	No change
Updating the VIN-based recall lookup system at least weekly	No change
Preparing quarterly reports on recalls	1 hour/recall
Additional time related to filing quarterly reports	10 hours/year
Updating and managing the on-line portal account	No change
Updating DIR/NCIR with new change or addition regarding recalled components	At least 2 hours/recall and more in complex matters
Drafting owner notification letters, submitting them to NHTSA for approval and finalizing them for mailing to owners	11 Hours/recall
Drafting and sending interim notices when needed	No change
Costs of owner notification	No change

When the estimates are recalculated to reflect the revisions in burden estimates noted above, and with the caveat that the scope of the first task (maintenance of owner lists) was not well understood, the burdens increase as follows:

- Preparing a DIR/NCIR: 11,960 hours (vs. NHTSA's estimate of 5,980 hours)
- Filing copies of external communications: 2,889 hours (vs. NHTSA's estimate of 482 hours)
- Tailoring a reimbursement plan: 1,444.5 hours (vs. NHTSA's estimate of 481.5 hours)

- Preparing quarterly reports on recalls: 4,498 hours (vs. NHTSA’s estimate of 750 hours)
- Additional time related to filing quarterly reports: 170 hours (vs. NHTSA’s estimate of 68 hours)
- Updating DIR/NCIR with new change or addition regarding recalled components: 1,926 hours (vs. NHTSA’s estimate of 193 hours)
- Drafting owner notification letters, submitting them to NHTSA for approval and finalizing them for mailing to owners: 10,593 hours (vs. NHTSA’s estimate of 7,704 hours)

II. The Burdens Associated with the Takata Recalls Outreach.

In the Request for Comments, NHTSA stated that it has the authority, in an enforcement action, to require that vehicle manufacturers conduct additional information collections, such as supplemental recall communications. NHTSA stated that such supplemental communications have been required by Administrative Order (the Coordinated Remedy Order and its several amendments, or the “ACRO”) in the recalls of Takata airbag inflators involving 19 vehicle manufacturers and over 34 million vehicles, and the agency estimated the time and cost burdens associated with the Takata outreach efforts.

NHTSA noted the extraordinary scope of the Takata recalls, and stated that it was not making any assumptions about whether there would be another large-scale recall requiring similar types of supplementary notices. Accordingly, NHTSA’s estimates in the Request for Comments were limited to the Takata recalls themselves and the obligations imposed by the ACRO.

The Alliance and Global Automakers agree that the outreach efforts being conducted in response to the ACRO are extraordinary. Indeed, they are so extraordinary that they deserve their own Paperwork Reduction Act application for approval. The outreach methods utilized in this case are vastly different from and beyond those traditional methods conducted pursuant to Part 577. Thus, additional data are required to quantify their burdens and practical utility. The review and approval of these new methods would be most effective if they are not combined with the review and approval of the ordinary Part 573 and Part 577 renewal process. There should be no assumption that similar outreach efforts conducted in response to the ACRO will ever be replicated, nor should the PRA approval for the ACRO (if granted) apply to any other recalls. Although NHTSA observes that the “lessons learned” in the Takata campaigns “will provide a useful guidepost in structuring any similar future action,” NHTSA does not identify any criteria by which it would deem another recall to be in need of the extraordinary outreach and intensive reporting described in the ACRO and related documents. Before NHTSA decides to impose such information collection burdens on manufacturers in another recall, it should be required to apply for OMB approval under the PRA in order to facilitate a full evaluation of the burdens and practical utility of the information collection in the factual context of that other recall.

Currently, supplemental recall communications are not mandatory. In the legislation known as MAP-21 (Pub.L. 112-141), Congress conferred authority on NHTSA to order “additional” notifications after a second customer notification “in the manner prescribed by the

Secretary, by regulation.” 49 U.S.C. §30119(e). NHTSA has begun the process of establishing such regulations by issuing a Notice of Proposed Rulemaking in 2016, but it has not yet adopted any final regulations. In fact, the latest Report on DOT Significant Rulemakings on the DOT website lists the next stage of these regulations as “undetermined.” Thus, while the affected vehicle manufacturers have been cooperating with the requests of NHTSA and the NHTSA-appointed Takata Monitor³ to undertake certain outreach efforts to owners of vehicles equipped with Takata airbag inflators, it is not because the additional outreach is mandatory, but because the manufacturers share NHTSA’s goal of remedying as many affected vehicles as possible in this campaign.

In commenting to OMB on the Paperwork Reduction Act aspects of the proposed regulations in 2016, the Alliance and Global Automakers noted that the PRA burden estimate for the proposed “additional notification” rule was incomplete, because it did not account for the time and costs of “additional notifications” after the second customer notification. Now that NHTSA is seeking PRA approval for the significant reporting and other specifications of the Takata ACRO and related activities, it is obvious that the time and cost burdens of such additional notifications in this matter are substantial and, when properly estimated, will exceed the time and cost burdens imposed by Parts 573 and 577 for **all other recalls combined** on an annual basis.

A. NHTSA has underestimated the time and cost burdens of the Takata ACRO tasks that it described in the Request for Comments.

NHTSA identified the following tasks associated with the Takata ACRO and estimated the associated time and cost burdens on affected manufacturers as follows:

Task	NHTSA’s Estimated Time or Cost for An Affected Manufacturer
Providing one form of consumer outreach to owners of unremedied vehicles per month until the vehicle is remedied or otherwise accounted for, using at least three non-traditional means of communication, and using certain safety risk information specified in the Monitor’s Coordinated Communications Recommendations (CCRs)	\$0.44/VIN per month for an industry-wide total of \$43,557,722 per year (discounted down to \$27,836,329 per year due to NHTSA’s assumptions about the MDL settlement)
Preparing supplemental customer notices using non-traditional means, submitting them to NHTSA for review, and finalizing them to send to purchasers	2 hours/month

³ The Takata Monitor was appointed by NHTSA as part of several Orders directed at Takata for a variety of Safety Act violations. None of these Orders was directed at vehicle manufacturers. The ARCO was issued to help coordinate the recall efforts of 19 involved OEMs, given the extraordinary challenges of recalling tens of millions of vehicles where global replacement parts are in short supply. Numerous obligations were directed at vehicle manufacturers, and the monitor was appointed to help oversee recall remedy efforts and make recommendations. The agency has indicated that the Monitor is considered an adjunct to the Office of Chief Counsel and the Office of Defects Investigation for the purpose of the Takata recalls.

According to the report of the Independent Takata Monitor dated November 15, 2017, “The State of the Takata Airbag Recalls,” there are 19,982,297 unremedied vehicles with Takata inflators.⁴ Even if the non-traditional outreach costs only \$0.44/VIN, a monthly outreach to nearly 20 million owners will cost nearly \$9 million/month, which comes to \$108 million per year, for this one element of the CCR alone.

Moreover, the Alliance and Global Automakers submit that the time and cost burden of the supplemental non-traditional notices is far more than \$0.44/VIN on average and requires much more than 2 hours per month to prepare and administer. Depending on the type of supplemental notice, the initial average estimates are in the range of \$2/VIN to \$5/VIN. Non-traditional outreach initiatives involving higher levels of personal service (e.g., canvassing or mobile repair) can further increase costs as high as approximately \$30 to more than \$100/VIN. In addition, these per VIN costs may not account for all the costs imposed, as Alliance and Global members are running broad concurrent campaigns with overlapping VIN populations. In these scenarios, it is difficult to assign general programmatic costs on a per VIN basis, because each VIN may have benefited from a different set of outreach programs. Alliance and Global Automakers expect to refine these estimates in supplemental comments, but do not expect the numbers to be lower than this initial range. So, even at the low end of this range, Alliance and Global Automakers members are spending close to \$40 million/month on these efforts.

NHTSA discounted its PRA burden estimates by about one-third, to reflect NHTSA’s expectations with regard to the recent settlements of multi-district litigation comprised of several economic-loss class actions (the “MDL”). The settlements require the settling manufacturers, which to date comprise only about 25% of those conducting Takata recalls, to conduct outreach to vehicle owners using non-traditional methods, and NHTSA is assuming that the MDL outreach programs will also satisfy the ACRO and CCR specifications. Accordingly, NHTSA discounted its PRA burden estimates on the assumption that the settling manufacturers have to incur those expenses anyway. NHTSA’s analysis does not set an appropriate baseline for this cost analysis. The settlements were facilitated by the fact that the settling manufacturers were already undertaking the outreach efforts in cooperation with the ACRO and CCR. Since the ACRO and CCR specifications predated the MDL settlements, NHTSA should have to account for the full PRA burdens of those outreach expectations. If NHTSA does not do so, its analysis of the burdens of this collection would be inaccurate as it would not take into account an adequate “before-and-after” estimate of burdens imposed by the proposed collection. Moreover, it is premature to know the extent to which the outreach efforts contemplated by the ACRO and CCR will actually satisfy the MDL settlement obligations.

⁴ This report is available at <https://www.nhtsa.gov/recall-spotlight/takata-air-bags#takata-air-bags-related-documents>. The various Orders and the Monitor recommendations referred to in this comment are contained in Attachments to the report. The report outlines numerous activities of the Monitor and vehicle manufacturers in the efforts to achieve recall completions based on statutory and regulatory requirements as well as other, non-regulatory activities recommended by the Monitor. These recommendations are incorporated into the ACRO. The report assesses the various activities and their perceived effectiveness. However, this effectiveness is solely focused on obtaining recall remedy completions; it does not include any assessment of the costs and burdens associated with any of the activities or recommendations. As NHTSA has delegated many of the information collection activities to the Monitor, to the extent that such activities and recommendations are covered by the PRA, time and burden analyses are required.

B. NHTSA did not identify all of the Takata ACRO and related tasks that are subject to PRA approval, and should revise its burden estimates before OMB acts on the approval request.

NHTSA acknowledged the monthly touchpoint communications contemplated by the CCR in its PRA burden estimates. NHTSA did not, however, identify and quantify the burdens associated with numerous other reporting and recordkeeping requirements of the ACRO or other orders issued in the Takata matter. These include:

Task (Paragraph numbers refer to the Paragraph of the ACRO or other document)
Tasks Under the ACRO
Submitting to NHTSA and the Monitor a Recall Engagement Plan and update it quarterly (§§ 36 and 37)
Submitting to NHTSA and the Monitor a Supply Certification for each of the 12 Priority Groups in the recall confirming details about remedy part availability (§ 38)
Submitting to NHTSA and the Monitor a written testing plan for evaluating the safety of desiccated PSAN inflators (applicable only to those manufacturers electing to use desiccated PSAN inflators as a replacement for the non-desiccated PSAN inflators) (§ 41)
Submitting to NHTSA and the Monitor biweekly recall completion update reports (§ 44)
Notifying NHTSA of a manufacturer’s intent to remove certain VINs from the population of VINs subject to the recall (for example, because they meet NHTSA’s criteria for being considered no longer in service) and conduct quarterly retroactive monitoring of dealer service records to determine if a removed VIN is later serviced by a dealer for any reason (§ 48 and Supplemental Guidance recently issued by NHTSA)
Creating and retaining records to substantiate the determination that a given VIN can be removed (§ 48)
Task Under the Standing General Order Issued on August 15, 2015
Reporting to NHTSA within 5 business days of receiving notice of an incident in which an air bag inflator ruptured or is alleged to have ruptured. The report is to be made on a NHTSA-specified form that does not currently display an OMB Control Number, and is to be accompanied by all documents related to the incident (§§ 1 and 2).

The tasks noted above do not include the more detailed sub-tasks contained in the Monitor recommendations issued on April 1, 2016, July 15, 2016, and December 23, 2016 pursuant to the ACRO. These sub tasks still must be quantified in terms of time, burdens, or practical utility. We also note that it is appropriate to consider the burden on other potentially affected persons or entities who are not manufacturers. For example, some of the recommendations involve engagement with dealers and it would be appropriate to consider the burden on them.

The Alliance and Global Automakers are striving to collect aggregated data to permit an informed estimate of the time and cost of these tasks, and intends to provide supplemental comments to aid the agency’s evaluation of these burdens.

The Alliance and Global Automakers also note that NHTSA did not provide the information required by OMB's regulations (5 C.F.R. §1320.8(d)) to be included in a Request for Comment about an information collection. Specifically, NHTSA did not explain how the supplemental communications contemplated by the ACRO and the CCR are "necessary for the proper performance of the functions of the agency, including whether the information will have practical utility." For example, the Request for Comments does not explain why monthly contacts with owners of unremedied vehicle owners are more effective in stimulating a positive response than contacts at a different frequency level. NHTSA cites only to general research that "supports that frequent notifications using non-traditional means result in improved remedy completion." 82 Fed. Reg. at 45945. But nothing in the information cited by NHTSA specifically supports the monthly frequency of the specific supplemental communications specifications of the ACRO and the CCR. Another reporting specification that has not yet been justified is why at least some manufacturers have been directed to submit two biweekly reports of Takata recall completion: one to NHTSA and a different one to the Monitor, rather than a unified single report to both entities.

Because NHTSA did not include the Recall Engagement Plan in its Information Collection Request, the burdens associated with carrying out the plan by each manufacturer have not been accounted for. OMB has interpreted the term "burden" to include the burden of obtaining the information that is being conveyed to the government in a report. OMB used the example of reporting test data:

"[T]he burden of a government request for the reporting of test data properly includes the burden of obtaining the information – including conducting the tests – as well as the mechanical burden of conveying it to the government." Preamble to OMB's Final Rule establishing PRA regulations, 48 Fed. Reg. 13666, 13674 (March 31, 1983).

What this means for the ACRO and related specifications is that the estimate of the time and cost burdens associated with the ACRO must also include the time and cost burdens of substantively executing on the ACRO specifications. For example, the time and cost burdens associated with preparing a Recall Engagement Plan with quarterly updates is not merely the time it takes someone to write the draft and get it reviewed internally before filing it. It also includes the time and cost burdens of carrying out the plan.

C. NHTSA requested comment about recall "notification fatigue."

The Request For Comments specifically asked for comments on the phenomenon of "notification fatigue," and sought information about "the optimal frequency, content, mode and method of recall/defects notifications from manufacturers to consumers."

OMB directed NHTSA to seek this information, through a request for public comment, in the OMB Action returning the renewal application for PRA approval of the requirements contained in Parts 573 and 577 for only four months. OMB expressed concern that "Consumers could get 'notification fatigue' if they get bombarded with letters every month. They could

ignore all notices, including new ones. NHTSA should seek and consider all public feedback, and develop a plan for efficient remedies for recalls.”

The Alliance and Global Automakers agree with these observations. The Alliance and Global Automakers are aware of no data-based research showing that the comprehensive program of “frequent notifications using non-traditional means,” being conducted pursuant to the ACRO, actually “result in improved remedy completion,” as stated in the Request For Comments. Other than the Takata recalls, the Alliance and Global Automakers are not aware of any other recall in which manufacturers have employed “frequent notifications using non-traditional means,” at least to the degree specified by the ACRO and related documents on the Takata recalls, so it is unknown what baseline completion rate NHTSA is referencing when it refers to “improved” remedy completion. And the Alliance/NADA document NHTSA cites in support of this statement does not actually support that statement. The Alliance/NADA Survey reported in November 2015 did state that dealers “try multiple attempts and methods to contact the customer (phone, email, mail),” but these are traditional means, not non-traditional means. Moreover, the Alliance/NADA Survey did not include any conclusions about whether these “multiple attempts and methods” actually work to improve remedy completion.

NHTSA also cites literature from the advertising and marketing world to support a conclusion that greater notification frequency is better. But it is not clear that the experience of product or service marketing efforts is relevant to understanding how to communicate with vehicle owners about the importance of participating in a recall. Advertising and marketing efforts are ordinarily directed to trying to persuade a consumer to purchase a good or service that presumably the consumer eventually finds desirable to purchase. In a recall campaign, the multiple communications are intended to motivate the consumer to take an action he has not so far chosen to take, and which is generally perceived as an undesirable distraction from his ability to use the vehicle. See the Alliance/NADA Survey quoted by NHTSA in the Request For Comments at page 9: the primary reasons why non-responders did not participate in recalls were:

- parts weren’t available;
- the safety risk was not perceived as being serious;
- the inconvenience of taking time off work;
- the distance to the dealership; and
- information is available elsewhere (relevant to label-related recalls).

The participants did not cite to the lack of enough communications from the manufacturer. And, while the suggestions from the participants for improving the participation/completion rates for recalls did include a suggestion to use “more methods of contact, not just letter/postcard,” at page 10, they also cited a need to specify that the repair is free, and specify the estimated time the repair will take, both of which are already required to be in recall notices by Part 577, so it is unclear whether “more methods of contact” would actually increase participation rates among persistent non-responders.

The Alliance and Global Automakers do not disagree that consumers need to be encouraged to participate in recalls, and that the methods of communicating that encouragement can vary. Alliance and Global Automakers members have tried many different communication

modes in the Takata recalls and other campaigns, but to date, have not found a way of accurately measuring the effectiveness of any of these modes in actually increasing recall participation.

NHTSA should be concerned about overloading consumers with information about recalls in general, and the Takata recalls in particular. If communications about recalls are too frequent, consumers may begin to ignore all of them, perversely lowering recall participation rates instead of improving them.

The bottom line is that no one knows “the optimal frequency, content, mode and method” of communicating with consumers about recalls, including whether “more” is always “better.” The answer is going to be different for different recalls and different recall populations. As consumers have no legal obligation to present their vehicles for remedy, what motivates any given consumer to participate in a given recall will be different.

Further, while the affected vehicle manufacturers have been working with the Takata Monitor to identify different outreach methods to try to address the different motivations, continued outreach efforts lead to incrementally diminishing returns as a recall campaign matures (i.e., as fewer and fewer owners are left that haven’t presented their vehicle for remedy). The recall population continues to change in this respect as affected vehicle owners that chose to ignore prior outreach attempts are less likely to respond to further outreach attempts. At some point, the Takata Monitor’s recommendations for further outreach will become additional information collection burdens that produce little or no practical utility.

III. Conclusion.

The Alliance and Global Automakers believe that the Information Collection Request for the renewal of approval for Parts 573 and 577 and the new Information Collection Request for the information collections associated with the Takata recalls should be separated. The renewal of approval for Parts 573 and 577 should be relatively straightforward for the continuation of these longstanding requirements.

The information collections associated with the Takata recalls, however, are much more complicated, and involve time and cost burdens that are far higher than NHTSA has estimated, in part because NHTSA did not identify all of the reporting and recordkeeping obligations associated with the Takata recalls. OMB’s regulations require the agency to provide justifications for these information collection requirements that include explanations of whether the information will have “practical utility” to NHTSA.

The Alliance and Global Automakers appreciate this opportunity to comment. The Takata recalls are extremely serious, and warrant extraordinary efforts to reach owners of unremedied vehicles. The Alliance and Global Automakers welcome the opportunity to quantify

the level of effort associated with the extraordinary outreach being undertaken in these recalls, both for transparency and accountability to the public.

Sincerely,



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Cc: NHTSA Docket 2016-0065
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