U.S. Department
of Transportation

**National Highway
Traffic Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

March 10, 2020

The Honorable Robert L. Sumwalt, III
Chairman
National Transportation Safety Board
490 L'Enfant Plaza East, SW
Washington, DC 20594

Dear Chairman Sumwalt:

Thank you for your October 2, 2019 letter to the National Highway Traffic Safety Administration (NHTSA) regarding two recommendations in the National Transportation Safety Board's (NTSB's) September 13, 2019 report, "Providing Occupant Protection for Limousine Passengers" (Safety Recommendation Report). The report was developed from NTSB's investigation of the October 6, 2018 limousine crash in Schoharie, New York. We understand it to be a preliminary report, with another report forthcoming that will analyze crash causation.

The recommendations in this report, based primarily on crash survivability as opposed to what could have prevented or mitigated it, are as follows:

- **H-19-14:** Require lap/shoulder belts for each passenger seating position on all new vehicles modified to be used as limousines.

- **H-19-15:** Require that seating systems installed in new vehicles modified to be used as limousines meet minimum performance standards to ensure their integrity during a crash.

NHTSA has carefully reviewed the Safety Recommendation Report to understand the Schoharie crash of the 2001 Ford Excursion stretch limousine and the recommendations NTSB has issued. Given that the report contains no information related to crash causation—i.e., the condition of the vehicle's brakes and the possibility of brake failure or on overall maintenance and operational problems that could have contributed to other component failures, particularly given the age of the vehicle—our ability to respond is limited.[1] The report contains no estimate of the vehicle speed at impact or its change in velocity, other than stating that the vehicle was traveling "at a speed considerably in excess of the posted limit" of 50 miles per hour (mph) when crossing

[1] There was widely disseminated public information pertaining to the limousine service operator's possible improper maintenance of the vehicle in general and the brake system in particular, as well as to possible inspection, licensing and registration issues. *See* "Shop Faked Brake Repairs Before Limo Crash That Killed 20, D.A. Says," New York Times, October 10, 2019, *available at* https://www.nytimes.com/2019/10/10/nyregion/ny-limo-crash-brakes.html; "New Details in Schoharie Limo Crash Case; Hussain is Criminally Responsible, DA Says," The Daily Gazette News, October 21, 2019, *available at* https://dailygazette.com/article/2019/10/21/schoharie-da-hussain-remains-responsible-for-crash.

the intersection on its way to the impact location. It provides no information about the vehicle occupants or the sources of their injuries, aside from stating that "[t]he Schoharie crash was an extreme event in which the occupants were subject to high crash forces." In addition, the report notes that, aside from the driver, no occupants were wearing seats belts, despite the fact that they were present.

We address the recommendations below.

H-19-14: Require lap/shoulder belts for each passenger seating position on all new vehicles modified to be used as limousines

Recommendation H-19-14 is substantially similar to Recommendation H-18-59, which recommended that NHTSA amend Federal Motor Vehicle Safety Standard (FMVSS) No. 208, "Occupant Crash Protection," "to require lap/shoulder belts for each passenger seating position on all new buses with a gross vehicle weight rating of more than 10,000 pounds but not greater than 26,000 pounds." We responded on April 18, 2019 that the suggested amendment may not be cost effective at likely belt use rates, but the agency will continue to assess the need for the belts.[2] NTSB responded stating, "Pending your publication of a final rule that incorporates the recommended revisions into FMVSS 208" NTSB is classifying H-18-59 as "Open—Acceptable Response."

NHTSA's understanding is H-19-14 essentially recommends the same result as H-18-59, because the only vehicles that could potentially be modified for use as a limousine that are not already required to have seat belts are new buses with a GVWR between 10,000 pounds and 26,000 pounds (medium-size buses). "Limousine" is not a defined class of vehicles in the FMVSSs; a vehicle is commonly understood to be a limousine based on how it is used. Depending on its passenger capacity and features, a vehicle used as a "limousine" can be a passenger car, a multipurpose passenger vehicle (MPV), or a bus. We believe H-19-14 focuses on medium-size buses because passenger cars and MPVs, and buses with GVWRs below 10,000 pounds or above 26,000 pounds, are already required to have seat belts at all passenger seating positions.[3] Moreover, according to the Safety Recommendation Report, the Schoharie bus was a medium-size bus, since its total seating capacity was 18 occupants and it had a weight of 13,080 pounds. To streamline the communications between our agencies and reduce redundancy, we ask that H-19-14 be classified as "Closed-Acceptable Response" and subsumed under H-18-59.

---

[2] NHTSA had originally considered the issue in the agency's 2013 rulemaking amending FMVSS No. 208, to require lap/shoulder belts for each passenger seat on new motorcoaches and on all buses with a gross vehicle weight rating (GVWR) greater than 26,000 pounds ("large buses"). 78 FR 70416, November 25, 2013. During that rulemaking, NTSB issued Recommendation H-10-003, requesting that NHTSA also extend the rulemaking to new buses with a GVWR between 10,000 pounds and 26,000 pounds ("medium-size buses"). NHTSA completed the rulemaking on the large buses but declined to require the belts on medium-size buses. The decision was data-driven, as an analysis of crash data showed that medium-size buses have a safety record that did not demonstrate a safety need for a belt requirement. NHTSA stated it wished to continue to examine the need for seat belts in these vehicles. 78 FR at 70433.

[3] Under FMVSS No. 208, buses under 10,000 pounds GVWR and those greater than 26,000 pounds GVWR (large buses) must already have seat belts. Currently, new medium-size buses are not subject to FMVSS No. 208's requirement to provide rear passenger seat belts.

We wish to point out a concern that the nexus between H-19-14 and the outcome of the Schoharie crash is not altogether clear. The Schoharie bus was equipped with the belts that the recommendation seeks to require for such vehicles. Regrettably, no passengers were wearing the seat belts, and the non-use of the belts would not have been corrected by adopting the recommendation of H-19-14.

The Safety Recommendation Report does not show that belt use would have caused the passengers to survive such a high-severity crash. While the report states that there was available survival space in the vehicle for the passengers if the belts had been used, it provides no data supporting the assertion. The exceedingly severe nature of the Schoharie crash, including the detachment of seats from the bottom of the vehicle, prevents us from concurring with an assertion that the tragic outcome would have changed had there been belt use.

Finally, we note that neither H-19-14 nor H-18-59, make any distinction with respect to seat direction. NHTSA has previously expressed concern that there is a paucity of evidence supporting the benefits of lap/shoulder belts over lap belts alone in side-facing vehicle seats,[4] and has noted that some studies suggest potential carotid injury to an occupant from a lap/shoulder seat belt in a side-facing seat in a frontal crash.

In summary, as explained in response to H-18-59, NHTSA has no near-term final rule pending or anticipated in this area. As H-19-14 repeats H-18-59, NHTSA requests that H-19-14 be designated "Closed—Acceptable Response."

H-19-15: Require that seating systems installed in new vehicles modified to be used as limousines meet minimum performance standards to ensure their integrity during a crash.

NHTSA requests that Recommendation H-19-15 be classified as "Closed-Acceptable Response" for the following reasons.

NTSB observed that the rear-facing and side-facing seats (installed by the modifier) became unmoored from the floor of the vehicle. Recommendation H-19-15 pertains to FMVSS No. 207, "Seating systems," which specifies requirements for seats and their attachment assemblies. The standard has minimum strength requirements for horizontal inertial seat loadings in which a static force of 20 times the mass of the seat multiplied by the gravitational constant ("20 G requirement") is applied in both the forward and rearward directions. That said, per FMVSS No. 207, S4.2, the 20 G requirements do not apply to passenger seats in a bus (other than a school bus), or side-facing seats in any vehicle.

To apply the 20 G requirement to vehicles like the Schoharie bus, NHTSA must determine that there is an unmet safety need, and that the standard is appropriate to meet that need. Given the unusually high severity of the Schoharie crash, the lack of information associated with injury causation, and questions related to the degree to which vehicle maintenance could have affected

[4] Motorcoach seat belt rule, 78 FR at 70447.

vehicle structural components, the findings in the Safety Recommendation Report are not sufficient to establish that there is an unmet safety need relating to seat strength of passenger seats in medium-size buses or side-facing passenger seats. Further, large stretch limousines comprise a relatively small vehicle population, and have a low involvement in serious crashes overall.

Further, it may not be the case that the 20 G requirement is appropriate for buses and/or side-facing seats, since most limousines (and buses) weigh considerably more than a passenger car (the vehicle class upon which the requirement is based), and may not experience the same crash deceleration levels. Further, it is not known whether, if the occupants had been belted, the original seats in the Schoharie crash would have remained attached to the vehicle.

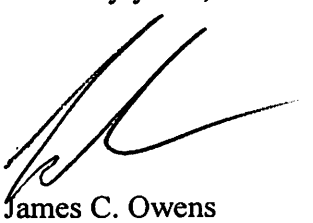
NHTSA would also need to develop a test procedure for side-facing seats or establish that the existing FMVSS No. 207 test procedure is sufficient. This may be difficult because, while the FMVSS No. 207 test procedure produces symmetric forward and rearward loading for front- and rear-facing seats, a side-facing seat loaded in the same forward and rearward manner could result in off-axis twisting that may compromise objectivity and repeatability of the test procedure.

Additionally, we note that the nexus between H-19-15 and the outcome of the Schoharie crash is unclear. That recommendation would apply to new vehicles modified to be used as limousines. However, it is not clear from the report whether the Schoharie bus was new at the time it was modified to be a limousine.

Based on available information, NHTSA has decided not to pursue the requested seating system requirement at this time. For the reasons discussed above, NHTSA requests that Recommendation H-19-15 be classified as "Closed-Acceptable Response."

If you have any questions, or require additional information, please contact me or Sara Peters, Deputy Director, Governmental Affairs, Policy and Strategic Planning at 202-366-8849.

Sincerely yours,



James C. Owens
Acting Administrator