

**From:** Valdivia, Diana (USADC) <Diana.Valdivia@usdoj.gov>  
**Sent:** Monday, July 29, 2019 3:05 PM  
**To:** Kevin Bell <kbell@peer.org>  
**Cc:** Paula Dinerstein <pdinerstein@peer.org>  
**Subject:** RE: PEER v NHTSA, 19-0013

Hi Kevin,

Based on my most recent conversation with agency counsel, I've responded to each of your questions below in red. Please let me know if there are any of these issues that you wish to discuss further, and what we should tell the Court in connection with the Joint Status Report we have due today.

Best regards,  
Diana

**Diana V. Valdivia**

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**From:** Kevin Bell <[kbell@peer.org](mailto:kbell@peer.org)>  
**Sent:** Monday, July 22, 2019 1:11 PM  
**To:** Valdivia, Diana (USADC) <[DValdivia@usa.doj.gov](mailto:DValdivia@usa.doj.gov)>  
**Subject:** RE: PEER v NHTSA, 19-0013

Hi Diana,

We've completed a review of the materials produced and noted that the following do not appear to be within the production:

1. Decision documents explaining the rationale behind NHTSA's denial of the above-referenced PEER rulemaking petition;

[By letter dated January 28, 2018, NHTSA denied a September 28, 2017, petition from PEER to initiate a rulemaking to require the installation of carbon monoxide detectors in all new motor vehicles and require the installation of built-in engine cut-off devices to prevent injuries and fatalities caused by carbon monoxide from motor vehicle exhaust.]

*NHTSA identified a draft of the Federal Register notice for the denial of the Petition for Rulemaking. As indicated in the FOIA response letter, NHTSA withheld the draft as deliberative.*

1. The final report of the NHTSA 2016 review of keyless ignition systems;

[NHTSA announced a review of the issue of keyless ignitions in automobiles in its 2016 video but this review has apparently not been completed. In a March 2018 statement, the agency stated "Once N.H.T.S.A. has finished its review and determined the best path forward, N.H.T.S.A. will take appropriate action." There is no material referencing this item]

*As indicated in the FOIA Response letter, no such final report was identified in processing and responding to this FOIA request.*

1. Documents reflecting the latest status of the proposed NHTSA regulation relating to keyless ignitions as well as explaining the reasons why this regulation has not been finalized;

[ In January 2011, the Society of Automotive Engineers proposed that vehicles with keyless ignitions should be required to install alerts to warn drivers that cars were still running without the key fob in or near the car, and in some cases to shut the engine off automatically. NHTSA proposed a regulation along these lines, that would have required software changes. However, NHTSA has yet to act on that proposed regulation.]

*In response to this item, NHTSA identified and produced a February 1, 2019 Congressional response letter (Bates Nos. NHTSA-ES18-003754-181 – 182) and a copy of the status for the RIN (Bates No. NHTSA-ES18-003754-183). NHTSA's letter response also provided a link to the public webpage containing this information. NHTSA views these records as responsive and did not identify or withhold further records responsive to this request.*

1. The final report of investigation in the 2013-14 review of seven automakers;

*[In 2013-14, the NHTSA began an investigation of seven automakers concerning their safety features for keyless vehicles. However, the results of that investigation have yet to be disclosed]*

*NHTSA produced seven reports regarding a technical investigation conducted by its Office of Vehicle Safety Compliance into keyless ignition vehicles (Bates No. NHTSA-ES18-003754-184-191). These records represent the material identified by us that most closely matches this item of the FOIA request.*

*All that NHTSA did release was item 5 from our FOIA (in addition to incident reports on several CO-caused vehicle deaths, which we did not request):*

- 1. A copy of the NHTSA response to the July 11, 2018 letter from four U.S. Senators concerning keyless ignitions.*

*NHTSA produced the requested letter responses, as well as their enclosures. NHTSA understands that this item is no longer at issue in light of the FOIA response.*

*Do documents responsive to items 1-4 not exist or is the agency refusing to provide them under an exemption to FOIA?*

*Thanks,*

Kevin