

STATEMENT OF RAYMOND A. PECK, ADMINISTRATOR, NATIONAL HIGHWAY
TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION,
BEFORE THE SUBCOMMITTEE ON TELECOMMUNICATIONS, CONSUMER PROTECTION
AND FINANCE, HOUSE COMMITTEE ON ENERGY AND COMMERCE, CONCERNING
OVERSIGHT ON MOTOR VEHICLE ENFORCEMENT ACTIVITIES, MARCH 2, 1983

Mr. Chairman and Members of the Subcommittee:

Thank you for your invitation to testify, today, on NHTSA's defect and recall enforcement activities and on issues pertaining to the GM X-body defect case. I welcome the opportunity to present and explain the Agency's efforts in this vital area of motor vehicle safety. As you requested in your invitation, I will confine my initial oral statement to 5 minutes.

Accompanying me are Frank Berndt, our Chief Counsel, and Lynn Bradford, our Associate Administrator for Enforcement.

ENFORCEMENT & SAFETY DEFECTS IN GENERAL

NHTSA's enforcement activities are divided into two operational areas: defects investigation and vehicle safety standard compliance. Our defect investigations, which are the subject of this hearing, cover domestic and foreign vehicles, tires and equipment and the safety-related defect notification requirements of the National Traffic & Motor Vehicle Safety Act of 1966.

The motoring public is the primary source of information for these investigations and the Agency receives approximately 2,500 reports a month about problems with motor vehicles, tires, and equipment.

When a manufacturer obtains information from another source that a safety defect exists, or that a group of vehicles or items of equipment do not comply with a Federal motor vehicle safety standard, it often remedies the problem free of charge to vehicle owners. If formal NHTSA recall procedures are used, a manufacturer is required to take such action.

Since the passage of the motor vehicle safety statute in 1966, manufacturers have recalled more than 101.6 million vehicles to correct safety defects. Most of these recalls were initiated by the manufacturers without the need for formal NHTSA action. However, NHTSA influenced the recall of 49.9 million of them. The resulting benefit, of course, is the reduction of the potential for accidents of many vehicles which would otherwise remain defective and hazardous to the public.

RECENT STATISTICS

Even though the past several years have been exceptionally difficult ones for the auto industry, NHTSA has remained vigilant in enforcing the Federal laws, standards, and regulations concerning motor vehicle safety.

Despite the extraordinary economic deterioration, during 1981 there were 156 vehicle safety recall campaigns involving 9.4 million vehicles--a number that is almost double the 5 million recalled in 1980. More than 75% of these recalled vehicles resulted from completely voluntary actions taken by the car makers, while NHTSA actions influenced the recall of about 2.5 million.

During 1982, there were 135 vehicle safety recall campaigns involving 1.91 million vehicles. Of these vehicles, more than 65% resulted from completely voluntary actions taken by the car makers, while NHTSA actions influenced the recall of about 657,000. Though the total number of vehicles recalled during 1982 was unusually low, the 135 recall campaigns for the year and the percentage which were influenced by NHTSA fall within the historical range.

The Agency's enforcement duties are and must be guided solely by safety-related concerns pursuant to our statutory mandate. When we exercise our responsibilities in this regard, we are acting as nothing less than a law enforcement agency and our obligations are virtually absolute. In this type of area, more than perhaps any other, our goals, objectives and duties do not change from administration to administration, from administrator to administrator. That has been my unqualified and unconditional instruction to the professionals of the agency in private and in public and I do not hesitate to repeat it here now, again.

GAO REPORT ON RECALL PROGRAM

NHTSA places a high priority on improving the effectiveness of motor vehicle safety recalls. As the Department emphasized in its letter accompanying the DOT reply to the August 1982 GAO final report, "Changes to the Motor Vehicle Recall Program Could Reduce Potential Safety Hazards," we share the GAO's concern with improving the effectiveness of the recall program and we intend to use all reasonable means to implement their recommendations to:

(1) speed up the defect investigation process; (2) work with the auto makers to lower the reading levels and format of the recall letters; and (3) work with the auto makers to test various techniques to remind owners of the recall.

The Agency has taken steps to speed up the processing of defects investigation cases. We have shortened the time-frames for the Office of Chief Counsel's review of the Office of Defects Investigation recommendations and increased the emphasis on compliance with these revised schedules.

Specifically, the Counsel's Office is now required to draft a written analysis of each Office of Defects Investigation recommendation within 14 days of its receipt, except in cases of unusual complexity or where urgent litigation matters take priority (ATTACHMENT A). These steps and others, which are consistent with the GAO's recommendations to the Secretary, have resulted in the complete elimination of the "backlog" of pending defects investigation cases the GAO investigators found on their visit in 1981.

We disagree, however, with the GAO's conclusion regarding inadequate coordination and direct communication between the Agency's Offices of Chief Counsel and Defects and Investigation. The final report omits any discussion of several important cooperative efforts between those offices during fiscal year 1981, including the negotiated resolution of several major investigations such as the Ford transmission settlement, the GM mid-sized car rear window defroster recall, the Toyota Hilux Pickup shimmy recall, and the AM General recall of M.A.N. articulated buses. Additional examples of fully cooperative efforts between these two offices have occurred since the GAO investigator's visit and they will continue.

While prompt removal of defective vehicles from the nation's highways is always our goal, it is not always possible to avoid a lengthy investigatory process, particularly where the alleged defect is difficult to prove and the manufacturer denies its existence, or, more commonly, its relation to safety. It would appear that the investigators who prepared the GAO report may not fully understand the dynamics of NHTSA's investigative process.

Judgment is a critical element in this process and there can be honest differences of opinion. The NHTSA process relies on independent review and analysis by both the Office of Chief Counsel and the Office of Defects Investigation in order to reconcile engineering and legal interpretations of information.

NHTSA has carefully considered the GAO suggestions for changes to owner recall notification letters. Last September we contracted with an outside expert for the preparation and testing of simplified tests of such letters and for recommendations of changes which should be made to the Agency's rulemaking which may ultimately be required to accomplish the simplification suggested by the GAO. A progress report on this contract was received on February 8, 1983 (ATTACHMENT B). We expect a final report sometime in April. Based on the results of this evaluation, we will contact several auto manufacturers and work with them to develop a simplified recall letter for use in an actual recall campaign.

With respect to the general issue of increasing consumer responsiveness to recalls, I would like to point out that recent

recall completion rates seem to be increasing. For example, completion rates for seven recent campaigns varied between 65% and 84%, far in excess of the typical 53.5% rate realized during the 1966-79 period noted on page 15 of the GAO Report.

On the matter of the GAO's third recommendation, we have contacted several manufacturers to work with them to evaluate follow-up techniques to remind owners of recalls. When this effort is concluded, we will of course inform the Subcommittee of the results.

In the Department's reply to the GAO final report, which is attached to this statement (ATTACHMENT C), the Secretary concluded that it was unnecessary to instruct NHTSA to act in accordance with the GAO recommendations in view of NHTSA-initiated actions which had already been taken. NHTSA not only shares the GAO's concern with improving the effectiveness of the recall program but has moved ahead with all reasonable means to implement improvements beyond those recommended by the GAO.

For example, reviewing complaints and other information is

the first step toward identifying a potential safety-related defect. During 1981, NHTSA began a transition from the manual analysis of such complaints and information to a computerized system. This system improvement will increase the depth and scope of the Agency's analyses and reduce the time required for doing them.

The Agency is also monitoring the adequacy of the campaigns to assure that the recalled vehicles are actually corrected. Recall campaign audits are conducted to determine the effectiveness of the campaigns and to evaluate the manufacturers' remedies.

Beginning in 1981, a new procedure was incorporated into the mail audits which has proven most helpful. In addition to asking owners about a specific recall, they are now asked to comment on any other problems they have experienced with the vehicle. This innovation produced enough additional data during the audit of the 1976-79 Volkswagen Rabbit and Scirocco recall for an electrical problem to cause a NHTSA engineering analysis which in turn convinced Volkswagen to conduct a second recall.

GM X-BODY

Mr. Chairman, in your letter of invitation you asked me to answer a number of specific questions about the GM X-body and Ford transmission defects cases, in addition to questions about the status of the Agency's defects and recall programs in order to prepare for this hearing. In a letter ten days later, you requested certain additional information concerning the GM X-body case.

In the interest of time, I will conclude my opening remarks by making just a few brief comments about the GM X-body case, which is a subject of this hearing. At this point I would also request, Mr. Chairman, that the questions and answers regarding both cases be included in the record of the hearing.

With regard to the GM X-body case, it has been clear from the beginning of the case that the Agency has not been satisfied that the recall initiated by the company shortly after the Agency's opening of its defect investigation in 1981 would be adequate. As a result, the Agency continued its work after the recall,

including collection of supplementary field data, the initiation and completion of testing, and finally an audit of the recall itself. Based on my review of our files, I can advise the Subcommittee that as soon as the investigative information validated the fact that GM's August 1981 remedy was not sufficient, and that further corrective action was necessary to avoid rear brake lockup on certain model year 1980 GM X-body vehicles, the January 14, 1983 Initial Determination was issued. I believe the information we provided you, including our projected timetable for resolution of any outstanding issues in making a final determination of a defect or lack thereof, clearly supports this view and supports the record of Agency actions in the interim.

This is not to say, of course, that everyone is pleased about the enforcement procedures the Agency is obliged to follow pursuant to the motor vehicle safety statute. In view of the importance of the issues involved in any case, it would be extraordinary if any consensus were to exist across the board, within and without the Agency. This is reflected in the fact

that, in accordance with section 152(a) of the statute and applicable Agency regulations, an informal public hearing was scheduled for February 14th, at which GM and interested members of the public were to be afforded the opportunity to present data, views, and arguments concerning the existence of the alleged defect. When, by letter dated February 9, 1983, GM advised the Agency that it would recall and correct the problem in the vehicles involved (ATTACHMENT D), the February 14th hearing date was for the time being postponed.

This fact as much as any other is a clear indicator of how complex, difficult and deep the issues and facts presented in any major investigation can be. I am confident that this, at least, will become clear to anyone reviewing the record of this proceeding. Issues as to the specifics of the recall itself, and the proper determination to be made as to the other vehicles subject to the Agency's defect investigation, remain open today.

This concludes my prepared statement. I would be pleased to answer any questions you may have.