

**GAO**

United States General Accounting Office 131786

Report to the Honorable Elizabeth H. Dole  
the Secretary of Transportation

December 1986

# MOTOR VEHICLE SAFETY

## Enforcement of Federal Standards Can Be Enhanced



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**Resources, Community, and  
Economic Development Division**

B-223735

December 15, 1986

The Honorable Elizabeth H. Dole  
The Secretary of Transportation

Dear Madam Secretary:

This report discusses motor vehicle safety compliance issues that need attention. The report contains recommendations to you in chapters 2 and 3.

As you know, 31 U.S.C. 720 requires the head of a federal agency to submit a written statement on actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of the report and to the Senate and House Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

In addition to the committees mentioned above, we are sending copies of this report to your Assistant Secretary for Administration and the Administrator, National Highway Traffic Safety Administration.

Sincerely yours,



J. Dexter Peach  
Assistant Comptroller General

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# Executive Summary

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## Purpose

Every year, motor vehicle accidents kill tens of thousands of people and injure many more. In addition, the related estimated economic losses are in billions of dollars. The Department of Transportation's National Highway Traffic Safety Administration (NHTSA) is responsible for reducing these human and economic losses. By establishing and enforcing the federal motor vehicle safety standards, NHTSA hopes to reduce accidents.

GAO reviewed NHTSA's safety enforcement activities, including NHTSA's processes for selecting safety standards, investigating noncompliance cases, and assessing civil penalties, because of congressional and public interest in motor vehicle transportation safety.

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## Background

NHTSA has established 49 safety standards that set minimum performance levels for vehicles and related equipment sold in the United States. The purpose of the 49 safety standards (such as requirements for seat belt assembly anchorages) is to reduce the number of deaths and injuries resulting from motor vehicle accidents. (See ch. 1.)

NHTSA's Office of Vehicle Safety Compliance is responsible for ensuring that vehicles and equipment comply with the federal standards. It does this by (1) selecting standards, vehicles, and equipment for compliance testing, (2) investigating vehicles and equipment that failed compliance tests, and (3) where it believes noncompliance exists, recommends to the NHTSA Administrator action to correct safety problems through recalls and/or civil penalties. Compliance with 10 of the 49 standards is assessed through visual inspections rather than testing. NHTSA's Office of Chief Counsel is responsible for assessing civil penalties. (See ch. 1.)

The primary goal of NHTSA's testing activities is to provide a strong deterrent to the manufacture and sale of noncomplying motor vehicles and related equipment.

NHTSA does not test all standards annually. Instead, it selects some of the 39 testable standards (approximately 23 each year) for testing on the basis of one or more of the following criteria: (1) a high previous year failure rate; (2) newness of a standard; (3) public interest in a standard; or (4) to maintain an enforcement presence. NHTSA also considers other relevant information such as engineering and management judgments and knowledge of industry practices. However, NHTSA does not differentiate the safety significance of the 39 testable standards. (See ch. 1.)

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## Results in Brief

NHTSA has not tested some standards for long periods and has never tested others. GAO found that NHTSA's selection process does not assure that each standard is tested over a period of time. As a result, the deterrent value of NHTSA's testing activities is not as strong as it can be. Because some standards have been excluded from testing NHTSA cannot be assured that manufacturers comply with all its standards. (See ch. 2.)

NHTSA has not established a system of management controls governing the processing of investigation and civil penalty cases involving safety standards. Resolving cases can take from less than a year to as much as 7 years. Without guidelines and controls NHTSA cannot be assured that cases are resolved in a timely manner. (See ch. 3.)

Also, NHTSA has not established guidelines concerning which investigation cases the Office of Vehicle Safety Compliance should forward to its Chief Counsel's office for penalty assessment. As a result, the Compliance office may be forwarding some cases to the Counsel's office that do not warrant an assessment and not forwarding some cases that may warrant an assessment. (See ch. 3.)

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## Principal Findings

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### Standard Selection

NHTSA has not selected 10 of its 39 testable safety standards for testing for at least the past 5 fiscal years. NHTSA has never tested three other standards. The continued exclusion of some standards is inconsistent with the goal of providing a strong deterrent to the manufacture and sale of noncomplying motor vehicles and related equipment through compliance testing. Additionally, if NHTSA had more consistently applied its selection criteria, some of these standards would have been selected recently. For example, 8 of the 13 standards, when last tested, had higher failure rates than 18 of the 29 standards NHTSA selected between fiscal years 1980 and 1984. (See ch. 2.)

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### Case Processing

NHTSA has neither developed milestones nor standard procedures for processing noncompliance investigation and civil penalty cases. GAO reviewed all 223 noncompliance investigation cases that were closed between October 1982 and March 1985. Of these 223 cases, 126 cases (57 percent) took a year or less to process while 97 cases (43 percent) took 1-1/2 to 7 years to process. Additionally, the Office of Vehicle

Safety Compliance forwarded 47 of these cases to the Chief Counsel's office for a penalty assessment. Of these 47 cases, 40 percent were closed in less than 3 years while 60 percent took between 3 and 7 years to close. While GAO recognizes that how long it takes to process various cases depends on their complexity, without milestones and procedures NHTSA does not have an effective means to monitor the processing of its cases. (See ch. 3.)

### Forwarding of Cases for Assessment

NHTSA lacks guidelines concerning which investigation cases should be forwarded to its Chief Counsel's office for penalty assessment. GAO found no consistent basis for the 47 cases forwarded for assessment. In addition, the Chief Counsel's office assessed a penalty in only 14 of the 47 cases forwarded to its office. No penalty was assessed for the remaining 33 cases. (See ch. 3.)

### Recommendations

To improve the oversight and management of NHTSA's motor vehicle safety compliance activities, GAO recommends that the Secretary of Transportation direct NHTSA's Administrator to:

- Ensure that all testable safety standards are selected for testing over a period of time. (See p. 34.)
- Develop milestones and procedures for processing and monitoring investigation and civil penalty cases. (See p. 44.)
- Develop guidelines for the Office of Vehicle Safety Compliance to use in determining which investigation cases should be forwarded to the Chief Counsel's office for penalty assessments. (See p. 44.)

The report also contains a recommendation concerning the collection and use of accident data for selecting vehicles 1 year old or older for testing. (See p. 34.)

### Agency Comments

The Department said it plans to initiate actions consistent with all but one of GAO's recommendations. The Department disagreed with the need to develop guidelines to use in determining which cases should be forwarded to NHTSA's Chief Counsel. GAO continues to believe that such guidelines would assist NHTSA's staff in deciding which cases should be forwarded especially since so many of the cases forwarded (33 out of 47) were not assessed a penalty. The Department also provided additional information regarding the issues discussed in the report. (See chs. 2 and 3 and app. III.)



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**Abbreviations**

CED	Community and Economic Development Division
FMVSS	Federal Motor Vehicle Safety Standard
GAO	General Accounting Office
NASS	National Accident Sampling System
NHTSA	National Highway Traffic Safety Administration
OCC	Office of Chief Counsel
ODI	Office of Defects Investigation
OVSC	Office of Vehicle Safety Compliance
PAD	project approval document
RCED	Resources, Community, and Economic Development Division

# Introduction

The human and economic costs of motor vehicle accidents are high. In 1985, an estimated 58,160 vehicles were involved in fatal traffic accidents, about the same number as 1984. Also, during 1985 an estimated 43,800 persons died on the nation's highways, 1 percent less than in 1984. Of the 1985 fatalities, 36,090 were vehicle occupants (25,435 were drivers and 10,655 were passengers), which were about the same as 1984, and 7,710 were pedestrians or pedalcyclists, a decrease of about 3 percent over 1984.<sup>1</sup>

Further, in 1980, the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) estimated the economic costs to be \$57 billion a year.<sup>2</sup> Of this total, about \$21 billion results from property damage, \$14 billion is attributable to lost productivity, \$3 billion is for medical costs, and nearly \$19 billion includes other costs (such as insurance expenses, legal and court fees, emergency services, and coroner/medical examiner costs).

NHTSA is responsible for reducing deaths, injuries, and economic losses resulting from traffic accidents. It has established federal safety standards for all motor vehicles and related equipment sold in the United States. According to NHTSA, enforcing the federal laws, standards, and regulations governing motor vehicles is one of its most critical safety responsibilities.<sup>3</sup>

## NHTSA's Safety Responsibilities

The National Traffic and Motor Vehicle Safety Act (15 U.S.C. §1381 *et seq.*), enacted on September 9, 1966, is intended to reduce traffic accidents, injuries, and fatalities. NHTSA has the authority to enforce the act. To carry out its responsibilities, NHTSA (1) establishes uniform federal safety standards with which all motor vehicles and some replacement equipment must comply, (2) ensures that motor vehicles and equipment comply with its standards, (3) investigates possible motor vehicle safety noncompliances, and (4) in cases of noncompliance, directs action to remedy the situations. By fulfilling these responsibilities, NHTSA hopes to encourage manufacturers to produce safer motor vehicles and associated equipment in order to reduce the frequency and severity of injuries.

<sup>1</sup>The 1985 data is the most recent data available.

<sup>2</sup>Total economic cost may be different in 1985 due to changes in fatality incidence.

<sup>3</sup>Motor Vehicle Safety 1983, A NHTSA report on activities under the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act of 1972, January 1, 1983—December 31, 1983.

## Federal Safety Standards

The act required that the Secretary of Transportation establish motor vehicle safety standards. Under the act, NHTSA has established 49 Federal Motor Vehicle Safety Standards (FMVSS), which set minimum performance requirements that motor vehicles or motor vehicle equipment sold in the United States must meet. The initial standards became effective on January 1, 1968. In developing passenger car standards, NHTSA initially adopted some standards that (1) the General Services Administration established to govern its purchase of cars and (2) the Society of Automotive Engineers and the National Bureau of Standards recommended.<sup>4</sup> Subsequently, NHTSA developed additional standards for motor vehicles, including passenger cars and related equipment, as a result of its assessment that these standards were needed to help improve safety or at the direction of Congress. All safety standards are contained in the Code of Federal Regulations (49 C.F.R. 8571). The 49 FMVSS' are listed in appendix I. NHTSA does not rank order the safety significance of the 49 standards.

These standards affect cars, trucks, buses, multipurpose passenger vehicles, motorcycles, trailers, and replacement equipment. The act specifies that each standard shall be practicable, meet the need for motor vehicle safety, and provide objective criteria to determine compliance with the standard. To meet these requirements, NHTSA requires that a standard must (1) incorporate performance tests that can be carried out under controlled conditions that are relevant to some aspect of operational performance, (2) address a specific motor vehicle safety problem, and (3) be within the financial capability of manufacturers to follow. The purpose of these safety standards is to reduce the possibility of an accident occurring and number of fatalities and severity of injuries resulting from failure of a motor vehicle system or equipment. The authors of a recent book on automobile regulation estimated that highway fatalities would be about 40 percent greater were it not for the federal safety standards.<sup>5</sup>

Manufacturers may choose any design that meets the minimum performance requirements. Compliance with the FMVSS is a self-certification process. Manufacturers and distributors certify that each vehicle or

<sup>4</sup>The Administrator of the General Services Administration was directed by Public Law 88-515 to set safety standards for cars purchased by the federal government. In June 1965, the Administrator issued 17 standards with which 1967 model year cars purchased by the government had to comply.

<sup>5</sup>Robert W. Crandall, Howard K. Gruenspecht, Theodore E. Keller, and Lester B. Lave, Regulating the Automobile, (Washington, D.C.: The Brookings Institution, 1986), p. 155.

item of equipment they manufacture or distribute conforms to all applicable safety standards. Such certification may be in the form of a label or tag placed on the vehicle or equipment. Data developed by manufacturers and distributors to support their certifications is available to NHTSA upon request.

The 49 safety standards for motor vehicles and their related systems and parts are numerically classified in three series—100, 200, and 300. The 100-series standards relate to accident avoidance items (for example, headlamps, tires, brakes); the 200-series standards relate to survivability for occupants in an accident (for example, head restraint seat belts); and the 300-series standards relate to retarding flammability when an accident occurs (for example, the flammability of materials in the interior of a vehicle). Of the 49 safety standards, 36 are applicable to motor vehicle performance. For example, one standard specifies requirements for seat belt assembly anchorages to ensure effective occupant restraint and to reduce the likelihood of failure in collisions. The remaining 13 of the 49 standards are applicable to motor vehicle equipment such as child seating systems.

## Organization and Management of NHTSA's Compliance Program

The Office of Vehicle Safety Compliance (OVSC), under NHTSA's Associate Administrator for Enforcement, is responsible for ensuring that manufacturers of domestic and foreign motor vehicles and equipment sold in the United States comply with the motor vehicle safety standards. OVSC selects some of the 49 safety standards for compliance testing each year, selects motor vehicles and equipment for compliance testing against the selected standards by contractors; monitors the contractor's performance; investigates those vehicles and equipment that fail compliance testing; and, on the basis of the investigation's findings, recommends to the Administrator that the manufacturer recall to correct the noncompliance and/or recommends to NHTSA's Office of Chief Counsel (OCC) that the manufacturer receive a civil penalty.

The Associate Administrator for Enforcement's budget for fiscal year 1986 was \$9.5 million, of which OVSC's budget was \$5.1 million.<sup>6</sup> The Associate Administrator's total staffing level is 101 positions of which OVSC has 37 positions. This is a decline of eight OVSC positions since fiscal year 1981.

<sup>6</sup>The budget figures include salaries and contracting expenses but do not include administrative expenses because such costs could not be separated between OVSC and the Office of Defect Investigations, also under the Associate Administrator.

Organizationally, ovsc is comprised of two divisions— Validation and Verification. The Validation Division's primary responsibilities involve ensuring manufacturers' compliance with those safety standards concerning motor vehicles. The Verification Division's primary responsibilities involve ensuring manufacturers' compliance with those standards concerning motor vehicle equipment. In both divisions, engineers are responsible for the administration of specific safety standards and, as discussed previously, manufacturers' compliance with the legal requirements.

## Compliance Process

An estimated 10 million passenger cars, in about 400 make and model combinations, are produced annually for sale in the United States. Because of budget constraints, ovsc does not test the compliance of all motor vehicles and equipment with all 49 standards each year. As a result, ovsc annually selects some safety standards for compliance testing with selected vehicles and equipment. Models considered for selection are no more than 5 years old. The actual number of selected standards, vehicles, and equipment items is based on ovsc's budget.

In commenting on the draft report, the Department said that while it could test more standards and more vehicles with a larger budget, in its judgment the compliance test program is adequately funded. To act as a deterrent to producing and selling vehicles and equipment not in compliance with the safety standards, the Department said that it does not need to test every standard and every model of vehicle each year.

## Standard Selection

The selection of a standard for compliance testing depends on the priority ranking of that standard. Each year all 49 safety standards receive a priority ranking between one and four, with priority one being the highest.<sup>7</sup> ovsc, using administrative criteria, ranks the standards based on the following priority definitions.

- **Priority One.** Testing of this standard is urgent because it is a new or relatively new standard, previous year's test had a high failure rate, or it is politically sensitive (or in the public interest).
- **Priority Two.** Testing of this standard is needed to maintain minimum surveillance. Under this definition, certain standards are selected to maintain an enforcement presence.

<sup>7</sup>A priority four standard is one that is a nontest standard and thus excluded from the testing program.

- Priority Three. This standard would normally be included in testing but may be omitted from the year's test program because of budget considerations.
- Priority Four. This standard does not require testing because compliance can be checked primarily by visual inspections.

In commenting on the draft report, the Department said that while most of the administrative criteria for rating the standards are used, they do not exclusively determine the standards selected for testing. It stated that NHTSA must consider the nature of the safety problem addressed by the candidate standards for testing, planned and actual design changes in the vehicle population, the type and seriousness of prior failures, available budget, engineering and management judgments, knowledge of industry practices and other relevant information before deciding to test a standard. Recommendations made at the staff level are subject to review throughout the supervisory chain. The Department added that "politically sensitive" is not a factor in selecting standards for testing and another strong reason would be needed for selecting a standard with congressional or public interest.

While not used to determine the priority of a standard, OVSC officials informed us that they also select some standards to maintain the testing contractor industrial base since only a few contractors exist for testing some standards. These officials said that they do not use this selective factor to determine the priority of a standard. OVSC believes that if these standards are not tested for several years, the existing contractors may go out of business, and as a result, OVSC may have difficulty in testing the standards.

To assist in this ranking process, OVSC uses an internal planning document called Project Approval Documents (PADs). An individual PAD is prepared annually for each of the 49 standards. The purpose of these documents is to provide background on each standard. This background information includes such standard-related data as, the failure rate when tested previously; the number of complaint letters associated with the standard; the number and total dollar amounts of civil penalties involving the standard; and the number of recalls related to the standard.

As shown in table 1.1, the number of standards in each priority group has remained fairly constant over the last 5 years. However, there has been movement of standards between priority rankings. Specifically, 10 standards have had priority changes during the last 5 years either from

a lower priority to a higher priority or vice versa. The 10 priority four standards have remained unchanged over the 5-year period.

**Table 1.1: Priority Rankings of Standards for Fiscal Years 1981-85**

	Number of standards in each ranking				
	1981	1982	1983	1984	1985
Priority one	10	13	13	13	12
Priority two	13	9	10	11	11
Priority three	16	17	16	15	16
Priority four	10	10	10	10	10
<b>Total</b>	<b>49</b>	<b>49</b>	<b>49</b>	<b>49</b>	<b>49</b>

Source: OVSC.

The standards selected for compliance testing, 23 of the 49 standards on the average, are predominately from the first two groups (priority one and two). For example, of the 23 standards selected for the 1985 test program, 12 were priority one and 11 were priority two.

## Vehicle and Vehicle Equipment Selection

The primary tool ovsc uses to select vehicles for testing is the Vehicle Selection Matrix.<sup>8</sup> The matrix is an automated information system that contains data on all vehicles 5 years old or less and sold in the United States. On the basis of six factors, the matrix predicts which vehicles are most likely to be in noncompliance with one or more of vehicle-related safety standards. These six factors are accident data, consumer complaints, defect investigations, prior test results, prior recalls, and whether the vehicle is a new model. A demerit rating is calculated for each vehicle model on the basis of a sum of each factor multiplied by a numeric value for that factor (weighting factor). For example, each accident data is multiplied by a weighting factor of 10.

The matrix lists all vehicle models by demerit total; vehicles with the highest number of demerits have the highest potential for being in non-compliance. On the basis of the specific standards selected for a fiscal year, those vehicles with the highest demerit totals for those standards are selected for compliance testing. In fiscal year 1985, for example, ovsc selected 69 passenger cars, 27 multipurpose passenger vehicles and trucks, and 34 other vehicle types to test their compliance with selected vehicle safety standards.

<sup>8</sup>The matrix is used for predicting a vehicle's potential failure with the 36 vehicle-related standards. It is not used in selecting equipment to test against the 13 equipment-related standards.

Unlike motor vehicles that must meet all related safety standards, motorcycle equipment must comply with the related item-specific standard, such as performance of motorcycle helmets under various operating conditions. There is no tool similar to the matrix used to select equipment items for testing. Individual engineers in the Verification Division select equipment for testing on the basis of such factors as market share and consumer complaints. In fiscal year 1985, OVSC selected 2,874 equipment items for compliance testing.

## Investigations

The testing of motor vehicles and motor vehicle equipment is performed by contractors who are monitored by OVSC engineers. If a motor vehicle or equipment item fails testing, the contractor notifies OVSC and provides the Office with a report on the test failure.<sup>9</sup> On the basis of the test failure report, OVSC may initiate an investigation to determine if noncompliance exists. However, noncompliance does not mean that a vehicle or a system has failed. A noncompliance is a level of performance below that required by a standard.

In addition to test failures, OVSC may initiate investigations for reasons other than compliance testing, such as consumer complaints, including calls into NHTSA's hotline; and news items or trade publication articles.<sup>10</sup> During the investigation process, OVSC will request and review the manufacturer's self-certification data. Also, OVSC may meet with the manufacturer to discuss various technical issues. On the basis of OVSC's investigative findings, NHTSA may inform the manufacturer of its initial determination that noncompliance appears to exist. The manufacturer then can either (1) present its views at a public hearing to respond to NHTSA's investigation findings or (2) recall the vehicles or equipment to make corrections. If the NHTSA Administrator believes that noncompliance still exists after the hearing, the manufacturer is ordered to initiate a recall to bring the vehicle or equipment into compliance. If the manufacturer refuses to initiate a recall, NHTSA can proceed with court action against the manufacturer. The final decision of whether the manufacturer should be required to recall the affected vehicles or equipment will then be made by the court. At any time during this process, NHTSA can decide to terminate the investigation.

<sup>9</sup>A test failure indicates the possibility of noncompliance, rather than noncompliance.

<sup>10</sup>The hotline is a nationwide system for consumers to call NHTSA, toll-free, about problems with vehicles or equipment.

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## Corrective Actions

Upon determining that noncompliance exists, NHTSA can require a manufacturer to recall the vehicles or equipment to correct the safety problem(s) and/or impose a civil penalty on the manufacturer. OVSC engineers make the initial recommended action (recall and/or penalty) on the basis of their judgment of the facts.

There are essentially three situations under which manufacturers may recall motor vehicles or equipment:

- Voluntary recalls. A manufacturer determines that a vehicle or equipment item does not comply with a safety standard.
- NHTSA-influenced recalls. A manufacturer initiates a recall after NHTSA has begun an investigation of potential noncompliance.
- NHTSA-ordered recalls. A manufacturer initiates a recall as a result of NHTSA's final determination that affected motor vehicles or equipment are in noncompliance with a safety standard.

From the date the motor vehicle recall program began in 1966, manufacturers have initiated 806 noncompliance-related recalls affecting 11.6 million domestic and foreign motor vehicles and equipment. Of these recalls, 479 were voluntary (59.4 percent) and 327 were NHTSA-influenced (40.6 percent). No recalls were NHTSA-ordered.

NHTSA may also seek a civil penalty against a manufacturer or distributor whose product is determined to be in noncompliance with a safety standard. According to the act, such a civil penalty shall not exceed \$1,000 for each violation with the maximum penalty not exceeding \$800,000 for any related series of violations.<sup>11</sup> The amount of the penalty is governed by the size of the business involved and the gravity of the violation. Additionally, NHTSA considers a manufacturer's cooperation during a noncompliance investigation in determining its penalty.

Since NHTSA's first penalty settlement for a noncompliance case in September 1969 to September 1985, NHTSA has settled 339 penalty cases and collected \$2.6 million in civil penalties. The average penalty was \$7,670. More specifically, table 1.2 shows that NHTSA's Office of Chief Counsel has settled 45 cases and collected \$184,000 in penalties during fiscal years 1981 through 1985. The average penalty during this period was \$4,089.

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<sup>11</sup> A violation may include each motor vehicle or equipment item involved.

**Table 1.2: NHTSA Noncompliance Civil Penalties Collected for Fiscal Years 1981-85**

Fiscal year	Number of cases	Civil penalty collected	Average per case	Range of penalties
1981	29	\$33,350	\$1,150	\$250 to 5,000
1982	4	12,650	\$3,162	\$150 to 5,000
1983	5	120,000	\$24,000	\$5,000 to 50,000
1984	4	8,500	\$2,125	\$1,000 to 2,500
1985	3	9,500 <sup>a</sup>	\$3,167	\$1,000 to 2,500
<b>Total</b>	<b>45</b>	<b>\$184,000</b>		

<sup>a</sup>Includes installment payments of \$5,000 for two penalties assessed and partially collected in fiscal year 1984.

Source: NHTSA's Office of Chief Counsel.

## Objectives, Scope, and Methodology

Our overall objective was to review NHTSA's oversight and management of the procedures used to (1) select safety standards against which motor vehicles and equipment are tested; (2) select motor vehicles for compliance testing; (3) investigate possible noncompliance; and (4) assess civil penalties against parties who manufacture or distribute motor vehicles or equipment that do not comply with federal standards. We also determined what actions, if any, NHTSA had taken in its selection of standards and motor vehicles for the testing program and its processing of investigation cases, which we discussed, among other issues, in our report, For Safer Motor Vehicles—More Effective Efforts Needed To Insure Compliance With Federal Safety Standards, (B-164497(3), Apr. 24, 1973).

To evaluate selection procedures and processes involving the safety standards, we collected and analyzed such data as contractor test costs, number of tests, and failure rates for each standard selected for testing between fiscal years 1981 and 1985. Also, we obtained NHTSA's priority rankings for all 49 standards for the same fiscal years. We interviewed the OVSC Director, Validation and Verification Division chiefs, and the 11 engineers in these divisions to (1) understand the role of standard selection and testing in the compliance program, (2) identify standard selection criteria, and (3) understand the rationale for selecting and not selecting specific standards.

In evaluating the procedures and processes OVSC used to select motor vehicles for compliance testing, we examined how the matrix system is used. We reviewed the results of passenger car matrices for fiscal years 1983, 1984, and 1985 and collected and analyzed vehicle demerit ratings, vehicle selections, test results, sales data, and production estimates

for those years. We also interviewed the OVSC Director and Chief of the Validation Division to determine the objectives, scope, use, and history of the matrix and all Validation Division engineers to identify how each uses the matrix in selecting passenger cars for testing. In addition, we interviewed the contractors responsible for developing and managing the matrices for fiscal years 1983-85 to understand the design, comprehensiveness, and accuracy of the matrices, and we reviewed the contractors' written reports on their experiences with the matrices.

We reviewed the vehicle selection matrices for passenger cars but not for other motor vehicle types such as trucks, school buses, and campers. The number of those vehicles selected are fewer in comparison to passenger car selections. For example, the 130 motor vehicles selected for testing in fiscal year 1985 consisted of 69 passenger cars, 27 multiple purpose vehicles and trucks, 7 school buses, 18 motorcycles/mopeds, and 9 campers. Additionally, the design and processes of these matrices are the same as passenger car matrices.

We did not analyze the procedures and processes for selecting equipment items for testing because compliance testing of equipment items is standard-specific. For example, hydraulic brake fluids must only comply with one standard. In addition, the majority of the safety standards apply to motor vehicles (36) as compared to equipment (13). Therefore, we decided to limit our analysis by excluding equipment selections.

To examine NHTSA's noncompliance investigations, we collected and reviewed data on all noncompliance investigation cases that closed during a 2-1/2 fiscal year period (fiscal year 1983 through March 1985). This time period provided us with 223 closed investigations. For these cases we collected data on 20 items related to processing investigation cases, such as the standard involved, the date the case was opened, and the conclusion of the investigation. We established our own data base from this data to analyze the processing times for each case at various stages, the conclusion of each investigation, the corrective actions, and enforcement actions.

We did not evaluate the vehicle recall program because we had conducted a broad review of this program in 1982.<sup>12</sup> However, we did collect recall information related to the 223 closed investigations. In addition, we discussed recall policy with the Director of the Office of Vehicle

<sup>12</sup>Changes to the Motor Vehicle Recall Program Could Reduce Potential Safety Hazards (GAO/CED-82-99, Aug. 24, 1982).

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**Safety Compliance and the chiefs of the Validation and Verification Divisions.**

To examine NHTSA's civil penalty process, we collected processing time and penalty assessment information for all noncompliance investigations closed between fiscal year 1982 and March 1985. We also obtained a history of NHTSA's noncompliance penalty assessments since 1969, and we met with the Chief of the Litigation Division in NHTSA's Office of Chief Counsel to obtain information on penalty assessment processes and procedures.

We held discussions with officials of the Center for Auto Safety and Public Citizen to obtain their views and opinions on NHTSA's compliance program. The Department's Office of Inspector General had no ongoing work related to the compliance program or related reports.

We made this review in accordance with generally accepted government auditing standards, except we did not review the reliability of the data contained in ovsc's Vehicle Selection Matrix. Our audit work was conducted from June to October 1985.



# Safety Standard and Vehicle Selection Processes Can Be Refined

Our analysis of the standard selection process showed that ovsc did not apply the priority definitions to the safety standards in a way that would determine manufacturers' compliance over time. Some standards, which had a history of low failure rates, have been selected regularly while others with prior high failure rates have been excluded, and still others have never been tested. Under ovsc selection criteria, this situation could happen within any one year but should not occur over several years. ovsc officials told us that this situation occurs because the annual selection process focuses on each standard for that year without giving adequate attention to the comparative trend of the standards' test results and on maintaining a minimum surveillance level for each standard. As a result, a standard tested in the previous year is more likely to be tested during the current year than a standard that was not tested for several years.

Because some standards are selected for testing regularly, while other standards are rarely or never selected, ovsc cannot be assured that manufacturers comply with all safety standards. ovsc can refine its selection process by rotating the standards it selects. This rotation would occur if ovsc would more consistently apply its current priority definitions.

NHTSA collects accident data related to its safety standards for use as a factor in selecting vehicles for testing. However, accident data is not collected for all the standards. If NHTSA collected accident data related to all 39 safety standards that can be tested, ovsc could select vehicles for testing that have experienced accidents involving the standards being tested. Thus, ovsc could focus its testing activities on vehicles with possible operational safety problems.

## Selection Process for Standards Can Be Refined

To carry out NHTSA's statutory responsibilities, ovsc tests vehicles and equipment to determine if manufacturers continue to comply with its safety standards. Because of budget constraints, ovsc limits the number of safety standards it selects annually for testing. To assist in determining which of the 49 standards it will test, ovsc ranks the standards in four priority groups.<sup>1</sup> The intention of this process is to select those standards with the greatest potential for noncompliance. According to NHTSA, the primary goal of its testing activities is to provide a strong deterrent to the manufacture and sale of noncomplying motor vehicles and related equipment. In addition to determining noncompliance,

<sup>1</sup>NHTSA has determined that assessing compliance with 10 of the 49 Federal Motor Vehicle Safety Standards does not require testing. Instead, assessments are based on visual inspections.

another benefit of compliance testing is the obtaining of data on the safety standards. According to NHTSA's Motor Vehicle Safety 1983 report,

"Compliance testing also continues to provide hard data for evaluating existing standards, modifications to standards, proposals for new standards, and processing of the many petitions received by the agency."

OVSC has never selected some standards for testing and has not tested others for long periods. While budget limits necessitate excluding some standards each year, continual exclusion of the same standards may affect their deterrent value. Further, more consistent application of OVSC's priorities could improve its selections so that over time all standards will be tested.

**Several Standards Not Regularly Selected for Testing**

We found that 13 of the 39 testable safety standards (or 33 percent) were not tested for 5 to 17 fiscal years. The specific standards with brief descriptions are presented in table 2.1. A more detailed discussion on each standard is contained in appendix II. In commenting on our draft report, the Department said that the selection process involves more than a comparison of prior test failure rates and provides examples of underlying reasons for not selecting some standards. (See app. III for the Department's reasons.) We recognize that the selection process is not based solely on comparing failure rates.

**Table 2.1: Federal Motor Vehicle Safety Standards Not Selected for Compliance Testing Between Fiscal Years 1981 and 1985**

<b>FMVSS number</b>	<b>Description</b>
110	Tire selection and rims—passenger cars
111	Rearview mirrors
112	Headlamp concealment devices
117	Retreaded pneumatic tires—passenger cars
121	Air brake systems—trucks, buses, and trailers
122	Motorcycle brake systems
125	Warning devices
201	Occupant protection in interior impact
202	Head restraints—passenger cars
203	Impact protection for the driver from the steering control system
217	Bus window retention and release
220	School bus rollover protection
302	Flammability of interior materials

Source: OVSC.

Our review of the PADS for these 13 standards showed that three of the standards (FMVSS numbers 122, 125, and 201) have never been tested, even though they have existed for at least 12 years. Of the remaining 10 standards, we found that 5 (FMVSS numbers 110, 111, 112, 121, and 203) have been tested between 1 and 3 times since they became effective; 4 (FMVSS numbers 117, 202, 220, and 302) have been tested between 4 and 6 times; and 1 standard (FMVSS number 217) has been tested 7 times.

Additionally, we found that of those 10 standards that have been tested 5 standards have not been tested for more than 10 fiscal years. As table 2.2 shows, the range of time when the 10 standards were last tested is from 5 years to 17 years ago.

**Table 2.2: Fiscal Year When Omitted Standards Were Last Tested**

FMVSS number	Fiscal year last tested
111	198
217	198
220	198
117	197
121	197
112	197
302	197
202	197
110	197
203	196

Source: OVSC.

However, all 13 standards were priority three. Under the definition of priority three standards, they would normally be included in testing but are omitted from the current year's test program because of budget considerations. Further, OVSC has never tested 3 of the 13 standards.

According to OVSC, these standards were excluded from testing for various reasons. For example, according to an OVSC official and as stated in some of its PADS, 6 of the 13 standards (FMVSS numbers 110, 111, 121, 122, 201, and 203) were excluded because of questions concerning their enforceability.<sup>2</sup> Due to the standard's test procedures design, OVSC believes it may be difficult to prove noncompliance. NHTSA OCC has not taken a position on enforceability of five of these six standards but has

<sup>2</sup>The Department's comments provided further explanations for the exclusion of some of these standards. (See app. III.)

reached a position on the enforceability of other standards (see p. 42). Concerning the sixth standard (FMVSS Number 121—Air Brakes), road test requirements were invalidated by a 1978 court decision. Despite OVSC's concern regarding enforcement of compliance, it has been relatively successful in enforcing FMVSS numbers 110, 111, and 122. These 3 standards have resulted in a total of 32 manufacturer recalls and 9 civil penalties for a total dollar amount of \$22,534.

In commenting on our draft report, the Department said that NHTSA has not made any determinations that certain safety standards are not enforceable. It pointed out that other reasons for excluding these standards from testing exists and the exclusion is not permanent. The Department said that even if OVSC and the Office of the Chief Counsel have questions about portions of certain standards, not all parts of the standards would cause problems. Furthermore, it noted that certain planned test procedure changes or interpretations could, in some cases, eliminate the problems.

Five other standards (FMVSS numbers 112, 217, 202, 220, and 302) were excluded because OVSC believed that the payoffs for testing these standards would be minimal (low failure rates, small fines). For example, the headlamp concealment devices standard, FMVSS Number 112, would apply to the few cars that are made with concealed headlamps today, according to OVSC. We identified 10 current domestic and foreign model cars (such as the Pontiac Fiero, the Honda Accord, the Nissan 200 SX, and the Toyota Corolla) that have concealed headlamps.

The remaining two standards (FMVSS numbers 117 and 125) were excluded from testing because of budget and staffing limitations.

The exclusion of these 13 standards from compliance testing for at least 5 years may have reduced their value as safety standards. According to NHTSA's Traffic Safety '82 Report:

"The existence of a compliance test program with public availability of the test results is a strong inducement to manufacturers to improve their own safety monitoring programs."

Additionally, OVSC's selection criteria recognizes the need for its enforcement presence.

During our discussion of the selection process with OVSC's Chief of the Validation Division, he pointed out that tradeoffs have to be made in

selecting standards for testing because of budget constraints. But he added that the decisionmaking process tends to focus on the current year's decision, and more could be done to include some standards that have been regularly excluded.

We recognize that decisions need to be made regarding the selections because of budget limitations. Our concern is not with the decisions made each year but the continued exclusion of some standards. OVSC could review its annual selections and compare, using the PAD's, those proposed for inclusion with those excluded to assure itself that no one standard is consistently excluded from testing.

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### Improved Implementation of Priority Criteria

Our analysis of the selection of the standards showed that OVSC could more consistently apply its priority definitions. This could result in trade-offs being made that do not exclude the same standards over extended periods. Specifically, OVSC has (1) selected standards with low failure rates while others, when tested, had higher failure rates and (2) excluded two standards that it considers politically sensitive.<sup>3</sup>

Prior failure history—Although a high test failure rate for a standard is one of the primary factors in determining priorities, we found that this criteria is not fully reflected in standards OVSC selects for testing. Specifically, we found that 35 percent of those standards selected for testing between fiscal years 1981 and 1985 had, on the average, a prior year failure rate of zero, as shown in table 2.3. The percentage of standards selected with a prior year failure rate of zero ranged from 22 percent to 61 percent. In addition, the prior failure rate of 8 of the 13 standards OVSC does not regularly select for testing in some cases exceeded the average failure rates of fiscal years 1981-85 priority one and two standards.

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<sup>3</sup>A third factor relates to testing new or recently revised standards. In 1977, three standards relating to school bus safety were established and an existing standard was amended to include school bus safety requirements. They were classified as politically sensitive. Also, the vehicle application of five testable standards has been expanded since 1980. Three were tested recently; the fourth was tested in 1968 and the fifth was never tested.

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**Table 2.3: Prior Year Failure Rates for Standards Selected for Testing in Fiscal Years 1981-85**

Prior year failure rates (percent)	Fiscal years									
	1981		1982		1983		1984		1985	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent
Not tested	15	65	9	43	12	52	6	26	14	61
0	6	26	8	38	6	26	14	61	5	22
1.0 - 10.0	2	9	3	14	3	13	0	0	3	13
10.1 - 30.0	0	0	1	5	2	9	1	4	1	4
Over 30	0	0	0	0	0	0	2	9	0	0
<b>Total</b>	<b>23</b>	<b>100</b>	<b>21</b>	<b>100</b>	<b>23</b>	<b>100</b>	<b>23</b>	<b>100</b>	<b>23</b>	<b>100</b>

Source: Prepared by GAO from NHTSA data.

Of the 10 standards that were not tested recently (table 2.2), 8 when tested, had a higher overall failure rate (at least 4.2 percent) than 20 of the 29 standards included in compliance testing between fiscal years 1980 and 1984. The average test failure rates are shown in table 2.4.

**Table 2.4: Overall Failure Rates for Omitted Standards**

FMVSS number	Average test failure
110	11.7
111	27.3
112	7.1
117	4.7
121	40.4
202	4.2
203	0.0
217	65.0
220	0.0
302	5.0

Source: OVSC.

We reviewed the failure rates of each standard tested between fiscal years 1980 and 1984. We found several standards, both priority one and two, that had fairly low failure rates. Specifically, we identified 5 of the 13 priority one and 6 of the 11 priority two standards that had an average failure rate of less than 2 percent. The average failure rates of each standard tested between fiscal years 1980 and 1984 are shown in table 2.5.

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**Table 2.5: Average Test Failure Rates by Priority Ranking and Federal Motor Vehicle Safety Standard (Fiscal Years 1980-84)**

FMVSS number	Description	Test failure rate
<b>Priority one—</b>		
103	Windshield defrosting and defogging systems	4
104	Windshield wiping and washing systems	3
105	Hydraulic brake system	1
108	Lamps, reflective devices, and associated associated equipment	1
109 <sup>a</sup>	New pneumatic tires—passenger cars	
119 <sup>a</sup>	New pneumatic tires—multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles	(
124	Accelerator control systems	(
204 <sup>b</sup>	Steering control rearward displacement	(
209	Seat belt assemblies	
213 <sup>c</sup>	Child seating systems	1
221	School bus body joint strength	8
222	School bus passenger seating/crash protection	5
301	Fuel system integrity	2
<b>Priority two—</b>		
106	Brake hoses	
116	Hydraulic brake fluids	2
118 <sup>d</sup>	Power-operated window systems—passenger cars and multipurpose passenger vehicles	(
126	Truck/camper loading	6
206	Door locks and door retention components	(
207 <sup>e</sup>	Seating systems	2
210	Seat belt assembly anchorages	2
212	Windshield mounting	(
216 <sup>f</sup>	Roof crush resistance—passenger cars	(
218 <sup>g</sup>	Motorcycle helmets	1
219 <sup>h</sup>	Windshield zone intrusion	(
<b>Priority three—</b>		
111	Rearview mirrors	(
208 <sup>i</sup>	Occupant crash protection	(
214 <sup>j</sup>	Side door strength	2
217	Bus window retention and release	8
220	School bus rollover protection	(

<sup>a</sup>Standard was a priority two in fiscal year 1981.

<sup>b</sup>Standard was a priority three in fiscal years 1980 and 1981 and was not tested.

<sup>c</sup>Standard was not tested in fiscal year 1980.

<sup>d</sup>Standard was a priority three in fiscal years 1981 and 1982 and was not tested.

<sup>e</sup>Standard was not tested in fiscal years 1980 and 1981.

<sup>1</sup>Standard was not tested in fiscal years 1980, 1981, and 1982.

<sup>9</sup>Standard was a priority three in fiscal years 1982 and 1983 and was not tested.

<sup>h</sup>Standard was not tested in fiscal year 1984.

<sup>i</sup>Standard was tested in fiscal years 1980 and 1981 when it ranked as a priority three and one, respectively.

<sup>j</sup>Standard was tested in fiscal years 1981 and 1982 when it ranked as a priority two.

Source: OVSC.

OVSC officials informed us they select standards with low failure rates for testing because they hope to obtain further compliance through testing. OVSC added that testing standards with low failure rates is important to maintaining NHTSA's enforcement presence.

In our 1973 report on NHTSA's motor vehicle compliance activities, we raised similar concerns about NHTSA's standard selections for compliance testing. We stated that NHTSA's 1972 testing priorities were not fully in line with its prior test results and its classification of some standards as critical. For example, we stated that the tire standard's (FMVSS number 109) 6-percent failure rate for fiscal years 1968-72 did not appear to provide a good basis for the relative degree of emphasis NHTSA placed on tire testing. As a result, we stated that NHTSA needed to realign some of its testing priorities. In response to the report, NHTSA commented that compliance testing priorities are reevaluated annually using available and relevant data. However, our current evaluation showed that NHTSA still selects standards for testing with low failure rates while excluding others that had higher failure rates when tested.

Politically sensitive standards—OVSC has identified six standards as being politically sensitive. Four (FMVSS numbers 217, 220, 221, and 222), which involve school bus safety, were established as a result of the Motor Vehicle and School Bus Safety Amendments of 1974 (Public Law 93-492). FMVSS 217 and 220 have not been tested since fiscal year 1980. The other two standards—FMVSS numbers 221 and 222—have been tested every year since they were established. Besides their high failure rates, NHTSA said that it continually selects FMVSS 221 and 222 for testing because of the standards' political sensitivity resulting from the 1974 amendments. An OVSC official told us FMVSS 217 and 220 are also politically sensitive but have not been selected recently because of the limited budget. The Department added that these two standards have not been tested recently because there has been no reason to do so, such as prior failure rate. Past tests of FMVSS number 217 resulted in 22 civil penalties totaling \$73,550 and 28 manufacturer recalls because of noncompliance.

There are no civil penalties or manufacturer recalls associated with FMVSS number 220. The other two politically sensitive standards (FMVSS numbers 109 and 119 which involve tires) have been tested regularly.

## Vehicle Selection Process Can Be Enhanced

As discussed in chapter 1, NHTSA selects vehicles to test compliance with its standards and uses accident data related to the standards to help decide which vehicles to test. However, NHTSA does not obtain all the accident data it needs. NHTSA only collects standard-related accident data on a limited number of the 49 safety standards. As a result, NHTSA may not be able to identify vehicle accident trends that may be related to noncompliance with a standard.

We found a similar situation in 1973 when we reported that NHTSA did not obtain and use accident data for selecting vehicles, even though this was one of the selection criteria.

## Vehicle Selection Matrix

NHTSA selects those vehicles for testing that have the greatest demerit ratings for those safety standards selected for a specific year. NHTSA is required by federal regulation (49 C.F.R. §554.7) to consider five factors in setting testing priorities—(1) prior compliance test data, (2) accident data, (3) engineering analysis of vehicle and equipment designs, (4) consumer complaints, and (5) market share. Four of the five factors are included in the Vehicle Selection Matrix (engineering analysis is considered separately).

As discussed in chapter 1, OVSC collects and stores vehicle-related data in the matrix to assist in selecting vehicles for testing. The matrix lists all makes and models by demerit total, and those vehicles with the highest demerit totals have the greatest potential for noncompliance. A separate demerit total is calculated for each of the 34 standards that applies to a vehicle. For example, each make and model of a passenger car has 26 individual demerit ratings.<sup>4</sup>

The demerit ratings are based on such factors as the number of vehicle events, such as accidents and consumer complaints, related to selected safety standards. The data for each vehicle, by event, comes from various NHTSA and Environmental Protection Agency information systems,

<sup>4</sup>Of the 34 vehicle-related safety standards, 26 are applicable to passenger cars and school and other buses, 22 are applicable to multipurpose passenger vehicles and trucks, 5 are applicable to motorcycles/mopeds, and 3 are applicable to trailers.

such as NHTSA's National Accident Sampling System and the Office of Defect Investigations' consumer complaint data files. As shown in table 2.6, these events are then multiplied by a numeric value, or weighting factor. The weighting factors are a measure of the reliability OVSC places on each element. The most reliable data receives the highest weighting factor. However, none of these elements apply to new model cars since no incident history exists.<sup>5</sup>

Table 2.6: Demerits for Vehicle Events

Events related to safety standards	Weighting factor
Accidents	10
Hotline complaints	5
Defect investigations	5
Parts return*	5
Consumer complaints	1
Recall campaigns	1

\*Although the Parts Return Program was eliminated in 1981, it is still an element in the matrix.  
 Source: OVSC.

Limited Use of Accident Data in Vehicle Selections

In our 1973 report on NHTSA compliance activities, we stated that the selection of vehicles for fiscal year 1972 compliance testing was to have been based on (1) the results or lack of prior compliance testing, (2) complaints about defects, (3) engineering judgment based on evaluations of vehicle designs, and (4) accident investigation data. But we found that the selection of vehicles for testing was based primarily on prior test results or the lack of such results. As a result, we concluded that NHTSA testing efforts were not systematically focused on problem areas identified through analysis of available accident data. We stated that,

"Although it may not be possible to establish whether particular vehicle makes and models comply with Federal safety standards by simply reviewing printouts of basic accident data, data printouts could be tailored to provide useful guides in selecting vehicles for testing and in establishing testing priorities that could have a high potential for reducing traffic accidents, injuries, and deaths."

We recommended that the Secretary of Transportation require the systematic use of accident data and studies as a key factor in selecting vehicles to be tested for compliance. The Department responded that it

<sup>5</sup>Demerits are also given on the basis of prior test results for a 5-year period. Additionally, new models are given 100 demerits each and 1-year old models are given 85 demerits each, which results in NHTSA emphasizing the selection of newer models. This is done because, in NHTSA's opinion, newer models are more likely to have compliance-related problems than older models.

began using accident data in selecting vehicles in the fiscal year 1972 test program selection process. The Department added that with additional refinements it anticipated using accident data more in future selection processes.

The situation we found in 1973, when no accident data was collected for selecting vehicles for testing, has only changed somewhat. As discussed earlier, and in contrast to 1973, accident data is one of the six vehicle event factors included in the matrix.

Accident data is currently obtained from NHTSA's National Accident Sampling System (NASS) data files.<sup>6</sup> NASS, created in 1979, is a nationally representative sample of all police-reported traffic accidents. Detailed information is collected, by accident investigators under contract to NHTSA, at 50 sites in the United States. These sites were chosen to be geographically and demographically representative of the country. The accidents investigated for inclusion in NASS each year are selected by a statistical sampling procedure so the data collected can be expanded to estimate national statistics on traffic accidents.

The accident investigators collect detailed information on vehicle damage, occupant injury, highway environment, and the dynamics of the accident for the NASS. Specifically, an investigator documents the scene of the accident, measures and classifies damage to the vehicles, obtains medical records and codes injuries, interviews survivors and witnesses, and obtains records on the drivers and vehicles involved.

NASS, however, contains a limited amount of standard-related accident data. An unpublished draft report by the 1979-80 matrix contractor stated that the 1979 and 1980 NASS data files were searched to identify accidents related to nine specific safety standards.<sup>7</sup> The contractor was able to obtain an adequate number of standard-related data for only three of the nine standards.

According to the contractor's report, FMVSS-related accidents represented about 9 percent of the NASS accident data in 1979 and 10 percent of the data in 1980. Of the 1979 and 1980 FMVSS-related accident data, about three-fifths of the accidents involved one standard (FMVSS number 204).

<sup>6</sup>Prior to the NASS, accident data was obtained from the Multi-Disciplinary Accident Investigation data files.

<sup>7</sup>The standards were FMVSS numbers 201, 203, 204, 206, 212, 214, 216, 219, and 220. Appendix I lists the standards by name and number.

The remaining two standards (FMVSS number 214 and 216) each represented about 15 to 20 percent of the 1979 and 1980 FMVSS-related accidents, respectively.

Our review of the vehicle selection matrices for fiscal years 1983 through 1985 showed similar limitations. Our review of all accident data in the 1983 and 1984 matrices showed that the majority of the accident data contained in these matrices involved three standards—FMVSS numbers 204, 214, and 216. The 1985 matrix contained no accident data related to any safety standard.

The 1983 Matrix contained accident data related to 11 standards. However, 81 percent of the data related to 3 of the 11 standards. Of the 116 standard-related accidents contained in the 1983 Matrix, 63 accidents (54 percent) involved FMVSS number 204; 25 accidents (22 percent) involved number 214; 7 accidents (6 percent) involved number 216; 5 accidents (4 percent) involved number 113; 4 accidents (4 percent) involved number 201; and the remaining 12 accidents (10 percent) were evenly divided among numbers 110, 203, 207, 208, 210, and 212.<sup>8</sup>

In contrast, the 1984 matrix contained more accident data that were related to fewer standards. Of the 204 standard-related accidents, 139 accidents (68 percent) involved FMVSS number 204; 55 accidents (27 percent) involved number 214; 9 accidents (4 percent) involved number 216; and one accident (1 percent) involved number 113.

Although the accident data in the 1983 and 1984 matrices were limited, the data did identify narrow trends. On the basis of our review, we were able to identify four vehicles in the 1983 Matrix that had five or more FMVSS-related accidents involving a single standard. Of these four vehicles, one vehicle had eight FMVSS-related accidents and three vehicles had five FMVSS-related accidents each. All 23 accidents involved FMVSS number 204.

Also, we were able to identify two vehicles in the 1983 matrix and four vehicles in the 1984 matrix that had FMVSS-related accidents involving more than one standard. In the 1983 matrix one vehicle had 14 accidents involving 7 standards. Specifically, three accidents involved FMVSS number 204, 10 accidents were evenly divided among numbers 113, 201, 207, 208, and 214; and one accident involved number 110. The other vehicle had eight accidents involving number 212, and two accidents

<sup>8</sup>See appendix I for standards 110, 113, 207, 208, and 210.

involving number 113. In the 1984 matrix one vehicle had three accidents related to FMVSS number 204 and two accidents related to number 214. Another vehicle had three accidents involving number 204 and one accident involving number 113. A third vehicle had two accidents involving FMVSS number 204 and one accident involving number 216. A fourth vehicle had two accidents involving number 204 and two accidents involving number 214.

While NHTSA has increased the collection and use of FMVSS-related accident data since our 1973 report, accident-related data from the NASS for all standards are not collected. Of the 39 testable safety standards, FMVSS-related accident data from NASS is consistently collected on only 3 standards. When collecting NASS data, NHTSA could require that data related to the other standards be obtained at that time.

In discussing the limited amount of accident data contained in the matrix, OVSC management informed us that the NASS data is not too meaningful for vehicle selection purposes, and that any accident data would have limited application to vehicle selections because by the time it was obtained the data would relate more to noncurrent models. When questioned as to why then have accident data as an element in the Matrix, OVSC officials responded that they "will use any data they can" for the compliance program. We were not able to identify the costs of collecting additional accident data nor did NHTSA have any estimates.

In commenting on the report, the Department pointed out problems in using NASS data for vehicle selection because it is based on a sample of accidents. In its opinion, noncompliances that contributed to the cause of crashes are rare and identifying a noncompliance in a crash-involved vehicle and relating it to the accident is almost impossible. The Department added that it will explore the use of state files on crashes to help select vehicles and standards for testing. In discussing the use of accident data for selecting vehicles for testing, our concern was with the limited amount of such data. Therefore, the Department's efforts to obtain additional crash data from states' files has the potential to improve its selection process.

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## Conclusions

OVSC's processes for selecting standards and vehicles for testing can be refined. This refinement should increase manufacturers' compliance by increasing the deterrent value of NHTSA's testing activities.

The purpose of all 49 safety standards is to reduce the number of deaths and injuries resulting from motor vehicle accidents. Because OVSC cannot select all standards for compliance testing every year due to budget constraints, it selects some of the standards on the basis of four criteria: (1) a high prior year failure rate associated with a standard; (2) the newness of a standard; (3) the political sensitivity of a standard; or (4) maintenance of an enforcement presence. However, the use of the criteria could be enhanced. OVSC regularly selects some standards that would only meet the enforcement presence criteria. Conversely, it has not selected 13 standards for at least 5 fiscal years and thus, OVSC's enforcement presence has been missing.

When we compared the regularly selected and nonselected standards with the high failure rate and political sensitivity criteria, we found opportunities for NHTSA to improve the selection process. For example, NHTSA believes all four of the school bus safety standards are politically sensitive, but two are regularly selected and two have not been selected since fiscal year 1980. Increased rotation of the standards for testing could add to the deterrent value of the testing program.

In 1973 we reported that accident data were not used in selecting vehicles for testing although such data were one of the five selection factors. NHTSA's collection of accident data has increased since our 1973 report. Our review of the accident data used for fiscal years 1983 through 1985, however, showed that NHTSA could obtain more standard-related accident data for use in its vehicle selection process. We believe that accident data is important in identifying vehicles with the greatest potential for noncompliance. Such data would enable NHTSA to identify vehicles with standard-related operating failures that resulted in accidents, and selecting these vehicles for testing seems more likely to assist NHTSA in achieving its mission of reducing the deaths, injuries, and economic losses resulting from standard-related accidents. However, given NHTSA's budget, it would have to compare the costs of collecting this additional data with the related benefits from improved vehicle selection before collecting such data.

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## Recommendations to the Secretary of Transportation

To better ensure that safety standards and vehicles selected for compliance testing have the greatest impact on public safety, we recommend that the Secretary of Transportation direct the Administrator, National Highway Traffic Safety Administration, to

- 
- ensure that all 39 testable safety standards are selected for testing over time with the intent of improving compliance and
  - determine the cost to collect additional standard-related accident data and safety benefits to be derived from such data. If obtaining the standard-related data are cost beneficial, then NHTSA should collect and use the data to help select motor vehicles for testing.

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## Agency Comments and Our Evaluation

In commenting on our draft report (see app. III), the Department said that in principle, it basically agrees with the recommendation to ensure that all testable safety standards are selected for testing over a period of time. It noted that there are many factors involved in the selection of standards for testing that preclude testing all standards. The Department said, however, that every effort will be made to increase the number of testable standards included in the test program over a period of time.

Regarding the recommendation on determining the costs and the safety benefits of collecting additional data, the Department pointed out that the combination of rarity of noncompliances in vehicles plus the almost impossible task of identifying noncompliances in crash-involved vehicles would make any effort to gather compliance-related crash data very costly. However, it believes that the analysis of state crash data could be used to help decide which vehicles and standards to test.

In our opinion, the proposed Department actions, if properly implemented, address our recommendations and should help improve the standards and vehicle selection processes. In our draft report we had included reference to the collection of additional standard-related data from the NASS. However, the Department pointed out problems with the NASS data and suggested that state crash data could be used. Based on the comments, we deleted the reference to the use of NASS data from our recommendation.



# Better Guidance Needed for Processing Noncompliance Investigation and Civil Penalty Cases

The majority of NHTSA's noncompliance investigations result from OVSC's compliance testing activities. The purpose of these investigations is to determine if a noncompliance exists for vehicles or equipment that have failed testing. If NHTSA determines that noncompliance exists, it may require corrective action, such as recalls and/or impose civil penalties. According to NHTSA's 1983 Motor Vehicle Safety report, "The motoring public is the ultimate beneficiary when safety problems are remedied quickly."<sup>1</sup> The report added that NHTSA places considerable emphasis on making the enforcement process work efficiently.

OVSC has not developed criteria or guidelines for processing cases and can enhance its monitoring activities of the engineers responsible for resolving noncompliance investigations. As a result, NHTSA cannot assure that the investigation process is being administered effectively. Without such assurance, NHTSA is not in a position to identify those investigations that are not being resolved in a timely and efficient basis.

Besides recalls, the civil penalty process is another tool NHTSA has to bring about compliance with federal motor vehicle safety standards. OVSC forwarded a little more than one-fifth of the 223 investigation cases closed between 1983 and 1985 to NHTSA's Office of Chief Counsel (OCC) for penalty assessments. However, NHTSA has not established guidelines to assist the OVSC staff in recommending when or if an investigation case should be forwarded to OCC. As a result of not providing guidance, the engineers use their own judgment in deciding which cases to recommend that OCC assess a penalty. This can result in (1) OVSC and OCC resources not being efficiently used when OCC declines to assess a penalty and (2) OVSC not forwarding investigations for which OCC would have assessed a penalty.

As with OVSC, OCC has not established criteria for processing civil penalty cases that are forwarded by OVSC or a mechanism to monitor its cases. Similarly, OCC does not have a means for assuring timely and efficient resolution of civil penalty cases.

## Investigation Process

The process for all investigations, whether initiated because of test failures or other reasons (such as consumer complaints), is identical. It

<sup>1</sup>Motor Vehicle Safety 1983, A Report on Activities Under the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act of 1972, January 1, 1983—December 31, 1983.

starts with a Certification Information Request letter issued to a manufacturer or distributor. The letter requests the manufacturer's or distributor's self-certification data concerning the determination that the vehicle or equipment in question met the standard(s) relevant to the investigation. After OVSC staff review this data, they may request a technical meeting with the manufacturer to obtain additional information and clarification. NHTSA may close an investigation at any time during the investigation process either because it determined that the vehicle or equipment in question does comply with the safety standard or because the manufacturer is taking appropriate corrective action.

If OVSC concludes from its investigation that the vehicle or equipment item is in noncompliance with a safety standard, it forwards the case to OCC through the Associate Administrator for Enforcement for legal review before making an initial determination of noncompliance. If the Associate Administrator, on the basis of the case presented, makes an initial determination of noncompliance, the manufacturer is notified of the decision. At this point, the manufacturer has the opportunity to present its views at a public hearing or it can bring the vehicle or equipment item into compliance. Should the manufacturer decide to present its views at a public hearing to contest the initial noncompliance determination, the NHTSA Administrator is responsible for deciding whether or not a noncompliance exists. If the Administrator believes a final determination of noncompliance is warranted, the manufacturer will be ordered to bring the vehicle or equipment item into compliance. If the manufacturer refuses to initiate a recall, NHTSA may proceed with a court action against the manufacturer. The final decision of whether the manufacturer should be required to recall the affected vehicles or equipment will then be made by the court.

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## **Recalls Due to Noncompliance**

During this review, we analyzed the number of motor vehicles and equipment recalled by domestic and foreign manufacturers due to noncompliance determinations between January 1983 and June 1985. As shown in table 3.1, domestic and foreign manufacturers recalled 1.5 million motor vehicles during this period. Of this total, domestic manufacturers recalled 1,341,452 vehicles, or 88 percent of the total, and foreign manufacturers recalled 184,147 vehicles, or 12 percent.

**Chapter 3**  
**Better Guidance Needed for Processing**  
**Noncompliance Investigation and Civil**  
**Penalty Cases**

**Table 3.1: Motor Vehicles Recalled by Domestic and Foreign Manufacturers, January 1983 to June 1985**

Manufacturer	Calendar years						Total	
	1983		1984		1985 <sup>a</sup>			
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Domestic	812,761	97	503,408	76	25,283	100	1,341,452	88
Foreign	28,909	3	155,238	24	0	0	184,147	12
<b>Total</b>	<b>841,670</b>	<b>100</b>	<b>658,646</b>	<b>100</b>	<b>25,283</b>	<b>100</b>	<b>1,525,599</b>	<b>100</b>

<sup>a</sup>Figures for calendar year 1985 cover January 1, 1985, to June 30, 1985.

Source: NHTSA.

Additionally, we collected recall data on all 223 investigation cases NHTSA closed between fiscal year 1983 and March 1985. NHTSA determined that the vehicles and equipment items involved in 173 of the 223 investigations did not comply with federal safety standards. In 41 of the 173 cases, NHTSA required some corrective action by the manufacturer that resulted in 1 voluntary and 35 NHTSA-influenced recalls.<sup>2</sup> For the remaining 132, NHTSA required no corrective action. In addition to some type of recall action, OVSC forwarded 20 of the 41 cases to the OCC to seek a civil penalty assessment.

**Need to Improve**  
**Management of**  
**Processing**  
**Investigations**

Our 1973 report analyzed the status of the 62 investigation cases opened in calendar year 1972 as a result of compliance test failures. Because of the length of time cases remained opened, we recommended that the Secretary of Transportation require more timely action in resolving test failure cases, particularly in having unsafe vehicle and equipment conditions corrected. In response to the report, NHTSA commented that improvements had been made, and it had tried to reduce processing time to 5 months. However, NHTSA has not established criteria such as timeliness for processing investigations and has not monitored the process to determine if improvement has been made.

On the basis of our review of all 223 closed investigation cases in OVSC for the 2-1/2 year period ending March 1985, we found that the cases took on average over 1-1/2 years to close.<sup>3</sup> Additionally, we found that

<sup>2</sup>No recall resulted in three cases because the manufacture went out of business and in two cases because OCC had concerns involving test procedures.

<sup>3</sup>Of the 223 cases, 113 were initiated as a result of compliance testing; 81 were initiated as a result of visual inspection; 28 were initiated due to consumer complaints; and one was initiated as a result of a manufacturer's voluntary recall. These investigation cases involved 32 of the 49 safety standards. The safety standards involved in the most number of investigations were FMVSS numbers 218 and 120, with 32 and 19 investigations, respectively.

the processing time for 34 of the 223 cases ranged from 3 to 7 years to complete—15 of the 34 cases took 3 years to process, 11 cases took 4 years, 3 cases took 5 years, 4 cases took 6 years, and 1 case took 7 years to process. The average processing time for these 34 cases was 4 years. Two of the investigation cases that took 6 years to process and the one case that took 7 years were closed because of the age of the cases. Of the remaining 189 cases, 126 cases took 1 year or less to process, 51 cases took 1-1/2 to 2 years to process, and 12 cases took 2-1/2 years to process.

The length of time NHTSA took to complete an investigation is not always an accurate indicator of the possible safety impact on the public. Often times manufacturer remedies may take place while investigations are open, thus reducing the time taken to bring about corrective action. We found that 11 of the 34 cases we reviewed required corrective action that resulted in recalls being initiated. Six of those 11 recalls involved cases that were 4 years old and 4 recalls involved cases that were 3 years old. Of the one 6-year old case, the manufacturer initiated a recall 2 months after the investigation opened. Of the six 4-year old cases, manufacturers initiated recalls for four cases 15 months after the investigations opened; in another case a recall was initiated 23 months after the investigation opened; and in the sixth case, a recall was initiated 7 months after the investigation opened. Of the four 3-year old cases, the manufacturer initiated a recall for one case 25 months after the investigation opened and manufacturers initiated recalls for three cases 32 months after the investigations opened. For these 11 cases, manufacturers initiated corrective action 19 months, on the average, after the investigations were opened.

In commenting on our draft, the Department provided additional data on seven investigations involving vehicles recalls (see app. III). Since these cases were initiated subsequent to our review, they were not included in our analysis. Our analysis was based on all cases closed during a 2-1/2 year period.

In discussing its oversight of investigation activities, OVSC officials informed us that there are no timeliness criteria and written procedures governing the processing of individual cases. They added that OVSC maintains a data base for each case that records the completion of each investigative phase (e.g., request letter sent to manufacturer, meeting held with manufacturer). However, our discussions with OVSC officials and analysis of the investigation process indicate that the data base, as

it exists, cannot be used to monitor its overall investigation process. Further, OVSC could enhance its management of case processing by having a system that (1) calculates times taken between phases of the process and (2) aggregates the data for overall analysis. OVSC officials said that, in their opinion, the most important investigations receive the highest priority. Also, they commented that processing time can be lengthened when manufacturers challenge NHTSA's investigative findings and proposed actions.

In commenting on our draft report, the Department said that general written requirements are currently stipulated in the official position descriptions and associated job elements in the performance appraisal forms of the individual engineers. The job elements include the early stages of case processing. (For example, once a test failure has been identified, the engineer has 30 days to notify the manufacture with OVSC's approval.) The Department added that case processing activities are closely monitored through management reviews and an OVSC Automated Reporting System that includes a number of interrelated reports on the status of the investigated workload. According to the Department, the system is being refined as a result of an internal study. Further, the Department said that each case tends to take on a very individual character and priorities are established among ongoing investigations.

In our opinion, using position descriptions and performance appraisals for some phases of an investigation can help improve timely resolution. However, additional procedures covering other phases such as forwarding cases to OCC have not been established. Our analysis of the reporting system showed that it does not completely track the processing of cases. Developing general written procedures for conducting investigations by the Department should improve its management investigation process.

In 1983 we issued a report on the Office of Defects Investigation's (ODI) investigation of problems in 1980 General Motors X-Body cars.<sup>4</sup> In response to complaints of possible safety defects from third parties (consumers), ODI tests, inspects, and investigates safety defect allegations. In contrast, OVSC selects, tests, and investigates manufacturers compliance with its standards. We found that it took ODI 37 months,

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<sup>4</sup>Department of Transportation's Investigation of Rear Brake Lockup Problems In 1980 X-Body Cars Should Have Been More Timely (GAO/RCED-83-195, Aug. 5, 1983).

after starting its investigation of the X-Body, to make its initial determination. Additionally, we found that various investigative phases were allowed to remain inactive or were delayed. On the basis of this case, we recommended that the NHTSA Administrator reaffirm the need for compliance with the policies and procedures for conducting defect investigations. Specifically, we recommended that the Administrator should stress that the actions called for by the policies and procedures be performed in a timely manner. As a result of this recommendation, ODI established procedures and control requirements for conducting defect investigations so that program efficiency, accuracy, responsibility, and accountability can be achieved.

While ovsc officials believe that the most important investigations receive the highest priority, it does not have a method to bring this about. While they recognize that quick corrective action on safety problems benefits the public, ovsc does not have the means to accomplish this without criteria for processing investigations and monitoring to ensure adherence to the criteria.

## Guidance Needed for Forwarding Investigation Cases to OCC

As a result of an investigation, ovsc can decide to forward a noncompliance case to OCC for a civil penalty assessment. Its decision is based on the judgment of the ovsc staff member handling the investigation. ovsc and OCC have no guidelines to assist the staff in their decision to send a case to OCC. Our analysis and discussions with ovsc and OCC did not identify a consistent basis for their decisions.

ovsc determined that a failure of a vehicle or equipment sampled to meet the requirements of a safety standard and the likelihood of the failure of others made by the manufactures, existed in 173 of the 223 cases we reviewed. Of the 173 cases, ovsc sent 47 cases (or 27 percent) to OCC for penalty assessments. OCC assessed a penalty for 14 of the 47 cases it received and did not assess a civil penalty in the other 33 cases. The assessments for the 14 cases totaled \$354,000, which averaged \$25,285 per case. This average was influenced by two cases that involved assessments of \$102,000 each. The penalty assessments ranged from \$1,000 to \$102,000.

Civil penalties were paid in 9 of the 14 cases. NHTSA collected \$132,200 for the 9 cases, which averaged \$14,689 per case. The paid penalties

ranged from \$1,000 to \$50,000. Of the remaining 5 cases, no penalty was paid because the owners went out of business.<sup>5</sup>

Without guidance, OVSC staff may be forwarding cases to OCC for a penalty assessment that do not warrant such action, as well as not forwarding others that should have been forwarded. While we did not identify either situation, 33 of the 47 cases (or 70 percent) were sent to OCC for an assessment but were not assessed a penalty. While not providing reasons for rejecting all 33 cases, OCC did in some cases provide the reasons for not assessing a penalty, such as the enforceability of a specific standard.<sup>6</sup> Such cases might serve as a basis for establishing criteria for deciding which cases to forward to OCC. In its comments on the report, the Department pointed out reasons for not assessing a penalty such as the lack of gravity of the apparent noncompliance and the difficulty of gathering sufficient additional evidence to support further action. If OVSC and OCC provide guidance to the staff on which cases warrant OCC attention, they could improve their use of resources. This could occur by having OVSC engineers spending time preparing cases that meet the guidance and by reducing OCC review of OVSC forwarded cases that will be pursued.

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## **Need for Guidelines for OCC Case Processing**

OCC has not developed timeliness criteria and written procedures for its processing of civil penalties and does not monitor the cases that it processes. Of the 47 cases OVSC forwarded to OCC for penalty assessments, we found that they had an average processing time per case—from the time OCC received the case until it was closed—of 3 years. As pointed out previously, in 14 cases a penalty was assessed and none was assessed for the 33 remaining cases. Table 3.2 shows the number of years it took for the 47 cases to be processed.

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<sup>5</sup>In total, owners went out of business in 20 of the 47 cases forwarded to OCC. However, OCC assessed a penalty in 5 of these 20 cases.

<sup>6</sup>On page 22 of this report, OVSC states that some standards may not be enforceable. But these standards are not the ones OCC has identified.

**Table 3.2: OCC Processing Times for Selected Civil Penalty Cases**

<b>Number of years</b>	<b>Number of cases</b>
Less than 1	7
1	8
2	4
3	8
4	5
5	8
6	5
7	2
<b>Total</b>	<b>47</b>

Source: Prepared by GAO from NHTSA data.

Nineteen of these cases (or 40 percent) were closed in less than 3 years, while the remaining 28 cases (or 60 percent) were closed between 3 and 7 years. An OCC official informed us that the processing of cases involves negotiations with manufacturers, which increases processing times. The official added that many of the lengthy cases in our review probably involved the Motorcycle Helmets Standard (FMVSS number 218) and the School Bus Body Joint Strength Standard (FMVSS number 221), which have taken a longer time to process due to controversial aspects of the standards. To determine the impact of those two standards, we re-evaluated the processing time. We found that 15 of the 47 cases involved number 218 (processing times ranged from 1 to 7 years) and 1 case involved number 221 (processing time was 4 years). After removing these 16 cases, we found that the average processing time of the remaining 31 cases decreased to approximately 2 years or a reduction of about 1 year.

As previously discussed, NHTSA believes that timely case resolution benefits the public. But without criteria to evaluate the processing of civil penalty cases and monitoring them, NHTSA is not in a position to ensure that cases are being resolved in a timely and efficient manner.

## Conclusions

NHTSA acknowledges that the timely remedy of safety problems benefits the public. Timely remedies depend on rapid processing of noncompliance investigation and civil penalty cases. We recognize that how long it takes to process various cases depends on their complexity. However, NHTSA does not have a system of management controls to bring about timely resolution of its cases. OVSC and OCC have neither developed standard procedures for processing noncompliance investigation and

civil penalty cases nor established criteria for how long the process should take. Consequently, vehicles and equipment that may be in non-compliance continue to be used, sometimes for years, while NHTSA works to resolve the issues raised.

Data on case resolution by OVSC and OCC—the two offices in NHTSA responsible for assuring that safety standards are met—shows a wide range of times for processing cases. Out of 223 closed investigations from October 1982 to March 1985, OVSC averaged over 1-1/2 years to complete, with the range being from less than 1 year to 7 years. In OCC, the average processing time—from receipt of the case from OVSC to closure—was 3 years, with the range being from less than 1 year to 7 years.

NHTSA also lacks guidelines concerning which investigation cases should be forwarded to OCC for penalty assessment. Of the 223 cases we reviewed, OVSC determined that 173 did not meet the requirements of a safety standard. Of these 173, OVSC sent 47 to OCC for penalty assessments. However, OCC only assessed a penalty in 14 of the cases forwarded to it. In our opinion, providing guidance would help ensure that clear cases of noncompliance were sent forward so that OCC would not have to spend time on cases that did not warrant further action and would have more time to pursue those cases that should be pursued.

As with OVSC, OCC has not established timeliness criteria and written procedures for processing civil penalty cases. Therefore, it does not have an effective means to oversee the processing of its cases.

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## **Recommendations to the Secretary of Transportation**

To improve the processing efficiency of all investigations and resulting civil penalty actions and recalls, we recommend that the Secretary of Transportation direct the Administrator of the National Highway Traffic Safety Administration to

- develop milestones and procedures for processing noncompliance investigation cases and monitor OVSC's progress against them,
- develop criteria and procedures for OVSC to follow in determining which noncompliance investigations should be forwarded to the Office of Chief Counsel for penalty assessments, and
- develop milestones and procedures for processing civil penalty cases.

## Agency Comments and Our Evaluation

The Department said that investigations are effectively managed and priorities are correctly set. However, it agreed that written general procedures for conducting investigations would be a useful management tool and that it will develop such a tool. The Department said that the procedures will contain the same types of elements and procedures developed for its Defect Investigation procedures, which specify steps to be taken, time frames, review protocol, etc., but leave all decisions on findings and priorities to professional engineering judgment and management oversight. The Department added that departures from these procedures will be made as circumstances warrant.

The Department disagreed with our recommendation to develop criteria and procedures to assist OVSC in determining which noncompliance investigations should be forwarded to OCC for penalty assessments. It said that OVSC considers investigations that it forwards to OCC for penalty assessment to be clear cases of noncompliance based upon engineering judgments.

The Department said that the decision to forward a case is fully coordinated within the office, starting with the engineer's recommendation which is fully discussed with the engineer's immediate supervisor and the responsible Division Chief. Further, prior to presentation for the Office Director's signature, case files are informally coordinated with a representative of OCC who "concur in principle" before the cases are forwarded to that office. The Department added that the ultimate decision to proceed with civil penalties involves a complex set of factors and is fully coordinated between OVSC and OCC. Factors used and judgments made in reaching decisions on which cases of noncompliance will be forwarded to OCC for civil penalty processing do not lend themselves to a set of rigid criteria.

While the cases may represent clear instances of noncompliance based on engineering judgments and have been informally coordinated with OCC before they were forwarded, 33 out of 47 cases (or 70 percent) which we reviewed were not assessed a penalty. We would expect to have some cases rejected even in situations with clear evidence based on engineering judgments and with informal coordination. However, in our opinion, such a high percentage of cases not being assessed a penalty suggests that the informal process is not as efficient as it could be. Therefore, we continue to believe that developing criteria and procedures, that provide guidance to OVSC on legal and administrative issues that OCC considers, could help reduce the rejection rate and improve the use of NHTSA's resources.

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The Department did not comment on our recommendation to develop milestones and procedures for processing civil penalty cases. It pointed out in its comments, however, that in cases referred by OVSC to OCC where civil penalties were collected, the time periods required to complete the civil penalty process have varied with the facts for the cases but have been reasonable.



# Federal Motor Vehicle Safety Standards

<b>Standard number</b>	<b>Title</b>
101	Controls and displays
102	Transmission shift lever sequence, starter interlock, and transmission braking effect
103	Windshield defrosting and defogging systems
104	Windshield wiping and washing systems
105	Hydraulic brake system
106	Brake hoses
107	Reflecting surfaces
108	Lamps, reflective devices, and associated equipment
109	New pneumatic tires—passenger cars
110	Tire selection and rims—passenger cars
111	Rearview mirrors
112	Headlamp concealment devices
113	Hood latch systems
114	Theft protection—passenger cars
115	Vehicle identification number
116	Hydraulic brake fluids
117	Retreaded pneumatic tires—passenger cars
118	Power-operated window systems—passenger cars and multipurpose passenger vehicles
119	New pneumatic tires—multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles
120	Tire selection and rims for vehicles other than passenger cars
121	Air brake systems—trucks, buses, and trailers
122	Motorcycle brake systems
123	Motorcycle controls and displays
124	Accelerator control systems
125	Warning devices
126	Truck-camper loading
201	Occupant protection in interior impact
202	Head restraints—passenger cars
203	Impact protection for the driver from the steering control system
204	Steering control rearward displacement
205	Glazing materials
206	Door locks and door retention components
207	Seating systems
208	Occupant crash protection

**Appendix I  
Federal Motor Vehicle Safety Standards**

<b>Standard number</b>	<b>Title</b>
209	Seat belt assemblies
210	Seat belt assembly anchorages
211	Wheel nuts, wheel discs, and hub caps—passenger cars and multipurpose passenger vehicles and equipment
212	Windshield mounting
213	Child seating systems
214	Side door strength
216	Roof crush resistance—passenger cars
217	Bus window retention and release
218	Motorcycle helmets
219	Windshield zone intrusion
220	School bus rollover protection
221	School bus body joint strength
222	School bus passenger seating—crash protection
301	Fuel system integrity
302	Flammability of interior materials

# Historical Information on 13 Standards Not Selected for Testing Between Fiscal Years 1981 and 1985

As discussed in chapter 2, NHTSA did not test 13 of the 39 testable safety standards between fiscal years 1981 and 1985. This appendix provides information from the PAD's on each of the 13 standards' application, purpose, initial effective date and latest revision, testing history, and related corrective actions. The purpose of some standards do not specifically address their impact on safety. However, their impact is implied because the basic purpose of all federal motor vehicle safety standards is to reduce the number of fatalities and severity of injuries resulting from failure of a motor vehicle system or equipment. In commenting on our draft report, the Department provided additional information regarding the nonselection of 6 of these 13 standards. (See app. III.)

**FMVSS 110 — Tire Selection and Rims:** Applies to passenger cars only. The standard specifies requirements concerning the size and operational capabilities of original equipment tires and rims selected for new cars. These include placard requirements concerning tire inflation pressure and tire size as well as rim performance under conditions of rapid loss of a tire's inflation pressure (e.g., a blowout) while a car is in operation. The purpose of this standard is to provide safe operational performance by ensuring that new cars are equipped with tires of adequate size and load rating and with rims of appropriate size and type designation.

The initial effective date of this standard was April 1, 1968, and was last revised on August 5, 1975. Compliance with the standard was tested in fiscal years 1968 and 1972. Out of 77 tests conducted, there were 9 failures, an 11.7-percent failure rate. NHTSA's 1981-85 PAD's showed 1 civil penalty for \$200 and 10 manufacturer recalls involving 18,153 tires associated with this standard.

**FMVSS 111 — Rearview Mirrors:** Applies to passenger cars, multipurpose passenger vehicles, trucks, buses, schoolbuses, and motorcycles. The purpose of this standard is to reduce the number of deaths and injuries that occur when the driver of a motor vehicle does not have a clear and reasonably unobstructive view to the rear.

One of the original safety standards, the initial effective date was January 1, 1968, and it was last revised on February 26, 1977. The standard was tested during fiscal years 1978-80. During that period, 55 tests were conducted which resulted in 26 failures or a 47.3-percent failure rate. NHTSA's 1981-85 PADs showed 3 civil penalties for a total dollar amount of \$20,334 and 11 manufacturer recalls of 109,600 vehicles/equipment associated with this standard.

**FMVSS 112 — Headlamp Concealment Devices:** Applies to passenger cars, multipurpose passenger vehicles, trucks, buses, and motorcycles. The standard requires that any fully opened headlamp concealment device shall remain fully opened whether either or both of the following occur: any loss of power to or within the device or any malfunction of wiring or electrical supply for controlling the concealment device.

The initial effective date of this standard was January 1, 1969, and was last revised on January 25, 1969. Compliance with the standard was tested during fiscal years 1970, 1973, 1976, and 1977. A total of 14 tests were conducted, resulting in 1 failure for a 7.1-percent failure rate. NHTSA's 1982 through 1985 PADs showed that there were no civil penalties and 1 manufacturer recall of 93 vehicles and/or equipment associated with this standard.

**FMVSS 117 — Retreaded Pneumatic Tires:** Applies to retreaded pneumatic tires for use on passenger cars manufactured after 1948.<sup>1</sup> The purpose of this standard is to require retreaded pneumatic passenger car tires to meet safety criteria similar to those for new pneumatic passenger car tires (FMVSS 109). As a result, the standard specifies tire size and laboratory test requirements for strength, endurance, and high speed performance; defines maximum load ratings; and labeling requirements.

The initial effective date was June 1, 1973, and it was last revised on May 12, 1975. Compliance with the standard was tested during fiscal years 1974-79. During that 6-year period, 3,807 tests were conducted which resulted in 179 failures, or a 4.7-percent failure rate. NHTSA's 1985 PAD included a statement that these tests and subsequent failures only reflect casing testing failures — the most serious standard-related violations.<sup>2</sup> Additionally, NHTSA identified 877 labeling requirement violations during fiscal years 1976-79. The PADs showed that there were 60 civil penalties for a total of \$23,150 and 2 manufacturer recalls of 30 tires associated with this standard.

**FMVSS 121 — Air Brake Systems:** Applies to trucks, buses, and trailers equipped with air brake systems. There are some exceptions to this application, such as any vehicle with an overall vehicle width of more

<sup>1</sup>Pneumatic tire means a mechanical device made of rubber, chemicals, fabric and steel, or other materials which, when mounted on a car wheel, provides traction and contains the gas or fluid that sustains the load.

<sup>2</sup>Casing is a used tire to which additional tread may be attached for retreading.

than 102 inches with extendable equipment in the fully retracted position. This standard established performance and equipment requirements for air braking systems on vehicles. The purpose of this standard is to insure safe braking performance under normal and emergency conditions.

The initial effective date of this standard was January 1, 1975, and it was last revised on July 24, 1980. Compliance with the standard was tested during fiscal years 1976-78. During that period, 52 tests were conducted which resulted in 21 failures for a 40.4 percent failure rate. NHTSA's PADS showed two civil penalties for a total dollar amount of \$15,000 and 15 manufacturer recalls of 6,065 vehicles/equipment associated with this standard.

**FMVSS 122 — Motorcycle Brake Systems:** Applies to motorcycles. The standard established equipment and performance requirements for motorcycle brake systems. The purpose of this standard is to avoid accidents by ensuring safe motorcycle braking performance under both normal and emergency conditions.

The initial effective date of this standard was January 1, 1974, and it was last revised on October 10, 1978. Compliance with the standard has never been tested by NHTSA. NHTSA's 1981-85 PADS showed that there were 5 civil penalties for a total of \$2,000 and 11 manufacturer recalls of 17,615 vehicles associated with this standard.

**FMVSS 125 — Warning Devices—**Warning devices are required for use in trucks. This standard establishes shape, size, and performance requirements for reusable day and night warning devices without self-contained energy sources that can be erected on or near the roadway to warn approaching motorists of the presence of a stopped vehicle. The purpose of this standard is to reduce deaths and injuries due to rear-end collisions between moving traffic and disabled vehicles.

The initial effective date of this standard was January 1, 1974, and was last revised on August 11, 1974. Compliance with this standard has never been tested by NHTSA. NHTSA's 1981-85 PADS showed that there are no civil penalties or manufacturer recalls associated with this standard.

**FMVSS 201 — Occupant Protection in Interior Impact:** Applies to passenger cars and multipurpose passenger vehicles, trucks, and buses with a gross weight of 10,000 pounds or less. This standard specifies requirements for impact protection for vehicle occupants. It requires padded

instrument panels, seat backs, sun visors, and armrests. Also, glove compartment doors are required to remain closed during a crash.

One of the original safety standards, the initial effective date of this standard was January 1, 1968, and it was last revised on September 1, 1981. Compliance with this standard has never been tested by NHTSA. NHTSA's 1981-85 PADS showed that there are no civil penalties nor manufacturer recalls associated with this standard.

FMVSS 202 — Head Restraints: Applies to passenger cars. This standard established performance requirements for head restraints in passenger cars. The purpose of this standard is to reduce the frequency and severity of neck injuries in rear-end and other collisions.

The initial effective date of this standard was January 1, 1969, and has not been revised. Compliance with this standard was tested during fiscal years 1969-73. During that 5-year period, 72 tests were conducted which resulted in 3 failures, or a 4.2-percent failure rate. NHTSA's 1981-85 PADS showed that there are no civil penalties nor manufacturer recalls associated with this standard.

FMVSS 203 — Impact Protection for the Driver from the Steering Control System: Applies to passenger cars and to multipurpose passenger vehicles, trucks, and buses with a gross weight of 10,000 pounds or less. However, it does not apply to walk-in vans. This standard specifies requirements for steering control systems that will minimize chest, neck, and facial injuries to the driver as a result of front-end crashes.

One of the original safety standards, its initial effective date was January 1, 1968, and it was last revised on September 1, 1981. Compliance with this standard was tested in fiscal year 1968. Twenty tests were conducted, which resulted in no failures. NHTSA's 1981-85 PADS show that there was one civil penalty for \$50 and no manufacturer recalls associated with this standard.

FMVSS 217 — Bus Window Retention and Release: Applies to buses and school buses, except those buses manufactured for the purpose of transporting persons under physical restraint. This standard specifies requirements for the retention of windows, other than windshields; markings for pushout windows; an interlock system to prevent the engine from starting if an emergency door is open; and an audible warning system if an emergency door is open while the bus engine is running. The purpose of this standard is to minimize the likelihood of

occupants being thrown from the bus in accidents and to provide readily accessible emergency exits.

The initial effective date of this standard was September 1, 1973, and it was last revised on April 1, 1977. The purpose of the 1977 revision was to include school buses within the standard in response to the Motor Vehicle and School Bus Safety Amendments of 1974 (Public Law 93-492). Compliance with this standard was tested during fiscal years 1974-80. During this 7-year period, 80 tests were conducted, which resulted in 52 failures, or a 65-percent failure rate. NHTSA's 1981-85 PADS showed 22 civil penalties for a total of \$73,550 and 28 manufacturer recalls of 26,967 vehicles associated with this standard.

**FMVSS 220 — School Bus Rollover Protection:** Applies only to school buses. This standard specifies strength requirements for school bus roofs to reduce the likelihood of roof collapse in a rollover accident and requires that emergency exits (except roof exits) be operable after a rollover accident. The purpose of this standard is to reduce the number of deaths and severity of injuries that occur in a rollover crash of a school bus.

This standard was established in response to the Motor Vehicle and School Bus Safety Amendments of 1974 (Public Law 93-492). The initial effective date of this standard was April 1, 1977, and it has not been revised.

Compliance with this standard was tested during fiscal years 1977-80. During this 4-year period, 35 tests were conducted, which resulted in no failures. NHTSA's 1981-85 PADS showed that there are no civil penalties or manufacturer recalls associated with this standard.

**FMVSS 302 — Flammability of Interior Materials:** Applies to passenger cars, multipurpose passenger vehicles, trucks, and buses. This standard specifies burn resistance requirements for materials used in vehicle occupant areas. The purpose of the standard is to reduce the number of deaths and injuries to occupants caused by vehicle fires, especially those originating in the vehicle's interior from such sources as matches or cigarettes.

The initial effective date of this standard was September 1, 1972, and it was last revised on December 4, 1975. Compliance with this standard was tested during fiscal years 1973-76. During this 4-year period, 680 tests were conducted which resulted in 34 failures for a 5-percent

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**Appendix II  
Historical Information on 13 Standards Not  
Selected for Testing Between Fiscal Years  
1981 and 1985**

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failure rate. NHTSA's 1981-85 PADS showed that 4 civil penalties for a total dollar amount of \$5,750, and 7 manufacturer recalls of 8,818 vehicles/equipment have been associated with this standard.

# Comments From the Department of Transportation

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



**U.S. Department of  
Transportation**

Assistant Secretary  
for Administration

400 Seventh St. S.W.  
Washington, D.C. 20590

AUG 26 1986

Mr. J. Dexter Peach  
Director  
Resources, Community and Economic  
Development Division  
U.S. General Accounting Office  
Washington, D.C. 20548

Dear Mr. Peach:

Enclosed are two copies of the Department of Transportation's comments concerning the U.S. General Accounting Office draft report entitled, "Motor Vehicle Safety: Enforcement of Federal Motor Vehicle Safety Standards Can Be Enhanced."

Thank you for the opportunity to review this report. If you have any questions concerning our reply, please call Bill Wood on 366-5145.

Sincerely,

A handwritten signature in cursive script that reads "Melissa J. Allen".

Jon H. Seymour

Enclosures

**DEPARTMENT OF TRANSPORTATION REPLY**

**TO**

**GAO DRAFT REPORT OF JULY 18, 1986**

**GAO/RCED-86-156**

**ON**

**MOTOR VEHICLE SAFETY: ENFORCEMENT OF**

**FEDERAL MOTOR VEHICLE SAFETY STANDARDS**

**CAN BE ENHANCED**

**ASSIGNMENT CODE: 347517**

SUMMARY OF GAO FINDINGS AND RECOMMENDATIONS

GAO reviewed the National Highway Traffic Safety Administration's (NHTSA) safety standard enforcement activities including NHTSA's procedures for selecting safety standards, investigating compliance test failures and assessing civil penalties.

As a result of this review, GAO reports that NHTSA has not tested some standards for long periods and has never tested others, and that NHTSA's process for selecting standards does not assure that each standard is tested over a period of time. The draft report states that this results in the deterrent value of NHTSA's testing activities not being as strong as it could be. In addition, GAO states that NHTSA cannot be assured that manufacturers comply with all standards because of the exclusion of some standards from testing. The draft report states, for example, that 10 of 39 testable safety standards have not been selected for testing for at least the past five fiscal years and that three other standards have never been tested. In addition, 8 of the 13 standards when last tested had higher failure rates than 18 of the 29 standards selected between fiscal years 1980 and 1984. GAO believes that this continued exclusion of some standards from testing and the standards selection process itself are inconsistent with the goal of providing a strong deterrent to the manufacture and sale of noncomplying motor vehicles and motor vehicle equipment through compliance testing.

Further, GAO reports that NHTSA has not established a system of management controls governing the processing of investigation and civil penalty cases involving safety standards; therefore, there is no assurance that cases are resolved in a timely manner. The draft report states that of the 224 investigation cases that were closed between October 1983 and March 1985, 127 (57 percent) took a year or less to process while 97 (43 percent) took 1 1/2 to 7 years to process. In addition, the draft report states, 57 of these cases were forwarded to NHTSA's Chief Counsel for penalty assessment. Of these, 44 percent were closed in less than three years while 56 percent took between three and seven years to close. While recognizing that the length of time it takes to process a case depends on its complexity, GAO reports that without milestones and procedures there is no effective means to monitor the processing of cases.

The draft report states that NHTSA lacks guidelines for determining which cases the Office of Vehicle Safety Compliance (OVSC) should forward to the Chief Counsel for penalty assessment and that a lack of guidelines results in a situation where the compliance office may be forwarding some cases for penalty assessment that are not warranted and, conversely, not forwarding some cases that may warrant assessment. The draft report states, for example, that there was no consistent basis for forwarding 57 cases for assessment, and that only 14 out of the 57 cases forwarded were actually assessed penalties.

The GAO recommends that the Secretary of Transportation direct the Administrator of NHTSA to:

- Ensure that all 39 testable safety standards are selected for testing over a period of time.
- Determine the cost to collect additional standard-related accident data under the National Accident Sampling System and safety benefits to be derived from such data. If found cost beneficial, then NHTSA should collect and use the data to help select motor vehicles for testing.
- Develop milestones and procedures for processing noncompliance investigation cases and monitor OVSC progress against them.
- Develop milestones and procedures for processing civil penalty cases.
- Develop criteria and guidelines for the OVSC to use for determining which noncompliance investigation cases should be forwarded to the Chief Counsel's office for penalty assessments.

SUMMARY OF DEPARTMENT OF TRANSPORTATION POSITION

A. SAFETY STANDARD AND VEHICLE SELECTION PROCESSES:

In principle, we would basically agree with the recommendation to ensure that all testable safety standards are selected for testing over a period of time. There are many factors involved in the selection of standards for testing that preclude testing all standards. However, every effort will be made to increase the number of testable standards included in the test program over a period of time.

Regarding the recommendation on determining costs and safety benefits of collecting additional data, we do not believe a study is needed. The combination of rarity of noncompliances in vehicles plus the almost impossible task of identifying noncompliances in crash-involved vehicles would make any effort to gather compliance-related crash data very costly. However, we believe the analysis of State crash data could be used to help decide which vehicles and standards to test.

B. PROCESSING NONCOMPLIANCE INVESTIGATION AND CIVIL PENALTY CASES:

Recognizing the complexity of the investigative process and the professional level of the engineering personnel involved in the processing of cases, criteria or guidelines, as suggested by GAO, could never be very specific. We agree that written general procedures for conducting investigations would be a useful management tool, and we will develop such a tool. It will contain the same types of elements and procedures developed for the Defect Investigation procedures, which specify steps to be taken, timeframes, review protocol, etc., but leaves all decisions on findings and priorities to professional engineering judgment and management oversight.

Investigative activities are closely monitored with periodic reviews to give technical and administrative guidance to the professional staff, as required. Cases of the greatest safety significance are recognized immediately when the failure occurs and staff, at all levels, are made aware of the need for priority handling. Priorities are monitored and controlled to maximize the return on available resources, with the emphasis on achieving a recall in the shortest time possible. While we recognize that delays in closing cases after obtaining corrective action may occur, we feel very strongly that our sense of priorities is correct, and best serves the safety mission of NHTSA.

We feel that investigations are effectively managed and priorities correctly set. We will, however, develop written general procedures for conducting investigations with the understanding that departures will be made from these procedures as circumstances warrant.

C. FORWARDING INVESTIGATION CASES TO THE OFFICE OF THE CHIEF COUNSEL:

The decision to forward a case is fully coordinated within the office starting with the engineer's recommendation which is fully discussed with the engineer's immediate supervisor and the responsible Division Chief. Prior to presentation for the Office Director's signature, case files are informally coordinated with a representative of OCC who "concurs in principle" before the cases are forwarded to that office. The ultimate decision to proceed with civil penalties involves a complex set of factors and is fully coordinated between Enforcement and OCC. Factors used and judgments made in reaching decisions on which cases of noncompliance will be forwarded to OCC for civil penalty processing do not lend themselves to a set of rigid criteria. We do not plan any action on this recommendation.

DEPARTMENT OF TRANSPORTATION POSITION STATEMENT:

A. SAFETY STANDARD AND VEHICLE SELECTION PROCESSES:

GAO recommendations -

- (1) "Ensure that all testable safety standards are selected for testing over a period of time." (Emphasis added.)
- (2) "Determine the cost to collect additional standard-related accident data under the NASS and safety benefits to be derived from such data. If obtaining the standard-related data is cost beneficial, then NHTSA should collect and use the data to help select motor vehicles for testing."

In principle, we would basically agree with recommendation (1). However, in practice, the many factors involved in the selection of standards for testing, while not precluding testing all standards, raise questions as to the advisability of doing so. While most of the administrative criteria for rating the standards, noted on page 14 of the report, are used, they do not exclusively determine the standards selected for testing. NHTSA must consider the nature of the safety problem addressed by the candidate standards for testing, planned and actual design changes in the vehicle population, the type and seriousness of prior failures, available budget, and other relevant information before deciding to test a standard. Recommendations made at the staff level are subject to review throughout the supervisory chain.

Political sensitivity (more appropriately described as public interest), while included in the selection matrix when it is known, is not a factor in selecting standards for testing. There would need to be another strong reason for selecting a standard for testing which had Congressional and public interest. As an example, FMVSS 217 and 220 are listed on page 33 as standards which are "politically sensitive," yet, they have not been tested recently because there has been no other reason to do so, such as prior failure history.

The selection of standards for testing is not a simple, rigid application of the priority rating criteria listed on page 14. In addition to the priority rating criteria, the agency uses engineering judgement, management judgement, and its ongoing knowledge of industry practice. Establishing and following such rules rigidly will result in testing some standards that should not be tested while ignoring others that should be tested. It is not possible to develop criteria to cover all possibilities in which informed judgement is applied in the final decision on what standards are to be tested.

See comment 1.

Now on p. 27.

On page 22, GAO discusses the enforceability of certain safety standards. NHTSA has not made any determinations that certain safety standards are not enforceable. Even if OVSC and the Office of the Chief Counsel (OCC) have questions about portions of certain standards, not all parts of the standards would cause problems. Furthermore, certain planned test procedure changes or interpretations could, in some cases, eliminate the problems. In any event, statements in this report that NHTSA questions the enforceability of these standards could cause manufacturers to be less diligent in their efforts to meet them when, in fact, there are other reasons for excluding these standards from testing, and the exclusion is not permanent.

Pages 28 through 33 of the report deal with what GAO describes as:

"Improved implementation of priority criteria"

Through a series of tabulations, the report presents details of standards with related failure rates and GAO concludes that:

"...NHTSA still selects standards for testing with low failure rates while excluding others that had higher failure rates when tested."

The decision to test or not to test extends far beyond the simple comparison of failure rates. It would be helpful for illustrative purposes to give some examples of the underlying reasons why the standards listed on page 25 of the report and Appendix II were not tested between fiscal year 1981 and 1985. Similar reasons exist for those not discussed here.

FMVSS No. 111, Rearview Mirrors

All 26 failures noted by GAO, which appeared in the fiscal year 1983 PAD (Project Approval Document), were column load failures which exceeded the 90 pound break-away force requirement. Subsequent to discussions with Rulemaking and the Office of Chief Counsel (OCC), the decision was made not to pursue those cases because of problems of interpretation with these tests. The 11 recalls and 3 civil penalties noted by GAO were all obtained from other aspects of the Enforcement program such as the moped inspection and certification program.

FMVSS No. 117, Retreaded Passenger Car Tires

The 4.7 percent failure rate listed by GAO for this standard resulted from 179 casing inspection failures during the testing of 3,807 tires in fiscal years 1974 through 1979. However, with the exception of two minor recall campaigns totaling only 30 tires, it was not possible to establish any patterns of noncompliance across a series or line of retreaded tires due to the individual characteristics of each tire. These included the different carcasses used in a single processing batch, age and condition of the tire prior to retreading,

Now on pp. 24-28.

Now on p. 22.

potential damage to tire cords during buffing, and the efficiency of the inspection operation to eliminate unsuitable carcasses. These conditions, in addition to eliminating the possibility of meaningful recalls, also limited the imposition of civil penalties to only those tires that actually failed the test. Based on the minimal impact of the testing previously conducted, further testing does not appear to be warranted at this time.

FMVSS No. 201, Occupant Protection in Interior Impact

The standard as written is essentially intended for testing to be conducted using body bucks (section of a vehicle body - i.e., instrument panel and dash assembly) and bodies in white (incomplete unpainted body minus suspension units). The complete vehicle cannot be used due to the physical size of the test equipment and its operating environment (i.e., impact of required headform on normally inaccessible areas such as instrument panels, seat backs, and sun visors, etc.). While it may be possible to cannibalize a production vehicle for this purpose, it would be costly and would result in arguments with manufacturers about deviations in test results attributable to the cannibalization itself.

In lieu of testing, we have required the submission of manufacturers' certification data to this standard when questions have arisen as to potential compliance. No problems have been identified and, hence, no recalls or civil penalties have resulted.

FMVSS No. 202, Head Restraints

The three failures noted by GAO in their observations were all minor in nature with no recalls or civil penalties involved. In our experience, manufacturers have easily complied with this standard and, while we have continued to monitor the complaint and injury files, we have seen no evidence of problems that would warrant its inclusion in the test program at this time.

FMVSS No. 217, Bus Window Retention and Release

The failures recorded against this standard involved labelling, release mechanism location, excessive release mechanism force, and audible warning alarm requirements, which were judged to be less critical failures than others in the program. In addition, testing to FMVSS No. 220 during the same period indicated no failures, including the performance aspects of that standard directly related to FMVSS No. 217. That requirement specifies that each emergency exit will be capable of opening during application of the test load and after release of the force. This supported our judgment that the failures experienced in the FMVSS No. 217 program were less critical to safety than a FMVSS No. 220 failure would have been. Activity within the area other than standards testing has included consideration of FMVSS No. 217, to a limited degree, with visual checks and examination of manufacturers' certification data.

However, the GAO position regarding the absence of testing to this standard does have merit. Accordingly, based upon our earlier discussion with GAO, we are currently working to resolve the compatibility problems associated with using one school bus to test both FMVSS No. 217 and FMVSS No. 221, thereby reducing overall testing costs. We are hopeful that this can be done, and would plan to seriously consider this approach in future test programs.

FMVSS No. 220, School Bus Rollover Protection

A total of 35 tests were conducted in the four year period 1977 through 1980 with a zero failure rate. This was indicative to us that manufacturers, as an industry, readily met the performance requirements of this standard. We would also note that the school bus industry voluntarily adhered to comparable requirements substantially in advance of the standard's effective date. Further surveillance activity may be desirable in order to monitor production to ensure continuing compliance, and will be considered.

In summary, while we agree that all testable standards should ideally be tested over a period of time, the priorities are assessed on an annual basis. In our judgment, the fact that a standard has not been tested for a period of time should not be an overriding consideration to the detriment of the other safety-related factors considered in establishing testing priorities for a specific and current year. While it is true that certain standards do appear repeatedly in the test program, this is based primarily on the perceived difficulty in meeting certain standards, the possible safety implications of not meeting certain standards, and the continuous introduction in recent years of new models.

GAO has made a number of references in the report to the need to maintain the "enforcement presence." This, of course, has always been an important part of our own operating philosophy. However, we also consider it important to maintain that presence where it will do the most good in terms of overall safety impact. Within the constraints that apply, we believe that we have done that.

We acknowledge GAO's concern that we are not testing all standards over time. However, this is not due to an oversight on our part but reflects our judgment beyond what the priority criteria would superficially indicate. We consider the priority criteria to be a tool to use in selecting standards to test, but a rigid application of this tool would be ill-advised and would result in standards being tested that should not be and, perhaps more serious, would result in standards not tested that should be that year.

In this section of the report, and elsewhere, GAO has overemphasized the concept of budget limitation impacts on the testing program. While it is clear that we could test more standards and more vehicles with a larger budget, it is our judgment that the compliance test program is adequately funded. To act as a deterrent to producing and selling vehicles and equipment not in compliance with the safety standards, it is our judgment that we need not test every standard and every model of vehicle each year.

Relative to the greater use of accident data, we do not share the opinion of GAO as expressed on page 41 of the report that:

"...accident data is important in identifying vehicles with the greatest potential for noncompliance. Such data would enable NHTSA to identify vehicles with standard-related operating failures that resulted in accidents,...." (Emphasis added.)

First of all, not all standards "failures" will result in accidents, as implied by GAO, since standards also involve crashworthiness requirements that are designed to reduce injuries and fatalities. We do not believe that collecting additional crash data would be helpful in selecting vehicles and standards for compliance testing.

Instances in which a noncompliance contributed to either the cause of a crash or to injuries are rare. There are over 150 million vehicles on the highways, and vehicles manufactured with noncompliances are only a very small portion of the total. In the year with the most noncompliance recalls there were 842,000 vehicles recalled, which is about 0.6 percent of the vehicles on the road. Assuming that this represents the number of noncomplying vehicles on the road each year, this number can be used to show that the National Accident Sampling System (NASS) investigations cannot be used to provide more information for selecting standards and vehicles for the compliance test program. There could be a limited number of additional noncomplying vehicles on the road each year since we probably do not find all noncompliances, and not all are recalled and fixed. Also, the noncomplying vehicles may be slightly more likely to be involved in crashes since some of the noncompliances may involve crash avoidance standards. The 0.6 percent, nevertheless, represents a good estimate for demonstrating that NASS cannot be used as GAO suggests. NASS investigates about 10,000 crashes each year which would involve, at most, about 17,000 vehicles. Therefore, at most, only about 102 vehicles in NASS-investigated crashes would have been manufactured with noncompliances, and frequently, vehicles involved in a crash are not available for inspection in the NASS program. The compliance test program, plus manufacturers efforts, would likely identify the noncompliances, and recalls would correct the noncompliances before there was much crash involvement of affected vehicles. Many noncompliances involve levels of performance not drastically below that required by a particular safety standard, so it is highly unlikely, even if a noncompliance could be identified, that crash causation or injury/fatality causation could be attributed to it. Compounding this is that some standards, such as that for braking performance, involve aspects of vehicle performance that deteriorate with vehicle use. Additionally, most noncompliances can only be detected through a strict test protocol on a new vehicle. Noncompliances cannot generally be detected by visual examination of a vehicle that has been involved in a crash, and it is even highly unlikely that a crash investigator could determine if a particular

crash involved circumstances similar to the crash environment of the safety standard and the compliance test. In summary, noncompliances as factors in crashes are rare, and it is almost impossible to identify a noncompliance in an crash-involved vehicle, and relate it to the accident.

Regarding the recommendation on determining costs and safety benefits of collecting additional data, we do not believe a study is needed. The combination of rarity of noncompliances in vehicles plus the almost impossible task of identifying noncompliances in crash-involved vehicles would make any effort to gather compliance-related crash data very costly. The only possibility of obtaining information from crashes that could influence compliance test decisions is from the analysis of the very large State crash data files. Only trends could be determined from analysis of such data, such as, if certain vehicles are over-involved in crashes (relating to crash avoidance standards), or if crashes of a certain vehicle result in a higher rate of certain injuries (relating to crashworthiness standards). In these cases, however, there would be no assurance that a noncompliance would be involved, it would be one of many possibilities, but such analysis could be used to help decide which vehicles and standards to test. We will explore the use of the State crash data files.

PROCESSING NONCOMPLIANCE INVESTIGATION AND CIVIL PENALTY CASES:

GAO Recommendation -

"Develop milestones and procedures for processing and monitoring investigation and civil penalty cases."

On page 42 of the report, GAO states:

"OVSC has not developed criteria or guidelines for processing cases and does not monitor the activities of the engineers responsible for resolving noncompliance investigations. As a result, NHTSA cannot assure that the investigation process is being administered effectively. Without such assurance, NHTSA is not in a position to identify those investigations that are not being resolved in a timely and efficient basis."  
(Emphasis added.)

The absence of written procedures does not mean that OVSC engineers do not know how to conduct investigations or that management cannot monitor investigations. General written requirements are currently stipulated in the official position descriptions and associated job elements in the performance appraisal forms of the individual engineers. Recognizing the complexity of the investigative process and the professional level of the engineering personnel involved in the processing of cases, criteria or guidelines in the sense of a "cook book" approach to conducting an investigation could never be very specific.

For position descriptions, pertinent requirements include:

"Incumbent works chiefly under broad and general policy statements that include Federal Motor Vehicle Safety Standards, agency regulations and directives, technical engineering and manufacturing techniques, SAE publications and general quality control processes. Working within these guidelines, the incumbent exercises independent judgment and ingenuity in interpreting and adopting these guides...."

These guidelines are further supplemented by pertinent requirements contained in the job elements that constitute performance standards for appraisal of the individual engineers. These include:

"The Safety Compliance Engineer advises the Division Chief on a continuing basis on matters pertaining to schedule and technical aspects of the Engineer's assigned activities."  
(Emphasis added.)

"CIR's are presented for concurrence within 30 days following notification and confirmation of the potential noncompliance."  
(Emphasis added.) (CIR's are Certification Information Requests sent to manufacturers.)

"Analysis is usually conducted within 45 days after receipt of information from manufacturers." (Emphasis added.)

In addition, requirements are also placed on the submission of the technical and related data by the manufacturers in response to CIR's allowing 20 and 30 working days from receipt for domestic and foreign manufacturers, respectively.

Beyond the milestones indicated, investigations tend to take on a very individual character dependent upon the type of failure and its degree of safety urgency, the cooperation of the manufacturer and, where required, the complexity of the required corrective action. Priorities are established among ongoing investigations whereby those cases considered to have the greatest safety impact, in terms of type of failure and potential number of vehicles or equipment items involved, are handled on a priority basis.

We fail to see how GAO can make the statement that OVSC "...does not monitor the activities of the engineers responsible for resolving noncompliance investigations." Besides ongoing supervisory reviews, these activities are closely monitored through management reviews and the OVSC Automated Reporting System. This system includes a number of interrelated reports that provide the status of the investigative workload within the office, and facilitates management decisions relative to the processing of investigations. Currently, the reports are generated on a monthly basis but, as a result of a self-generated study, we are now in the process of refining that system and transferring the processing of the data to an in-house personal computer system that will provide on-line capability (instant visibility).

Nevertheless, we agree that written general procedures for conducting investigations would be a useful management tool, and we will develop one. It will contain the same types of elements and procedures developed for the Defect Investigation procedures, which specify steps to be taken, timeframes, review protocol, etc., but leaves all decisions on findings and priorities to professional engineering judgment and management oversight.

Need to Improve Management of Processing Investigation

Starting on page 46 of the report, GAO discusses the length of time cases remained open. We were not able to verify the accuracy of much of the GAO-derived statistical information such as number of cases closed, closed without action, and processing time for cases and civil penalties. In some instances we did not know of the GAO procedures. In others, such as the information in Table 3.2, we have reasons to question the accuracy. GAO's review of average times to close a case does not fully nor accurately assess the success of the program in achieving recalls, or in ensuring future compliance. Such averages can only record past history in the grossest form. No two investigations are likely to present the same set of facts and supporting actions necessary to fully understand the nature and scope of the failure and the steps necessary to bring an investigation to a satisfactory conclusion. Therefore, an average of time spent on past investigations presents little useful information for present investigations.

The investigative activities are closely monitored with periodic reviews to give technical and administrative guidance to the professional staff, as required. Cases of the greatest safety significance are recognized immediately when the failure occurs and staff, at all levels, are made aware of the need for priority handling (see examples to follow).

The time which the agency has taken to close some investigations is not indicative of a failure to take action in any case where action was warranted. To the contrary, NHTSA believes that it has taken appropriate action in all of the cases reviewed in the report. It is not surprising that OVSC found noncompliances in 174 of 224 cases but forwarded only one third of these cases to OCC for action. Each investigation presents issues of fact and law which must be evaluated before deciding to pursue a recall or civil penalty. An example of such an issue which is present in most of OVSC's investigations is whether the evidence of noncompliance with a performance standard found in a single test or small number of tests may support an inference that other units from the same vehicle or equipment lines produced by the same manufacturer would also fail. Unless such an inference can be drawn, a recall would not be warranted, and the government could not predict success in any judicial enforcement action. Therefore, the agency finds it necessary to close some cases in which test failures are found but recalls appear unattainable. Such cases are also appropriately closed without civil penalty. In the absence of an inference concerning probable noncompliances among other vehicles or equipment

Now on p. 38.

See comment 3.

See comment 4.

items other than the specific units tested, the manufacturer must be regarded as more likely to be able to show a "due care" defense for the specific unit noncompliances found in the agency's testing. The investigative effort necessary to overcome any such defenses would not, in any event, be well spent to collect the nominal penalty amounts that would be involved in such cases. Also, the facts in such cases suggest that civil penalties would not generally serve as a deterrent to similar performance in the future. Thus, the agency has generally not pursued civil penalties based on isolated test failures in cases it has closed without pursuing recalls.

In the cases referred by OVSC to OCC in which civil penalties were collected, the time periods required to complete the process of issuing civil penalty notice letters, reviewing manufacturers' responses, arriving at appropriate settlement amounts and negotiating for payment of these amounts have varied with the facts of the cases but have been reasonable. Some cases require a few months for this process because the manufacturers involved did not raise extensive claims of "due care," a statutory defense which may be raised against a penalty assessment. It is ordinarily not necessary to consider such a defense until the civil penalty assessment phase, which explains some of the delays between recall and civil penalty settlement. Others necessitated follow-up information requests by the agency and, necessarily, evaluation of the information submitted. The Renault Standard 301 matter, for example, required such an exchange of letters and research into past cases to draw comparisons with apparent industry testing practices under this standard. Because of this the Renault case took approximately 15 months to negotiate. No pre-established guideline for timeliness of disposition would have changed the time required for the disposition of this case.

We do not agree with the GAO comment on page 47, that states:

"...the data base does not calculate the time taken between each phase, which would be needed to monitor progress."

In practice, this information is readily obtainable from the existing reporting system by process of a simple mental calculation which is routinely performed during the periodic status reviews. We would see no real advantage to the investigative process by adding to the already complex computer program to perform this simple and routine check.

Unfortunately, the GAO report on pages 46 and 47 speaks in generalities and notes only procedural formalities (such as closing memoranda) when addressing the time to close investigations. If specific concerns relative to the time involved in at least some of the cases had been included, we could then have better responded to those concerns. It may be helpful in creating a better understanding of the effectiveness of priority case handling of investigations if we review some fairly recent cases where recall action was obtained in critical areas of investigations:

Now on pp. 39-40.

See comment 5.

Now on p. 39.

1985 Subaru XT - 2-Door Coupe

Failure to comply with FMVSS No. 301, Fuel System Integrity. The CIR was initiated on August 9, 1985, and a JOINT vehicle inspection was held with the manufacturer on September 10, 1985. Following these discussions, the formal CIR letter was sent on October 21, 1985, but, as a result of the earlier informal discussions, the manufacturer provided notification of recall on October 18, 1985. Its response to the CIR, needed to complete the investigation file, was received on December 5, 1985. The technical investigation was completed later and forwarded to OCC for consideration of civil penalties on June 2, 1986. The key observation, here, would be that only just over two months elapsed from initiation of the CIR to the manufacturer's recall action, which is the most important result.

1985 Nissan Maxima - 4 Door Station Wagon

Failure to comply with FMVSS No. 212, Windshield Mounting. The CIR was initiated on September 5, 1985, and was followed by protracted correspondence and meetings required to refute challenges by the manufacturer to details of the agency's compliance test. The challenges were finally disposed of in a meeting on June 18, 1986, and the proposed corrective action agreed to in a subsequent meeting on July 2, 1986. The manufacturer provided notification of recall on July 15, 1986. The key observation, here, would be the approximately 10 months elapsed time from initiation of the CIR to the manufacturer's recall action in the face of its initially strong opposition to corrective action. Administrative processing of the investigative file for forwarding to OCC for consideration of civil penalties is now proceeding.

1986 Nissan Stanza Wagon

Failure to comply with FMVSS No. 301, Fuel System Integrity. The CIR was initiated November 1, 1985, and was also followed with protracted correspondence and meetings to, again, refute challenges by the manufacturer to details of the agency's compliance test. These challenges were also disposed of in the same meeting of June 18, 1986, along with the earlier challenges regarding the Maxima FMVSS No. 212 failure. We were orally informed of Nissan's intended recall action, and agreed to its proposed corrective action, in a subsequent meeting held on July 18, 1986. The key observation, here, would be the approximately seven and a half months elapsed time from initiation of the CIR to reaching agreement on recall action, in the face of its initially strong opposition to corrective action. This file will also be processed for forwarding to OCC for consideration of civil penalties.

1985 Volkswagen Golf - 2-Door Hatchback

Failure to comply with FMVSS No. 301, Fuel System Integrity. The CIR was initiated September 25, 1985, and a joint vehicle inspection was held with the manufacturer on September 30, 1985. The formal CIR letter was sent on October 21, 1985, with Volkswagen's response

received on December 11, 1985. A meeting was held on January 29, 1986, to discuss details of an appropriate corrective action and a schedule for recall which was formally announced on February 14, 1986. Due to the complexity in, first, determining the cause of the failure (crack in the plastic fuel tank), secondly, developing the appropriate corrective action (installation of a new fuel tank was finally decided upon), and, thirdly, increasing plant capacity to produce the replacement tanks, the elapsed time of approximately 5 months from initiation of the CIR to recall notification is quite reasonable. The key observation, here, is that the agency's compliance investigative arm working with a fully cooperative manufacturer can resolve a serious safety problem in a timely manner.

#### Equipment Investigation

Similar expeditious handling of priority investigations can also be cited in the area of equipment compliance investigations. To summarize a few involving failures to FMVSS No. 213, Child Restraint Systems:

##### Century Products - Model 400XL

Elapsed time from initiation of the CIR to the manufacturer's recall action: 5 months.

##### Graco Metal Products - Model GT-1000

Elapsed time from initiation of CIR to the manufacturer's recall action: 3 months.

##### Kolcraft Products - Model 13123

Elapsed time from initiation of the CIR to the manufacturer's recall action: 4 months.

These examples of expeditious handling of priority investigations demonstrate that the agency is fully aware of critical cases as they arise, the agency assigns appropriate priorities to them, and monitors and controls those investigations to maximize the return on available resources, with the emphasis on achieving a recall in the shortest time possible. While we recognize that delays in closing cases after obtaining corrective action may occur, we feel very strongly that our sense of priorities is correct, and best serves the safety mission of NHTSA. NHTSA is obtaining corrective action, a recall, that is of prime importance, in appropriately short timeframes. The administrative formality of closing a case, while important, must be secondary to that prime safety objective of obtaining a recall when appropriate.

C. FORWARDING INVESTIGATION CASES TO THE OFFICE OF THE CHIEF COUNSEL:

GAO Recommendation -

"Develop guidelines for the Office of Vehicle Safety Compliance to use in determining which investigation cases should be forwarded to the Chief Counsel's office for penalty assessments."

On page 52 of the report, GAO states:

"NHTSA also lacks guidelines concerning which investigation cases should be forwarded to OCC for penalty assessment. Of the 224 cases we reviewed, OVSC determined that 174 were in noncompliance with a safety standard. Of these 174, OVSC sent 57 to OCC for penalty assessments. However, OCC only assessed a penalty in 14 of the cases forwarded to it. In our opinion, providing guidance would help ensure that clear cases of noncompliance were sent forward so that OCC would not have to spend time on cases that did not warrant further action, and would have more time to pursue those cases that should be pursued." (Emphasis added.)

First, OVSC does not "determine" a noncompliance as implied by GAO here and on pages 49 and 52. That term of art is reserved for the action by the Administrator at the end of the process. What OVSC determines is failure of a vehicle or item of equipment sample to meet the requirements of a safety standard and the likelihood of the failure of others made by the manufacturer. Cases forwarded to the OCC for consideration of civil penalties are considered by OVSC to be "clear cases of noncompliance" based upon the engineering judgment of the office professional staff. The decision to forward a case is fully coordinated within the office starting with the engineer's recommendation which is fully discussed with the engineer's immediate supervisor and the responsible Division Chief. Prior to presentation for the Office Director's signature, case files are informally coordinated with a representative of OCC who "concurs in principle" before the cases are forwarded to that office. The ultimate decision to proceed with civil penalties involves a complex set of factors and is fully coordinated between Enforcement and OCC. These factors and the final decision involve judgments that cannot be put in a set of rigid criteria, and we do not plan to do so.

The OCC decisions not to seek civil penalties in a majority of the cases forwarded from OVSC does not reflect failure to act in viable cases. The largest category of cases in which no penalty was pursued was the set of motorcycle helmet cases in which test failures under Standard 218 were found. As stated in the report, the agency has identified some controversial issues involving this standard, and, accordingly, has published a notice of proposed rulemaking in which amendments addressing these issues have been proposed so that future compliance actions would not face the same problems.

Now on p. 44.

Now on pp. 41 and 44.

See comment 6.

Other closures without pursuing recall orders or civil penalty settlements are based on the particular circumstances of each case. For example, in February of 1985, OCC decided to close a case against a small boat trailer manufacturer who may have omitted some lighting equipment. The office sent the manufacturer a warning letter rather than committing additional resources to this case. This action was based on the size of the manufacturer, the relative lack of gravity of the apparent noncompliances, and the likely difficulty of gathering sufficient additional evidence to support further action. In the same month, the office also closed cases against a school bus manufacturer and a motorcycle importer because they went out of business and the agency concluded that no successors could be held responsible. Finally, in February of 1985, OCC closed one case involving the application of the joint strength requirements of Standard 221 to floor joints in one manufacturer's school buses. The office concluded that the facts of the case presented difficult issues which were not advantageous to the government's position. These are examples, not meant to be exhaustive, of cases which have resulted in OCC recommendations to close cases referred by OVSC.

D. ADDITIONAL COMMENTS:

On page 10, GAO states that "...NHTSA (1) establishes uniform federal safety standards with which all motor vehicles and replacement equipment must comply ...." Safety standards have been established for only some items of replacement equipment.

On page 11, GAO states that "The purpose of these safety standards is to reduce the number of fatalities and severity of injuries resulting from failure of a motor vehicle system or equipment." First, certain safety standards are designed to reduce the possibility of an accident occurring. Also, noncompliances do not mean that there is a "failure" of a vehicle or system. A noncompliance is a level of performance below that required by a standard.

On page 12, GAO states that "...[OVSC] can initiate manufacturer recalls...." Only the Administrator can order a recall, and only after all steps in the administrative process have been completed. Recalls made by manufacturers during an OVSC investigation are considered to be voluntary recalls which have been influenced by OVSC action.

The "Range of Penalty" entry for 1985 in Table 1.2 is incorrect. It should be 1000 to 2500.

The recall statistics on page 18 are incorrect. There have been 806 noncompliance-related recalls since 1966 affecting 11.6 million vehicles. Voluntary recalls made up 479 (59.4 percent), and 327 were NHTSA-influenced (40.6 percent).

See comment 7.

Now on p. 10.

Now on p. 15.

Now on p. 43.

See comment 8.

The Table 3.2 (page 51), "OCC processing times for selected civil penalty cases," is incorrect, and overstates the time for processing civil penalties. For example, none of the cases forwarded by OVSC, in the time period covered by this report, took 7 years to process. It is rare to find any case exceeding 48 months. We cannot, however, reconstruct GAO's Table, because we do not know what cases they used.

**E. POTENTIAL FOR IMPLEMENTATION OF RECOMMENDATIONS:**

- o Within the constraints discussed earlier in this response, every effort will be made to increase the number of testable standards included in the test program over a period of time.
- o We feel that investigations are effectively managed and priorities correctly set. We will, however, develop written general procedures for conducting investigations with the understanding that departures will be made from these procedures as circumstances warrant.
- o Factors used and judgments made in reaching decisions on which cases of noncompliance will be forwarded to OCC for civil penalty processing do not lend themselves to a set of rigid criteria. We do not plan any action on this recommendation.
- o It is not possible to increase the collection of accident data to use in deciding on standards and vehicles to be included in the compliance test program. We will look into the use of State crash data files.

The following are GAO's comments on the Department of Transportation's letter dated August 26, 1986.

## GAO Comments

1. Since the PADS show "political sensitivity" as a factor, we have continued to incorporate it in all our discussion of standard selection criteria. Further, according to the PADS, NHTSA based its selection of pneumatic tires (FMVSS numbers 109 and 119) on them being politically sensitive.
2. In our draft report we had included reference to the collection of additional standard-related accident data from the NASS. Based on the above comments, we have deleted the reference to NASS as the source for additional standard-related data in our recommendation.
3. We agree with the Department that the time taken to close an investigation is not indicative of a failure to take action in any case when it is warranted. Our purpose of comparing average times spent on investigation was to provide insight into the overall management of the investigation process. In developing our data on investigation cases, including table 3.2, we used NHTSA's data. Subsequent to NHTSA's comments, we provided NHTSA with the data supporting table 3.2 to verify the accuracy of our information.
4. After we sent our draft report to the Department for comments, we identified one case that should not have been included. This case opened in September 1984 and closed May 1985. Also, this case did show non-compliance. Thus, the report has been changed to show our analysis was of 223 cases closed and 173 noncompliance. In our draft report we identified 224 cases closed and 174 noncompliances.
5. While simple mental calculation can be performed on an individual case basis, OVSC could improve its management of case processing by (1) using a data system which calculates times taken between phases of the process and (2) aggregating its data for overall analysis. This would facilitate monitoring all open cases and identifying possible problem cases.
6. We did not address whether or not OCC failed to act on viable cases. Our recommendation is to develop criteria and procedures to assist OVSC in selecting cases that should be forwarded to OCC for penalty assessment. As a result, OCC would not have to spend time on cases that did not warrant further action.

7. Where appropriate, changes suggested in the additional comments section have been made.

8. Based on OCC's analysis of our data, after commenting on the draft report, OCC agreed that there were two cases that took OCC 7 years to process. In addition, OCC pointed out that we had included 10 cases that OCC was involved in for reasons other than to make a penalty assessment. As a result we changed table 3.2 to reflect OCC's input. Thus, the number of cases that OVSC forwarded to OCC for penalty assessment was reduced from 57 to 47 cases. However, the removal of these cases had a minimal impact on OCC's average time to process a case which remained at 3 years.



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