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The National Highway Traffic Safety
Administration's Oversight and Management of Its
Vehicle Safety Compliance and Gray Market
Programs

Statement of
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Before the
Subcommittee on Consumer of the Senate Committee
on Commerce, Science, and Transportation



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Mr. Chairman and Members of the Subcommittee:

We appreciate this opportunity to appear before you today to discuss two of our recent reports.

One report, entitled Auto Safety and Emissions: No Assurance That Imported Gray Market Vehicles Meet Federal Standards (GAO/RCED-87-29, December 11, 1986) discusses the manner in which the National Highway Traffic Safety Administration (NHTSA), the Environmental Protection Agency, (EPA) and the Customs Service, Department of the Treasury carry out their respective responsibilities regarding the importation and modification of nonconforming vehicles entering the United States. This report was prepared at the request of the Chairman, Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce.

Our second report, entitled Motor Vehicle Safety: Enforcement of Federal Standards Can Be Enhanced (GAO/RCED-87-2, December 15, 1986) also discusses NHTSA oversight and management of its motor vehicle safety compliance activities. Each year, motor vehicle accidents in the U.S. kill tens of thousands of people and injure many thousands more. The related economic losses associated with these deaths and injuries are estimated to be in the billions of dollars. NHTSA is responsible for reducing these human and economic losses by establishing and enforcing federal motor vehicle safety standards. We reviewed NHTSA's procedures and processes for (1) selecting safety standards and

motor vehicles for testing, (2) investigating vehicles and equipment that may not comply with a specific federal motor vehicle safety standard, and (3) seeking civil penalties against a manufacturer or distributor whose product is determined to be in noncompliance with a safety standard.

I will briefly discuss the findings in each report, beginning with the report on the Gray Market Program.

GRAY MARKET VEHICLE PROGRAM

Nearly all vehicles imported or built for sale in the United States are manufactured to conform with the safety and emission standards established by the Secretary of Transportation and the Administrator, EPA. However, some vehicles manufactured for foreign markets are not certified by the original manufacturers as being in conformity with U.S. safety and emission standards. Such nonconforming motor vehicles--often referred to as "gray market vehicles"--may be imported by private individuals and independent commercial importers for personal use or for resale on the condition that they be modified to meet U.S. safety and emissions standards.

The number of gray market vehicles imported annually into the U.S. increased from about 2,400 in 1980 to about 66,900 in 1985. However, in 1986, only about 23,900 gray market vehicles had entered the country and industry forecasts were that given the strength of the U.S. dollar in the foreign market, the downward trend would continue.

As previously stated, with few exceptions, importers of gray market vehicles must agree to modify the vehicles to meet the federal standards; and, such modifications are to be made within a specific period. A bond is posted with Customs until the modifications are complete. Customs notifies NHTSA and EPA when gray market vehicles enter the country. The agencies in turn, notify the importers of the safety and emissions standards applicable to the particular vehicles and of the documentation needed to support that the vehicles have been modified to meet the standards.

Upon notice from NHTSA and EPA that the vehicles have been modified, Customs releases the importers' bonds. However, if the vehicles are not modified within the specified time, Customs is to take enforcement action--a fine, bond forfeiture, or vehicle exportation or destruction.

Lack of Internal Controls

We found that NHTSA does not inspect firms that modify vehicles to ensure that they have the capability to conform the vehicles to the safety standards. Moreover, NHTSA does not test the vehicles to determine that modifications were done properly. EPA has a certification program to recognize certain firms and laboratories that have demonstrated their respective capabilities to modify vehicles to meet the emission standards or perform the federal emission test procedures. Thereafter, EPA accepts certificates from these firms and laboratories indicating that they have properly modified or tested the vehicles. While EPA's

program has more internal controls than NHTSA's, it also has shortcomings. We found that EPA's certification program does not provide for periodic inspection of the modifying firms or testing of the vehicles. In September 1985, EPA began reinspecting laboratories that had previously demonstrated their capabilities to perform federal emissions test procedures. However, it had no plans to include inspection of modifying firms.

Vehicles Approved By NHTSA and EPA

Additionally, our analysis of a sample number of gray market vehicles suggests that substantial percentages of gray market vehicles approved by NHTSA and EPA do not conform to the federal standards.

We randomly selected 50 vehicles to determine if the importers had met all NHTSA requirements regarding safety standards. We found that the documentation (including receipted work orders, photographs, and engineering calculations) for 21 of the 50 vehicles had not been submitted within the specified period of time, generally 120 days, from the date of vehicle entry. For the 29 remaining vehicles, questions arose as to the adequacy and accuracy of the documents substantiating that the vehicles conformed with the safety standards.

We judgmentally selected 5 of the 29 vehicles for detailed review and, in conjunction with the original manufacturers, examined the documentation to determine if the vehicles had been modified to conform with federal safety standards. None of the five vehicles met all applicable standards.

Regarding emission standards, we requested EPA to provide the documentation that the importers had submitted to substantiate that the same 50 vehicles we reviewed at NHTSA had been modified to meet the emission standards. EPA was unable to locate any documentation for 26 of the 50 vehicles. Of the remaining 24 vehicles, importers had been granted exemptions on the basis of the age for 12 vehicles. For the other 12 vehicles, EPA had approved the vehicles on the basis of test results submitted by EPA-recognized testing laboratories.

In 1985, in about 90 percent of the cases, EPA based its approval of vehicles on test results provided by the recognized laboratories. We noted however, that in a 1984 study conducted by EPA and California state inspectors on 27 gray market vehicles that EPA had initially approved on the basis of laboratory test results, only one vehicle had passed all parts of the emission test.

Recommendations

We recommended that the Secretary of Transportation direct the Administrator of NHTSA to improve controls over the gray market program by establishing a process similar to EPA's program, whereby firms are recognized by NHTSA, through certification, as being capable of modifying gray market vehicles. Under this process, NHTSA should periodically reinspect these firms and consider testing a sample of modified vehicles as a check on the firms' performance to ensure compliance with the safety standards.

We also recommended that the Administrator of EPA improve controls over EPA's certification program by periodically inspecting on a sample basis, both the modifying firms and test laboratories, previously recognized by EPA, and consider testing a sample of modified vehicles to ensure compliance with federal emission standards.

In considering the appropriate scope, frequency, and amount of testing, both NHTSA and EPA should take into account factors such as staffing constraints and the cost of such testing.

To date we have received no response from the agencies regarding their proposed actions to implement our recommendations.

VEHICLE SAFETY COMPLIANCE

Turning to our second report on motor vehicle safety, 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 is to reduce the number of deaths and injuries resulting from motor vehicle accidents. These standards affect cars, trucks, buses, multipurpose passenger vehicles, motorcycles, trailers, and replacement equipment. The standards relate to such items as headlamps, tires, brakes, seatbelts, windshields, and child seats. Manufacturers and distributors are responsible for certifying that their vehicles and related equipment comply with the safety standards.

Background

NHTSA's Office of Vehicle Safety Compliance is responsible for ensuring that both the vehicles and related equipment comply with the federal standards. It does this by (1) annually selecting standards, vehicles, and equipment for compliance testing, (2) investigating vehicles and equipment that fail the compliance tests, and (3) where it believes noncompliance exists, recommends to the NHTSA Administrator action to correct safety problems through either recalls and/or civil penalties. Compliance with 10 of the 49 safety standards is assessed through visual inspections rather than testing. For the remaining 39 testable standards, NHTSA annually selects approximately 23 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 information in its selection process such as engineering and management judgements and knowledge of industry practices. NHTSA does not differentiate the safety significance of the 39 testable standards.

Standard Selection

Our review found that NHTSA has not selected 10 of its 39 testable safety standards for testing for periods ranging from 5 to 17 years. Three additional testable standards have never been tested by NHTSA. Continuing to exclude standards from testing 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. We found that if NHTSA had consistently applied its selection criteria, most of the 13 standards which had not been selected for testing would have been tested within the past 5 years. For example, 8 of the 13 standards, when last tested, had higher failure rates than 18 of the 29 standards NHTSA selected for testing between 1980 and 1984.

Case Processing

NHTSA has neither developed milestones nor standard procedures for processing noncompliance investigation and civil penalty cases. We 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 complete the investigation while 97 cases (43 percent) took 1-1/2 to as long as 7 years to complete. Forty-seven of these cases were forwarded by the Office of Vehicle Safety Compliance to the Chief Counsel's office for a penalty assessment. We found that 40 percent of the 47 cases were closed in less than 3 years while 60 percent took between 3 and 7 years to close. We recognize that the time it takes to conduct and complete an investigation and the penalty process will vary from case to case depending on its complexity; however, without milestones and procedures NHTSA is not in a position to identify those cases that are not being resolved in a timely and efficient manner.

Forwarding Cases for Penalty Assessment

Finally, NHTSA lacks guidelines concerning which investigation cases should be forwarded to its Chief Counsel's office for penalty assessment. We found no consistent basis for the 47 cases forwarded for assessment. The Chief Counsel's office assessed a penalty in only 14 of the 47 cases forwarded to its office.

Recommendations

To improve the oversight and management of NHTSA's motor vehicle safety compliance activities, we recommended 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.
- Develop milestones and procedures for processing and monitoring investigation and civil penalty cases.
- 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.

In responding to our report, 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 because they felt the existing practice was sufficiently clear and the factors and final decision regarding a case involve judgements that could not be

put into a set of rigid criteria. We continue 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.

This concludes my testimony, Mr. Chairman. I will be happy to answer any questions you or other Subcommittee members may have at this time.