BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Secretary Of Transportation

Changes To The Motor Vehicle Recall Program Could Reduce Potential Safety Hazards

Nearly 128 million vehicles, tires, and other related items have been recalled because of safety defects, thereby reducing their potential to cause accidents.

In many cases the National Highway Traffic Safety Administration's defect investigation process has taken years to complete. Meanwhile, owners continue to drive vehicles that could be defective.

About half of the millions of owners receiving recall letters fail to respond by having their safety defects corrected. Some owners do not perceive the defects as problems or do not believe the recalls are important. GAO found that nearly all the recall letters it reviewed were written at too high a reading level and were difficult to understand. Lowering the reading level could increase owner response rates.

GAO/CED-82-99
AUGUST 24, 1982

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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

COMMUNITY AND ECONOMIC
DEVELOPMENT DIVISION

B-206637

The Honorable Drew L. Lewis
The Secretary of Transportation

Dear Mr. Secretary:

This report examines the motor vehicle recall program, which needs changes to improve its safety defect investigation process and its owner response rates. This report contains recommendations to you on pages 12 and 28. As you know, section 236 of the Legislative Reorganization Act of 1970 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 House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this report to the Director, Office of Management and Budget; appropriate Senate and House committees; and other interested parties. In addition, we are sending copies of this report to the Administrator, National Highway Traffic Safety Administration.

Sincerely yours,

for Henry Eschwege
Director

GENERAL ACCOUNTING OFFICE
REPORT TO THE
SECRETARY OF TRANSPORTATION

CHANGES TO THE MOTOR VEHICLE RECALL PROGRAM COULD REDUCE POTENTIAL SAFETY HAZARDS

D I G E S T

Since passage of the National Traffic and Motor Vehicle Safety Act in 1966, nearly 128 million motor vehicles, tires, and other related replacement items have been recalled because of safety defects. The National Highway Traffic Safety Administration, which administers the act, conducts defect investigations that involve about 50 to 70 percent of the motor vehicles recalled, and the motor vehicle industry initiates the other recalls without Federal involvement. The resulting benefit is that many defective vehicles have been corrected, reducing their accident potential. (See p. 3.)

The Safety Administration's defect investigation process often takes years to complete, while vehicles continue to be exposed to possible safety deficiencies. Further, only half of the vehicle owners respond to recalls. For these reasons, GAO reviewed the recall program to determine if (1) the Safety Administration could improve its timeliness in identifying safety defects and (2) the number of owners responding to recalls could be increased. (See pp. 6 and 14.)

LENGTHY DEFECT INVESTIGATION PROCESS

A lengthy investigation process adversely affects the success of recalls--the longer it takes to initiate a recall, the less owners respond by having their vehicles corrected. According to a recent Safety Administration-funded study, this is because manufacturers' records on owners become more obsolete for older vehicles. For example, in six cases wherein the entire process took from 67 to 86 months to complete, the vehicles were 5 to 19 years old by the time they were recalled. The subsequent owner response rates ranged from 8 to 20.5 percent, far below the average response rate on the other recalls. (See p. 6.)

The Safety Administration believes it has improved the timeliness of some of its investigations by concentrating on those cases it believes will most likely result in recalls and by better coordinating

Tear Sheet

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its staff activities. The Safety Administration, however, still needs to take action which will speed up reviews by its Office of Chief Counsel. (See p. 9.)

The Office of Chief Counsel must concur with the other Safety Administration offices' findings that a potential safety defect does or does not exist before the Safety Administration can close an investigation or require court action to have a manufacturer initiate a recall. Yet many investigation cases remain in limbo for months awaiting Chief Counsel review. (See p. 9.)

At the time of GAO's review in November 1981, 11 cases had been in the Office of Chief Counsel from 1 to 41 months (average time was about 14 months). Chief Counsel decisions were still pending in eight of those cases, while the remaining three cases were awaiting Chief Counsel review to determine what confidential information could not be included in the public file or whether penalties should be imposed against the manufacturers for attempting to prolong the recalls.

By July 1982 the Office of Chief Counsel had closed six of the eight cases that were pending at the time of the GAO analysis. None of the closed cases resulted in a defect determination, although the Safety Administration's Office of Defects Investigation had recommended that such action be taken when three of the cases were transferred to the Chief Counsel 11 to 19 months earlier. (See pp. 10 and 11.)

As a result of untimely delays, information to support some case findings often needed to be repeatedly updated. Because Chief Counsel reviews and comments are a major part of the investigations, GAO believes that more direct communication and better coordination between the Chief Counsel and the other Safety Administration offices involved in the investigation process is needed. (See p. 11.)

LIMITED OWNER RESPONSE

About 50 percent of the owners notified of potential safety defects do not take their vehicles in for inspection and/or correction. In fact, fewer owners take their vehicles in to be corrected now than they did in 1974 when the Congress

expressed concern that only 75 percent of the owners were responding to recalls. (See p. 14.)

A 1980 survey conducted for the Safety Administration indicated that some owners do not respond to recalls because they do not perceive the defect as a problem or do not believe the recall is important. GAO believes that the reason behind those perceptions and beliefs could be that the recall letters used to inform owners about the defects are too difficult for many owners to understand. For example, most U.S. adults (54 percent) read at or below the 11th grade level, whereas recall letters in most instances are written at a college reading level. The letters also fail to highlight significant information like, "a crash could occur." (See pp. 14, 15, and 23.)

If the recall letters are easier to understand, more owners would respond to recalls. Higher response rates in turn would mean less defective vehicles on the road and lower manufacturers' overall administrative costs, as fewer attempts would have to be made to locate owners who were unresponsive to the initial letter. (See p. 24.)

All of the manufacturers GAO contacted send followup letters to owners not responding to initial recall letters, even though this effort is not legally required. However, followup letters have not been very effective in increasing response rates. (See p. 25.)

GAO believes that post cards sent shortly after the initial recall letters to remind owners they need to get their vehicles corrected could increase owner response. The post cards could also reduce administrative costs because they are cheaper to print and require less postage than the current followup letter methods. More importantly, manufacturers would not have to purchase as many subsequent owner lists from outside sources or send as many followup letters to nonrespondents. The reminder post card technique has greatly improved response rates for survey research questionnaires. (See p. 24.)

GAO met with officials of two motor vehicle manufacturers to discuss suggested changes to make recall letters more readable and use of reminder post cards shortly after recalls begin. The officials believe these changes may help increase owner response rates, and they would be willing to work with the Safety Administration to test their effectiveness in actual recalls. (See p. 27.)

RECOMMENDATIONS

GAO recommends that the Secretary of Transportation instruct the Administrator, National Highway Traffic Safety Administration, to:

--Take corrective action to speed up the defect investigation process by reducing delays caused by the Office of Chief Counsel's review. Specifically, the Administrator should look at whether better coordination and more direct communication between the Office of Defects Investigation and the Office of Chief Counsel could achieve this goal and how specific review time frames could be established to eliminate further delays. (See p. 12.)

--Work with motor vehicle manufacturers to change the wording and format in a recall letter to lower its reading level, using GAO's suggestions, and test the revised letter in an actual recall to determine its effectiveness in improving owner response rates. (See p. 28.)

--Work with motor vehicle manufacturers to test various reminder techniques in actual recalls to determine whether they increase response rates and are cost effective. (See p. 28.)

AGENCY COMMENTS

In commenting on the report, the Department of Transportation stated that it shares GAO's concerns and that the Safety Administration intends to use all reasonable means to implement GAO's recommendations. Specifically, the Safety Administration's Office of Chief Counsel is now required to draft a written analysis of each Office of Defects Investigation recommendation within 14 days of its receipt, except in cases of unusual complexity or where urgent litigation matters take priority. GAO believes that adherence to this time frame will help reduce delays in the Chief Counsel's review which have occurred in the past. (See p. 12.)

Regarding GAO's recommendations for improving owner response rates, the Department stated that it supports all reasonable efforts to increase such rates and will gladly cooperate in efforts to simplify and clarify the language of the recall letters. The Department noted, however, that recall letter requirements prescribed by Safety

Administration regulations cannot be changed without time-consuming rulemaking action. (See p. 29.)

GAO believes that use of a simplified recall letter such as proposed would not violate existing regulations if the letter is used in a joint test project involving the Safety Administration and a vehicle manufacturer. Two vehicle manufacturers have expressed to GAO their willingness to test simplified recall letters in actual recalls. (See p. 29.)

The Department disagreed with GAO's view of the defect investigation process, stating that it was overly simplistic and omitted several important cooperative efforts that had taken place between the Safety Administration's Office of Defects Investigation and Office of General Counsel during fiscal year 1981. GAO believes that its view of the defect investigation process accurately describes the cases that were active at the time of its review and shows that there is a need to improve the process time frames. (See p. 12.)

GAO's response to all of the Department's comments are located in appendix V. (See p. 39.) In addition, the Department's comments pertaining to each GAO recommendation are at the end of the corresponding chapters along with GAO's evaluation. (See pp. 12 and 29.)

Contents

ABBREVIATIONS

DOT	Department of Transportation
GAO	General Accounting Office
NHTSA	National Highway Traffic Safety Administration
ODI	Office of Defects Investigation

CHAPTER 1

INTRODUCTION

Motor vehicles with safety defects 1/ are likely to cause traffic accidents, injuries, or deaths. Each year the motor vehicle industry and the Federal Government spend millions of dollars on efforts to identify vehicles with safety defects so that traffic-related accidents can be reduced. Consequently, each year manufacturers send millions of letters to owners advising them that their motor vehicles, tires, or replacement items could be defective and are therefore being recalled for any necessary correction. When lengthy investigations prevent safety defects from being promptly identified, owners continue to drive potentially dangerous vehicles. Moreover, when owners fail to respond to recall letters by having their safety defects corrected, the efforts spent identifying those defects have been partially in vain.

Before 1966 the Federal Government had no legislation requiring the motor vehicle industry to do anything about safety defects. Basically, when safety defects were discovered, manufacturers could voluntarily--and confidentially--notify their dealers of the problem. The dealers, in turn, could pass on this information to any known owners, and the manufacturers could decide whether or not to correct the defects.

The voluntary method of identifying, recalling, and correcting safety defects did not always work, as manufacturers were promoting style, power, and speed rather than safety. To improve this situation, the Congress in 1966 enacted the National Traffic and Motor Vehicle Safety Act (Public Law 89-563, Sept. 9, 1966), requiring that all motor vehicles with safety defects be promptly removed from the highways and corrected. Despite the motor vehicle industry's and the Federal Government's efforts to comply with the act, many safety defects have not been identified promptly and many owners may not understand the recall notification letters. As a result, many defective motor vehicles and related replacement items remain uninspected or uncorrected. This report addresses some of the reasons for those problems and includes recommendations to improve the safety defect recall program's performance.

1/A safety defect is any defect in the performance, construction, components, or material of a motor vehicle or related replacement item which subjects the public to unreasonable risks of accident, injury, or death.

THE 1966 ACT REQUIRES THAT MANUFACTURERS RECALL AND CORRECT ALL VEHICLES WITH SAFETY DEFECTS

The 1966 act, as amended, authorizes the Secretary of Transportation to test and inspect any motor vehicle or related replacement item to determine whether it contains any defects relating to motor vehicle safety. The Secretary also has the authority to conduct investigations and do research on motor vehicles with possible safety defects. If the Secretary (or a manufacturer) discovers such a defect, the manufacturer must recall the defective item. In doing so, the manufacturer must provide in writing a clear description of the defect and its remedy to

--the Secretary of Transportation,

--the dealers to whom the defective vehicles or replacement items were delivered, and

--the first purchasers or most recently registered owners of the defective vehicles or replacement items.

The Motor Vehicle and Schoolbus Safety Amendments [Act] of 1974 (Public Law 93-492, Oct. 27, 1974) requires manufacturers to correct safety defects free of charge. That requirement is limited to motor vehicles and related replacement items not more than 8 years old and tires not more than 3 years old on the date the safety defect is determined.

The Administrator, National Highway Traffic Safety Administration (NHTSA), carries out the Secretary's responsibilities under the act. The Office of Defects Investigation (ODI), under NHTSA's Associate Administrator for Enforcement, investigates safety defects not covered by Federal motor vehicle safety standards 1/ which account for the majority of motor vehicles recalled. ODI's annual administrative budget in fiscal year 1981 was about $2 million, with another $2 million budgeted for private sector contracts to help in the safety defect investigations.

1/The 1966 act also authorized the Secretary to establish uniform Federal safety standards for which all motor vehicles and replacement equipment must comply. The Office of Vehicle Safety Compliance, also under NHTSA's Associate Administrator for Enforcement, is responsible for assuring that manufacturers comply with those standards. Its investigations are not covered in this report.

MILLIONS OF DEFECTIVE VEHICLES AND RELATED REPLACEMENT ITEMS HAVE BEEN RECALLED

From the date the motor vehicle recall program began in 1966 through December 1981, manufacturers have initiated nearly 3,800 recalls affecting nearly 128 million motor vehicles, related replacement items, and tires as follows:

Summary of Safety Defect Recalls
1966 Through 1981

Category	Number of recalls	Number of vehicles/components
Domestic motor vehicles	2,613	80,767,981
Foreign motor vehicles	652	16,449,970
Replacement items	209	5,977,263
Tires	310	24,768,284
Total	3,784	127,963,498

The ODI Director stated that about 15 to 20 percent of all recalls have been initiated because of NHTSA's involvement in safety defect investigations. The remaining recalls have been initiated solely by the manufacturers. The NHTSA-involved recalls, however, have accounted for about 50 to 70 percent of the total motor vehicles recalled (95 percent of those were for correcting safety defects covered by ODI investigations and 5 percent were for correcting noncompliances with the Federal safety standards), indicating that NHTSA has generally considered the larger volume safety defect problems.

Little information is available from manufacturers on how much the motor vehicle recall programs cost the automotive industry. NHTSA, however, indicated to the Subcommittee on Transportation, House Committee on Appropriations, in 1980 that the average cost to recall and correct vehicles with safety defects, based on five or six recalls, was $18 a vehicle and $36 a tire. The resulting benefit from these expenditures is that many potentially defective vehicles and related replacement items have been brought in by owners for correction, thus reducing their potential for accident.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our primary objectives in this review were to determine whether (1) safety defects were being identified in a timely manner and (2) measures were being used to ensure that the maximum number of owners responded to recalls.

The review was conducted in accordance with our current "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions." To determine the timeliness of the investigations, we focused on how ODI conducts its defect investigations. We examined ODI's investigation process and assessed whether the NHTSA offices responsible for various segments of the investigations coordinate their work in a manner to avoid delays. We interviewed NHTSA officials in ODI and the Office of Chief Counsel and reviewed (1) appropriate recall legislation and regulations, (2) ODI files that were in various phases of the defect investigation process, (3) NHTSA's internal operating procedures, and (4) several prior NHTSA-funded studies on recalls, as well as our past reports on the subject. For comparison we also interviewed officials from two motor vehicle manufacturers--General Motors Corporation and Ford Motor Company--to obtain an understanding of their defect investigation processes and procedures.

To determine how owner responses to recalls could be maximized, we examined NHTSA data on owner response rates and assessed some writing research techniques that could potentially improve owner notification. Because a recent NHTSA-funded study, completed in July 1980, had already determined many reasons why vehicle owners respond to or ignore recall notices, we focused our review on trying to find improvements in the recall notification letter process that could increase owner response rates and could be tested in actual recalls. Since recall letters, in our opinion, appeared to be difficult to understand, and because some of the owners contacted in the NHTSA-funded study said that they did not perceive the defect as a problem or did not believe the recall was important, we had a consultant, Dr. John J. Campbell, a reading and communication specialist at Howard University's School of Education, analyze the reading level of the letters. He then revised the letters to make them easier to understand. We also reviewed literature from the fields of marketing and survey research on followup techniques to improve response rates that could be useful in recalls.

We discussed owner notification procedures with General Motors and Ford officials and obtained, by telephone interviews, additional information from Chrysler Corporation and American Motors Corporation. We also met with officials from R.L. Polk & Company, which maintains motor vehicle registration records obtained from States, to discuss their role in providing updated motor vehicle owner information to manufacturers.

We did not contact vehicle owners to determine why they did not respond to recalls. The July 1980 study, conducted for NHTSA at a cost of $94,010, concluded that many owners (1) did not receive the recall notices, (2) had already had the vehicle fixed, (3) had transferred ownership, (4) had problems with the dealers, or (5) were apathetic. (The latter reason reinforced our opinion that the recall letters may be too difficult to understand.) Further, we did not attempt to focus on improving

owner response rates by having safety defect repairs become a requirement for passing State safety inspections or renewing vehicle registrations. This issue was addressed in a comprehensive $98,980 study completed for NHTSA in August 1979. According to NHTSA officials, State agencies are not receptive to recommendations which would make them responsible for determining whether or not necessary repair work is accomplished. Further, State agencies were not willing to participate in recalls unless manufacturers reimbursed them for all costs incurred.

Although we cannot assure that the suggested changes we propose for the recall letters and the followup post cards will greatly increase owner response rates, experts we consulted and studies we reviewed indicate that these changes could increase the rates. Also, the motor vehicle officials we contacted believe our suggestions have merit and are willing to work with NHTSA to test them.

HANDLING AGENCY COMMENTS

On July 19, 1982, the Department of Transportation (DOT) commented on a draft of this report. (See app. V.) DOT shares our concerns over procedural and institutional delays within NHTSA and stated that NHTSA intends to use all reasonable means to implement our recommendations, including improved and formalized "fail safe" procedures to enhance coordination between NHTSA offices. DOT stated that our report made it clear that the originally established system of deadlines for reviewing ODI recommendations had not always been accorded sufficient priority. DOT has therefore taken steps to improve its review time frames--steps which it attributes to our report.

DOT also stated that it supports all reasonable efforts to increase owner response rates in recalls and indicated that it will gladly cooperate in efforts to improve the recall letters as suggested in our report. DOT expressed some concern, however, over NHTSA's existing regulations, which it believes will need time-consuming rulemaking changes before our suggestions can be implemented.

DOT believes that the report reflects an apparent misconception of the defect investigation process by greatly oversimplifying it. Further, DOT commented that the report contains no reference to significant cooperative efforts that have taken place between the NHTSA offices.

DOT's comments pertaining to our recommendations, along with our evaluation, are included at the end of each corresponding chapter of this report. In addition, all of DOT's comments, along with our evaluation, are included in appendix V. Where warranted, we incorporated additional statements in the body of the report to improve or expand a point as a result of the comments. DOT's comments did not, in our opinion, change any of our report conclusions or recommendations.

CHAPTER 2

ADDITIONAL CHANGES ARE NEEDED TO IMPROVE THE DEFECT INVESTIGATION PROCESS

Lengthy investigations for possible safety defects could adversely affect the success of any resulting recalls. Statistics indicate that the longer it takes to initiate a recall, the less owners are likely to respond by having their vehicles repaired. According to a recent NHTSA-funded study, this is because manufacturers' records on owners become more obsolete for older vehicles. For example, in six cases wherein the NHTSA investigation process took from 67 to 86 months, the vehicles were 5 to 19 years old by the time they were recalled. The subsequent owner response rates ranged from 8 to 20.5 percent, which was much less than the average response rate of the other recalls.

In a majority of the cases NHTSA has previously investigated, its process has taken years to complete while vehicles continue to be exposed to possible safety deficiencies. In other cases, however, the process has been completed in relatively short periods of time, generally because manufacturers were quick to recognize the safety defect and initiate recalls.

Recently, ODI has taken steps which it believes will improve its defect investigation process. The ODI staff spent much of fiscal year 1981 "cleaning up" old engineering analyses that had been on the books for years, yet were basically inactive, so that it could begin concentrating on more meaningful analyses that it believed would likely result in defect determinations. Further, ODI has attempted to better coordinate its engineering and investigation activities in order to speed up the investigation process. In a number of instances, however, where NHTSA's Office of Chief Counsel's involvement is necessary to complete the investigation process, more direct communication and better coordination with ODI is needed before the process can be improved.

ATTEMPTS HAVE BEEN MADE TO STREAMLINE THE INVESTIGATION PROCESS

The defect investigation process normally involves (1) an engineering analysis to review consumer complaints and other information to determine whether a safety defect does exist and (2) a formal defect investigation to collect more information that will support NHTSA's findings in court, if needed, to get manufacturers to initiate recalls. (App. I describes this process in detail.) The ODI Director recognizes that the investigation process can be lengthy and time-consuming, and he has taken some actions to streamline it. He believes that by opening informal inquiries whenever possible instead of the more detailed engineering analyses, by becoming more selective in the engineering analyses initiated, and by better coordinating

the engineering and investigation staff activities, he can improve the process.

The ODI Director and the Chief, Engineering Analysis Division, told us that NHTSA in the past had often opened engineering analyses that were supported by few complaints; therefore, those analyses had little chance of resulting in recalls. ODI's engineering analysis workload, from fiscal year 1978 through 1980, included the following:

Fiscal year	Engineering analyses opened	Recalls influenced by engineering analyses (note a)
1977	84	20
1978	124	40
1979	119	24
1980	118	20

a/A recall may not necessarily result from an engineering analysis opened in the same fiscal year.

Many of the engineering analyses opened during that period had remained inactive for several years. Consequently, one of the ODI Director's first priorities when he took office in 1980 was to have this staff review the current status of each engineering analysis and clean up the files by closing as many inactive analyses as possible. As a result, the number of open engineering analyses dropped from 141 in February 1981 to 75 in October 1981. We found, however, that over three-fourths of the remaining engineering analyses have been on the books from 1 to 4 years, and some of those are also inactive and need to be closed with no recall action required as soon as ODI staff time permits.

Under the current approach, the ODI staff are now focusing their efforts on those potential safety defect areas that they believe are most likely to result in recalls. By reducing the ODI staff workload (in terms of open engineering analyses), the ODI Director believes that resources can be concentrated on the more promising analyses and reduce the overall investigation time frames.

During fiscal year 1981, ODI opened 19 engineering analyses, considerably fewer than the analyses opened in the previous fiscal years. In addition, however, ODI opened 22 informal inquiries which, as discussed in appendix I, are part of ODI's current attempt to avoid detailed and lengthy analyses whenever possible and still get manufacturers to conduct recalls. In December 1981 we examined the status of the fiscal year 1981 activities and found that:

--Of the 22 inquiries opened, 2 resulted in recalls within 1 to 4 months, 2 resulted in service recalls, 1/ 1 was transferred to engineering analysis, and 10 were closed with no further action needed.

--Of the 19 engineering analyses opened, 4 resulted in recalls within 1 to 12 months and 5 were closed or partially closed with no further action needed.

--Seven inquiries and 10 engineering analyses were still open. (Time frames ranged from 3 to 14 months.)

What the ODI Director believes to be significant as a result of the current approach is that two recalls resulted from informal inquiries (9 percent of the total) and four recalls resulted from engineering analyses (21 percent of the total). Those recalls required only limited ODI and manufacturers' time (1 year or less), and ODI did not have to open formal investigations.

We could not determine from our review whether the current approach which has reduced the number of engineering analyses opened may eventually mean that ODI will not analyze some potential safety defects. Only future complaints brought about by vehicle owners or safety advocate groups will be able to identify analyses that should be, but have not been, undertaken. Further, ODI was unable to conclude whether the 7 open inquiries and 10 open engineering analyses from fiscal year 1981 would result in recalls, requiring shorter time frames than under the previous approach. Therefore, we do not know if the current ODI approach will continue to streamline the investigation process and reduce the time frames as the ODI Director intends.

Another of ODI's efforts to streamline and improve its investigation process involves combining the activities of its engineering analyses and investigation staffs whenever possible. This effort will enable the investigator to work during the engineering analysis phase and will help him or her to better understand those cases that later become formal investigations. According to the Chief, Defects Evaluation Division, this effort was not done in the past because the large number of engineering analyses and formal investigations opened made it more practical to separate the two activities. Currently, however, the reduced caseload has given the investigation staff more time to get involved during the engineering analysis phase. The ODI Director supported this effort by saying that the expertise which resulted from combining the two staffs gives extra credence to the engineering analyses.

1/In service recalls, dealers rather than owners are generally notified of the defect because it does not present an unreasonable safety risk. Any necessary repairs are done when the owner takes his or her vehicle in for maintenance.

The reduction of engineering analyses opened has caused the volume of formal investigation cases opened to also decrease substantially. In fiscal year 1981, 4 formal investigation cases were opened as compared with 4 in 1980, 11 in 1979, 21 in 1978, and 22 in 1977. We reviewed the four fiscal year 1981 cases and found that they had all resulted in recalls. This compared with 1 recall from the fiscal year 1980 investigations, 1 from 1979, 10 from 1978, and 18 from 1977. The time frames for completing the fiscal year 1981 cases were as follows:

Case	Engineering analysis	Formal investigation	Total time frames
	(months)		
1	11	12	23
2	29	1	30
3	18	9	27
4	20	1	21

As the chart shows, it took 21 to 30 months of ODI involvement before manufacturers agreed to initiate recalls. While drawing any conclusions from a review of four cases is difficult, the Chief, Defects Evaluation Division, said that coordinating the engineering analysis and investigation staff activities helped to speed up the formal investigations, once they were opened.

FURTHER IMPROVEMENTS ARE NEEDED

While the ODI Director has taken steps which he believes will improve part of the defect investigation process, he believes that additional action is needed to speed up the legal reviews of the investigation cases. The Office of Chief Counsel gets involved with the process during the formal investigation phase and reviews cases to assure that the ODI information can favorably support NHTSA in court action against manufacturers, if necessary, to get recalls initiated. The Office of Chief Counsel must concur with ODI's recommendation to go for a determination of defect or to close an investigation case, yet its previous reviews have often taken months, or even years, to complete while the investigations remain in limbo in ODI. Some of the delays could be unavoidable, as Chief Counsel may have to develop substantial evidence before it can conclude that the ODI recommendation is or is not supported. Other delays could be caused by Chief Counsel's inability to give the reviews priority. However, the time already spent on the cases prior to this phase makes it imperative that ODI and the Office of Chief Counsel maintain a relationship of good coordination and direct communication to help improve the investigation process so that the cases are not unnecessarily delayed.

In November 1981 we analyzed 20 cases that were in the formal investigation phase, 11 of which were shown to be in the Office of Chief Counsel for review. The average time that the cases had remained in the Office of Chief Counsel, through the date of our analysis, was about 14 months. Individually, the time frames ranged from 1 to 41 months and, according to ODI status reports, legal decisions were still pending. Three of the cases had already resulted in recalls, so the only pending Chief Counsel action was to review the files to determine what confidential information could not be included in the public file or whether a penalty should be imposed against the manufacturer for attempting to prolong the recalls. According to a Chief Counsel lawyer, such review is time-consuming, and because his staff has other priority work, the review must wait until staff is available or the public requests the file.

In four cases ODI was seeking the Chief Counsel's concurrence of a defect so that efforts requiring manufacturers to initiate recalls could begin. The timeliness of the Chief Counsel's review varied considerably in those cases, with two cases being held from 12 to 41 months as follows.

1. The first case was transferred to the Office of Chief Counsel in June 1978 after 2 years of ODI investigation work. By November 1981 (41 months after the Chief Counsel had received the case) no final legal decision had yet been made, although an informal opinion was that the case should be closed without a defect determination.

   According to a Chief Counsel lawyer, this particular case has bounced back and forth between his office and ODI during the last 3-1/2 years so that additional information (updating complaints, etc.) could be collected. Information involving technical issues of causation, differences of opinion between Chief Counsel and ODI, a peer group study, and possible inconsistency with precedent cases was also collected. ODI letters to the manufacturers requesting information updates, from 1979 to 1980, substantiate some of this claim. However, ODI officials believe that they will always have to update information if the Chief Counsel's decisions are continually delayed.

2. The second case was transferred to the Office of Chief Counsel in November 1980 after 10 months of ODI investigation work. One year later, the Chief Counsel had still not acted on the ODI recommendation. As a result, the case was returned to ODI at its request so that ODI could perform additional work (testing and updating incident data) to determine whether its recommendation for an initial determination of defect was still warranted.

In another four cases ODI had recommended that the cases be closed with no further investigation time being spent. Those cases, which had been in the Office of Chief Counsel from 2 to 22 months at the time of our analysis, would nevertheless have to remain open pending a legal decision. The Chief Counsel lawyer handling the cases said he would probably concur with the ODI recommendation in two cases and would await further test results before making a decision on another case (which had already been in his office for 21 months). The remaining case, which was reported by ODI to have been transferred to the Chief Counsel in July 1981, could not be located by the lawyer we interviewed.

By July 1982, the Office of Chief Counsel had closed six of the eight cases that were pending at the time of our analysis. None of the closed cases resulted in a defect determination. However, ODI had recommended that the Chief Counsel make defect determinations in three of the cases when they were transferred 11 to 19 months earlier.

ODI officials told us that as investigation cases are delayed in the Office of Chief Counsel, additional investigation work will continually be needed, as it may no longer be appropriate to support ODI recommendations made months or years before. Chief Counsel lawyers, on the other hand, do not feel that they are taking too long to review the important cases. They cited a few specific cases, claiming that cooperative efforts between Chief Counsel and ODI resulted in significant recalls. Nevertheless, in the active cases we reviewed, our talks with both ODI and Chief Counsel officials indicate that the two offices need to better coordinate their efforts and better communicate their information needs before the investigation process can be improved.

CONCLUSIONS

NHTSA's defect investigation process can be extremely lengthy. NHTSA has taken some steps to speed up its process, but more needs to be done.

When formal investigation cases are sent to NHTSA's Office of Chief Counsel, they include recommendations that must be concurred with before any further action can be taken. Any delays by Chief Counsel staff to review the cases and comment on the ODI recommendations can only increase the investigation time frames of those cases that NHTSA determines need to result in recalls. The length of time it takes for some of the Chief Counsel decisions indicates to us that a better working relationship between the two offices is needed.

RECOMMENDATION

We recommend that the Secretary of Transportation instruct the Administrator, NHTSA, to take corrective action to speed up the defect investigation process by reducing delays caused by the Office of Chief Counsel review. Specifically, the Administrator should look at whether better coordination and more direct communication between ODI and the Office of Chief Counsel could achieve this goal and how specific review time frames could be established to eliminate further delays.

AGENCY COMMENTS AND OUR EVALUATION

DOT shares our concerns for a need for better coordination. In commenting on our draft report, DOT stated that identifying and correcting procedural and institutional delays within NHTSA's enforcement and rulemaking offices has been a high priority. Further, NHTSA intends to use all reasonable means to implement our recommendation, including improved and formalized fail safe procedures to enhance coordination between NHTSA offices.

DOT stated that our report made it clear that NHTSA's originally established system of deadlines for reviewing ODI recommendations had not always been accorded sufficient priority. As a result of our report, NHTSA's Chief Counsel has instructed his Assistant Chief Counsel for Litigation to ensure that a written analysis of each ODI recommendation be drafted by the Office of Chief Counsel within 14 days of receipt of the recommendation, except in cases of unusual complexity or where urgent litigation matters take priority.

We believe that adherence to the 14-day analysis time frame will definitely reduce the delays caused by many of the Chief Counsel's reviews. However, NHTSA has attributed much of its past review delays to exceptions such as those mentioned in the Chief Counsel's instructions. Consequently, we believe NHTSA should monitor the analysis time frames and make every effort to maintain the 14-day period.

DOT did not agree with our conclusion that there is a systematic failure of communication between ODI and the Office of General Counsel. DOT noted that the report includes no discussion of several cooperative efforts between those two offices during fiscal year 1981. Further, DOT believes that the report reflects an overly simplistic view of the defect investigation process and that many of the report views attributed to one employee are not shared by responsible superiors whom we did not interview.

During our review we interviewed all officials within ODI as well as Chief Counsel lawyers assigned to ODI investigation cases. During numerous discussions of active cases with these officials, we concluded that there was a need for better communication of information if the investigation process was to

improve. The fact that some cooperative efforts between ODI and the Office of Chief Counsel have occurred in the past does not alter our conclusion that, in the active cases we reviewed, communication problems did exist. DOT's statement that one employee's views are not shared by responsible superiors further supports our conclusion, especially since that one employee is an essential part of the ODI-Office of Chief Counsel review process. (DOT's entire comments and our evaluation of them are located in app. V.)

CHAPTER 3

IMPROVING RECALL NOTIFICATION AND FOLLOWUP METHODS COULD INCREASE OWNER RESPONSE RATES

Many owners fail to have their recalled vehicles or related replacement items corrected, if necessary, once they have been notified of the potential defect by the manufacturers. In 1974 the Congress expressed concern that a 75-percent owner response rate was too low; accordingly, it passed legislation designed to increase that rate. The legislation required, among other things, that manufacturers pay for defect corrections and that recall letters be sent by first-class rather than certified mail. Since 1974 owner response rates have been much lower than the 75-percent rate that the Congress had hoped to increase. According to more current NHTSA data, only about half of all owners now respond to recall letters by taking their recalled vehicles to dealers to be corrected.

In a July 1980 survey conducted for NHTSA, owners of recalled vehicles gave a variety of reasons for not responding to the recalls. For example, some owners said they did not receive the recall letters; others said they simply did not choose to have the defects corrected. When asked to suggest ways to enhance response rates, a relatively large percentage of the owners said that communication and awareness of the recalls should be improved. Over 20 percent of the owners responding said that the safety implications of the defect should be stressed. We therefore believe that a higher owner response rate could occur if better methods are used to inform and remind them of the problem.

We found that recall letters are written at a higher reading level than the reading level of most adults; consequently, many owners may find the letters difficult to understand. Studies show that most U.S. adults (54 percent) read at or below the 11th grade level. In our analysis of 11 recall letters, we found that nearly all of them were written at the college reading level. However, by simplifying the wording of the letters and redesigning the format to highlight certain messages, we were able to reduce the reading level of those letters.

In addition to the letter changes, response rates may improve if owners are sent post cards shortly after a recall begins to remind them that their vehicle was recalled. This technique has greatly increased response rates for public opinion surveys, and if used in recalls, it may prompt more owners to respond. Any increase in owner response rates, in the long run, would reduce the risk of accidents caused by vehicles with defects. It could also lower manufacturers' administrative costs, as the number of complete followup notices similar to the ones the manufacturers now send (at a higher postage cost than a post card) would be reduced.

OWNER RESPONSE RATES ARE LOW

According to NHTSA, only about half of all owners notified take their recalled vehicles to a dealer for correction. The following chart shows the average year-by-year owner response rates (percentage of the owners responding to recalls), separated by domestic and foreign manufacturer recalls.

Safety Defect Recall Analysis
Manufacturers Average Response Rates

	Domestic	Foreign	Total
	----------(percent)----------		
1966-72	56.2	54.2	56.1
1973	64.4	43.5	63.4
1974	75.4	48.0	70.1
1975	55.1	47.3	54.2
1976	48.9	65.1	51.1
1977	44.6	22.7	40.1
1978	52.5	31.7	50.4
1979	58.6	40.0	54.8
1966-79	55.4	40.6	53.5

A comparison of domestic recalls, year-by-year, indicates that response rates have remained consistently lower than they were in 1974, when the Congress expressed its concern that the rates were too low. Another comparison shows that domestic manufacturers in every year but 1976 appeared to have higher rates than foreign manufacturers. In recent years, however, especially since 1976, a substantial portion of the foreign recalls have included motorcycles and mopeds. According to NHTSA data, those foreign recalls are often initiated for defects that appear unlikely to result in high response rates, such as for replacing erroneous safety certification stickers. Consequently, it would be unfair to conclude that the significant foreign recalls fare any worse or better than domestic recalls.

A July 1980 survey conducted for NHTSA by Market Facts, Inc., ("Study To Determine why Vehicle Owners Respond to or Ignore Recall Notifications") showed that about 23 percent of the vehicle owners contacted did not have their vehicles corrected because (1) they did not have time, (2) it was too inconvenient, (3) they were too lazy, (4) there was no problem, or (5) they did not think the recall was important.

To get more vehicle owners to respond to recalls, NHTSA contracted with American Management Systems, Inc., to determine the feasibility of using State agencies to help manufacturers in their recall notification efforts. The contractor's report, issued in August 1979 at a cost of $98,980, concluded that it was highly feasible to use existing State programs to improve

recall effectiveness. The report described a number of State programs that could be used and made the following recommendations:

--States with periodic motor vehicle inspection programs, interested in maximum response rates for critical recalls, should consider recall compliance as a required part of the inspection.

--States not having inspection programs should consider suspending registered vehicles not complying with designated critical recalls.

--States interested in improving overall response rates should consider requiring dealers to certify that all vehicles serviced or owned by them are in compliance with recalls.

--States with consumer affairs agencies wishing to help improve response rates should implement public awareness programs or issue followup recall notices.

The report concluded that two State activities--verifying recall compliance during safety inspections and suspending vehicle registrations for noncompliance--would result in owner response rates of 95 percent. According to the ODI Director, NHTSA could find no State willing to participate in those activities. Even though two States, Georgia and Alabama, are helping one manufacturer by mailing followup letters to owners, their experiments are not being coordinated with NHTSA.

RECALL LETTERS TO OWNERS NEED TO BE SIMPLIFIED

The 1980 survey, as mentioned above, found that some owners fail to respond to recalls because they do not perceive the defect to be a problem or do not believe the recall is important. The survey also found that some owners believe that communication and awareness of the recalls should be improved. We believe those findings indicate that the owners may not have understood the recall letters as they are presently written. Manufacturers' recall letters may therefore need to be simplified so that owners can easily understand the safety defect and the importance of getting the defect corrected.

NHTSA regulations largely dictate the content of the letters, but the manufacturers actually prepare them. Our consultant analyzed several recall letters and found that the wording was difficult to understand because the letters were (1) written at a higher reading level than that of most American adults and (2) poorly organized and did not highlight important information. Appendix III lists articles and textbooks that explain the importance of those issues in getting the public to read surveys and advertising copy.

The consultant rewrote and reorganized one of the letters to make it easier to understand. The revised letter contains the same basic information as the original. Based on the articles and textbooks we reviewed, as well as our consultant's experience in this field, we believe owners would be more likely to respond to a recall if they better understood the problem and knew what could happen if the defect were not corrected.

NHTSA regulations set out the format and language of recall letters

NHTSA regulations require much of the language in recall letters. These regulations, published in the Code of Federal Regulations (49 C.F.R. part 577) require recall letters to begin with the following paragraphs:

> "This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act.
>
> "(Manufacturer's name or division) has determined that a defect which relates to motor vehicle safety exists in (identified motor vehicles, in the case of notification sent by a motor vehicle manufacturer; identified replacement equipment in the case of notification sent by a replacement equipment manufacturer)." [1/]

The regulations also require that the letters include the following, in any order:

- --A description of the defect, including identifying the system or equipment affected; a description of the possible resulting malfunction; a statement of operating or other conditions that could cause the malfunction; and any precautions the owner should take before repair.
- --An evaluation of the risks to motor vehicle safety, including (1) either a statement that a crash could occur without warning or a statement of what warning would occur or (2) if a crash would not result, a statement of the type of injury that could result.
- --The measures to be taken to remedy the defect, including (1) a statement that the manufacturer will remedy it without charge, if required, and whether the remedy is by repair or replacement, (2) the earliest date it will be remedied without charge, and (3) a general description

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1/This language is used if a manufacturer finds the safety defects. The language is slightly different if NHTSA finds the defect and/or the recall involves noncompliance with a safety standard.

of the work involved in the remedy and an estimate of the time needed to do the work.

--A statement informing the owner that he or she can contact NHTSA (address and telephone number are to be included) if the owner believes the vehicle was not remedied without charge or the manufacturer could not remedy it within 60 days. 1/

Reading level of recall letters is too high

Our consultant analyzed the reading levels of 11 recall letters from foreign and U.S. manufacturers and found that they were at a reading level higher than the reading level of most U.S. adults. He tested these letters using two standard reading formulas that measure word and sentence length. The formulas were developed by Edward Fry and Rudolph Flesch, researchers in the field of communications. (App. II explains how these two reading formulas work, and app. III lists studies on the usefulness of these formulas and the importance of clarity of reading material.) Most of these letters were at the college reading level. Scores ranged from 12.4 years of education (December of 12th grade) to 16.4 years (senior year of college). The Adult Performance Level Study, conducted in 1975 at the University of Texas at Austin, is widely used as a benchmark of adult reading levels. According to this study, 54 percent of U.S. adults read at or below the 11th grade level. Thus, the recall letters are written at a reading level too high for most U.S. adults.

As a comparison, the table below gives the reading levels of several major publications using the Fry formula.

Publication	Grade level of readability
Ladies Home Journal	7
Driver's Manual	7
Sports Illustrated	9
Reader's Digest	9
Instructions for IRS Form 1040	10
Time Magazine	11
New York Times	11

1/The regulations list different and/or additional requirements for the letter if (1) the remedy is through service facilities other than those of the manufacturer or its dealers, (2) the remedy is by replacement or refund rather than repair, (3) the recall involves tires rather than a motor vehicle, or (4) the law does not require the repair to be done free and the manufacturer will not repair it free voluntarily.

Organization and design of recall letters make understanding difficult

Our consultant found that organizational and highlighting techniques in recall letters could be improved to make them easier to understand. In the recall letters he analyzed, our consultant noted that the most important information--which we believe is the safety consequence--usually appeared in the last sentence of the second or third paragraph. In addition, techniques such as underlining or capital letters were seldom used to draw attention to important information.

Our consultant believes the recall letters would more effectively communicate their message if the possible result of the defect, such as a crash, appeared at the beginning of the letter. He also believes highlighting this and other information by underlining and using capital letters could further improve the reader's ability to understand the entire letter. It is recognized in the marketing and advertising fields that written copy must contain a clear message with the most important information shown first and that highlighting techniques are important in getting and keeping the reader's interest.

Recall letters can be made easier to understand

Our consultant rewrote and redesigned a sample recall letter to demonstrate how letters could be made easier to understand. The revised letter contains the same information as an actual (and typical) letter used in a recall, but it

--reads at the 5th grade level while the original letter reads at the 12th grade level and

--brings the safety consequence to the beginning of the letter and highlights important information to draw the owner's attention to it.

The original and revised letters are on the following two pages. We substituted a fictitious manufacturer's name to avoid associating the letter's readability with a single manufacturer.

ORIGINAL LETTER

Dear Roemobile Owner:

This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act.

Roe Motors Corporation has determined that a defect which relates to motor vehicle safety exists in some 1980 full size Roemobiles equipped with V-6 engines.

Some of these vehicles may have insufficient clearance between the front brake pipe and the engine oil pan. This condition could cause the brake pipe to come in contact with the left hand front edge of the oil pan, resulting in wear of the brake pipe at the point of contact. Prolonged contact could cause the brake pipe to wear through, resulting in a loss of brake fluid and subsequent loss of front brakes. The driver would be alerted to brake fluid loss by the illumination of the brake warning light on the dash panel and by an increase in brake pedal travel during brake application. The rear brake system would remain functional. Loss of front braking at a time when minimum stopping distance is required could result in vehicle crash without prior warning.

To prevent the possibility of the brake pipe wearing through, please contact your Roe Motors dealer on or after October 15, 1980 to arrange an appointment to have your vehicle inspected and, if necessary, corrected. Correction may involve replacing the brake pipe. This service will be performed at no charge to you.

Parts and Instructions for making this inspection and correction have been sent to your Roe Motors dealer. The labor time necessary to perform the inspections is approximately 15 minutes. The labor time required to make the correction, if required, is approximately 30 minutes.

If you take your vehicle to your dealer on the appointment date and he does not remedy the condition without charge on that date, or within five days, you should contact your nearest Roe Motors Zone Office either in person or by telephone for assistance. The locations and phone numbers of the Zone Offices are listed in your Owner's Manual. If your dealer or Roe Motors fails or is unable to remedy this condition without charge within a reasonable time, you may wish to notify the Administrator, National Highway Traffic Safety Administration, Washington, D.C. 20590.

The enclosed owner reply card identifies your vehicle. Presentation of this card to your dealer will assist him in making the necessary correction to your vehicle in the shortest possible time. If you have sold or traded your vehicle, please let us know by competing the postage paid owner identification reply card and returning it to us.

We are sorry to cause you this inconvenience; however, we have taken this action in the interest of your safety and continued satisfaction with our products.

Roe Motors Corporation

REVISED LETTER

Dear Roemobile Owner:

THIS NOTICE IS ABOUT A SAFETY DEFECT THAT COULD CAUSE LOSS OF FRONT BRAKES WHICH COULD RESULT IN A CRASH

The National Traffic and Motor Vehicle Safety Act requires this notice. We found a safety defect in some 1980 full size Roemobiles with V-6 engines.

WHAT IS THE DEFECT?

There may not be enough space between the front brake pipe and the engine oil pan. If so, the brake pipe touches the oil pan. This can cause the brake pipe to wear through. When this happens, the brake fluid leaks, causing loss of the front brakes. If you lose brake fluid, the brake light on the dash panel comes on and the brake pedal moves closer to the floor when you apply the brakes. The rear brakes will still work.

WHAT COULD HAPPEN?

Without front brakes, you could crash if you need to stop in a short distance.

WHAT SHOULD YOU DO?

Please make an appointment with your Roe Motors dealer on or after October 15, 1980, to have your car inspected and, if necessary, fixed--FREE. Your dealer may have to replace the brake pipe. Your dealer has all the parts and instructions. It takes about 15 minutes to inspect your car and about 30 minutes to fix it, if needed.

Give the enclosed card to your dealer when your car is inspected. It will help the dealer fix your car as quickly as possible. If you sold or traded your car, please fill in the owner's reply card and mail to us.

WHAT IF YOU HAVE PROBLEMS?

If the defect is not fixed - free - on your appointment date or within five (5) days, you should:

--contact the nearest Roe Motors Zone Office in person or by phone.

The address and phone numbers are in your Owner's Manual.

If the dealer or Zone Office does not or cannot fix the defect free or in a reasonable time you can notify:

The Administrator
National Highway Traffic Safety Administration
Washington, D.C. 20590

We are sorry to inconvenience you but we care about your safety and want you to be satisfied with our products.

Roe Motors Corporation

The consultant lowered the reading level of the letter by using shorter and more logical sentences and by substituting familiar words for unfamiliar ones. He eliminated useless prepositional phrases that hide the sentence's meaning by putting the logical subject first, the verb second, and the object last. For example, the opening statement was changed from:

> "This notice is sent to you in accordance with the requirements of the National Traffic and Motor Vehicle Safety Act."

to:

> "The National Traffic and Motor Vehicle Safety Act requires this notice."

The consultant also replaced unclear or unfamiliar words and phrases with more familiar ones. The table below shows the substitutions he made.

Unfamiliar words and phrases	Substitution
in accordance with the requirements of	requires
to arrange an appointment	make an appointment
at no charge to you	free
vehicle	car
a defect which relates to motor vehicle safety exists	has a safety defect
insufficient clearance	not be enough space (room)
to come in contact with	touch
by the illumination of (the light)	(the light) comes on
remedy	fix
by completing the postage paid owner identification card	fill in the owner's reply card
remain functional	still work
increase in pedal travel	pedal moves closer to the floor

The following examples, taken from actual recall letters, also show how shorter and more logical sentences, combined with familiar words, can make sentences easier to read.

Example 1

"Loss of front braking at a time when minimum stopping distance is required could result in vehicle crash without prior warning."

Revision

"Without front brakes, you could crash if you need to stop in a short distance."

Example 2

"As these fuel hoses are pressurized, a reduction in the effective clamping load of the attachment clips could cause fuel to be released, without warning, thereby causing a fire hazard which would result in personal injury."

Revision

"You could be injured if the attachment clips can't hold the pressurized fuel hoses. Fuel would leak, without warning, causing a fire."

Recall letters can be redesigned to highlight important information

The consultant highlighted the most important information and reorganized the letter so that the possible result--a crash--comes first. He also highlighted key words and phrases by underlining them and using capital letters. The opening statement, for example, is in capital letters and is placed in a box. Side captions, not used in the original letters, appear as questions, such as:

WHAT IS THE DEFECT?
WHAT COULD HAPPEN?
WHAT SHOULD YOU DO?
WHAT IF YOU HAVE PROBLEMS?

These questions encourage the reader to seek answers by reading further.

ODI recognized a need to simplify recall letters

ODI recognized the need to make recall letters easier to understand and get the reader's attention. In 1978 ODI proposed

amending the regulations to make the recall letter simpler and easier to understand. Some of the proposed changes were to

--make the letter shorter and simpler and give the owner important information needed to have the vehicle repaired;

--place a statement on the danger of not responding to the recall at the top of the letter; and

--require the words "SAFETY NOTICE," in bold letters, underlined and overlined, on the envelope and the first page of the recall letter.

ODI believed those changes would help the owner understand the importance of having the vehicle corrected, and that the changes would not have a significant economic impact on the motor vehicle industry or the Government. ODI proposed monitoring the changes to determine their effect. NHTSA's Office of Chief Counsel, however, felt that any changes needed in letter format must be fully substantiated before they could be implemented. No further action was taken on the issue. We believe the information in this chapter supports the need for such changes.

We also believe that the cost of revising recall letters would be negligible, a view that ODI expressed in 1978. While testing the revised letter may involve some additional printing cost if it is used with the original letter, subsequent use of the revised letter should cost no more than using the current letter. In the long run, the revised letters could even reduce administrative costs because if it increases response rates, manufacturers' followup costs should decline. Each additional response resulting from the revised letter would represent one less followup letter. The next section describes the costs saved by sending fewer followup letters.

"REMINDER" POST CARDS COULD INCREASE OWNER RESPONSE AND REDUCE ADMINISTRATIVE COSTS

In the 1980 survey conducted for NHTSA, vehicle owners were asked to suggest ways to enhance recall response rates. A relatively large percentage of the owners suggested improving communication and awareness of recalls. The four manufacturers that we contacted send followup letters to owners not responding to the first letter. However, they wait months after the recall is initiated before taking followup action. ODI's monitoring of manufacturers' followup activities indicates that past efforts have not been very effective in improving response rates.

Sending a post card reminder shortly after the first letter is a technique which has greatly increased response rates in the survey research field. We believe this technique could be successful in recalls and possibly reduce overall administrative costs because manufacturers may not have to purchase as many

subsequent owner lists from outside sources or send as many additional followup letters to nonrespondents. NHTSA should work with manufacturers to test various reminder techniques and measure their effect on owner response.

Manufacturers currently follow up and make other efforts to increase owner response

The four manufacturers that we contacted said they send followup letters to owners who do not respond to a recall letter even though this effort is not legally required. These follow-ups involve the same administrative costs (postage and printing, for example) as the first letter. Three companies told us they and their dealers also try other methods to improve owner response.

The manufacturers wait several months before issuing follow-up recall letters. Three said they wait 6 or more months. The fourth said it monitors owners' response rates and issues follow-up letters when the response rates begin to decline. In specific recalls we asked about, the latter company said it sent followup letters 4 to 12 months after the first letter.

The administrative cost of sending a followup letter is about the same as sending an original recall letter. According to the manufacturers, the current method of followup includes the same letter and return post card (to notify the manufacturer if the owner no longer has the car) as the original. Thus, the cost of printing the letter and postage are about the same. In addition, however, manufacturers generally need to update their original owner lists by purchasing State registration information (the manufacturers that we contacted use R.L. Polk & Company), resulting in increased overall administrative costs. The more followups required, the more the updated lists cost.

The manufacturers told us they also try other methods to improve owner responses, including:

--Reminding original owners on maintenance post cards of any outstanding recalls. One manufacturer sends post cards to original owners to remind them to have routine maintenance performed and lists any recalls the owner has failed to have corrected.

--Prompting dealers to work directly with owners to persuade them to have their recalled cars inspected.

According to ODI's Chief, Campaign Analysis Branch, the manufacturers' past followup activities have shown sporadic results, but overall they have not been very effective in increasing response rates.

Studies in survey research show reminder notices improve response rates

Several studies in the survey and marketing research fields show that a followup post card reminder, sent only a few days after a questionnaire is sent, can significantly improve response rates. This practice has become widely accepted in these fields. The reminder does not include the same information as the first mailing but simply reminds recipients that they received a questionnaire. It is usually mailed 3 to 5 days after the first mailing.

We reviewed several studies that tested the use of reminders, which included both letters and post cards. According to the studies, sending a reminder between 2 and 45 days after the first mailing achieved higher response rates than when no reminder was used. One study showed that a 3-day reminder achieved higher response rates than reminders sent later. Another showed that a simple reminder resulted in more responses than a followup letter containing all the original materials. In addition, a study showed that a post card was just as effective as a letter reminder and noted that this method costs much less because it is cheaper to print and requires less postage. These studies showed that reminders can achieve response rates 16 to 21 percent higher than when no reminder is used. (See app. IV for the studies reviewed.)

The example below suggests language that may be used in a reminder post card. This language is adopted from a reminder that significantly increased responses in a survey research study.

Dear Roemobile Owner:

A couple of days ago we sent you a letter to tell you that your Roemobile may have a safety defect. If you have already taken your car to your dealer, or have made an appointment to do so, please consider this a "thank you" for your promptness. If you have set this letter aside, intending to take care of it later, please call your dealer now to make an appointment. This may be important for your safety.

Roemobile Corporation

We believe followup reminders may help increase owner response in recalls and at the same time may reduce manufacturers' administrative costs. For example, a 1981 recall involving 320,266 vehicles achieved a 49.5-percent completion rate. At that time, followup letters were sent 5 months after the initial recall letters. If a reminder post card had been used as we suggest, and if the original response rate had improved by 16 percent (the lowest increase in the survey research studies we cited above), the manufacturer would have had to send 51,000 fewer followup letters at the full letter postage rate. Also, the manufacturer would have had to purchase updated data on 51,000 fewer owners from R.L. Polk & Company. If a 21-percent improvement were achieved, followups would have been some 67,000 fewer. This decrease may have resulted in a net savings in administrative costs.

MANUFACTURERS BELIEVE SIMPLER RECALL LETTERS AND REMINDERS WOULD BE HELPFUL

We discussed our proposals to make owner letters more readable and to use reminder post cards with officials from Ford Motor Company and General Motors Corporation. These officials agreed that more readable letters and reminder post cards might help increase owner response rates. Officials from both companies said they would be willing to work with NHTSA to test these techniques in actual recalls. While General Motors officials cautioned that monitoring response rates of a control group and a test group might be difficult, Ford officials said that their company's computer system could accommodate this task fairly easily.

Officials from both companies raised concerns about how results from testing these techniques might be used. While these officials felt a regulatory change in the letters' wording might be helpful, they cautioned that they would not favor a regulation requiring letters to be written at a specific grade level, as such action could result in a lengthy review and approval process by NHTSA. Officials from both companies also said they did not think that reminder post cards should be mandatory since some recalls achieve high response rates under the current policies. They noted, however, that if the tests proved successful, they would probably use the reminders since they are committed to achieving the highest possible completion rates.

CONCLUSIONS

A significant number of owners do not respond to recall letters. Letters informing owners of a recall are written at a higher reading level than the reading level of most adults and generally fail to highlight important information. We believe more owners would respond to a recall if these letters were easier to read and if key information were highlighted. Increases in response rates due to a revised letter could lower manufacturers' administrative costs by reducing the number of

followup notices they send. More importantly, however, increased response rates mean that more owners are having their defective vehicles corrected and thus are reducing the risk of accidents caused by such defects.

Reminder post cards sent a few days after the initial recall letter is sent may also improve owner response rates. Studies have shown that these reminders greatly increase response rates from people who receive survey research questionnaires. This technique has become widely accepted in the survey research field. The cost of these reminders may be more than offset by the increases in response rates they cause. These increases would lower the number of complete followup letters that manufacturers are now sending at the full letter postage rate and would also reduce the number of owner updates the manufacturers are now buying for followups.

RECOMMENDATIONS

We recommend that the Secretary of Transportation instruct the Administrator, NHTSA, to work with motor vehicle manufacturers to

--change the wording and format in a recall letter to lower its reading level, using suggestions in this chapter, and test the revised letter in an actual recall to determine its effectiveness in increasing response rates and

--test various reminder techniques in actual recalls to determine whether they increase response rates and are cost effective.

Various techniques could be tested in a single recall. Random groups of owners could receive revised letters and various followup reminders. Some groups could receive combinations of reminders and a revised letter. A control group could receive only the current letter until the normal followup letter is sent. NHTSA and/or the manufacturers would need to monitor the response rates of these groups, however.

Manufacturers would need to determine whether any increase in response rates would result from these tests. An analysis of benefits should be based in part on the cost savings resulting from (1) the lower number of complete followup letters that must be printed and mailed at the full letter postage rate and (2) the smaller number of owners for which updated names and addresses are purchased. In any analysis, however, the safety benefit derived from more owners responding to the recall must be viewed as the paramount factor.

AGENCY COMMENTS AND OUR EVALUATION

DOT stated in its comments to our draft report that it supports all reasonable efforts to increase consumer responsiveness to recalls and it will gladly cooperate in efforts to simplify and clarify the language of recall letters. DOT further stated that the cooperation promised by the two manufacturers' representatives we interviewed would be required in order for major improvements to be made. We recognize that such efforts will require cooperation from the manufacturers. Our discussions with officials from Ford Motor Company and General Motors Corporation indicate that they are willing to work with NHTSA on efforts to improve the readability of the recall letters.

DOT noted, however, that certain requirements for the content of the recall letters are presently prescribed by NHTSA regulation and cannot be changed without time-consuming rulemaking action. In response to DOT's concern, our Office of General Counsel has concluded that use of a simplified letter such as we propose in this chapter would not violate existing NHTSA regulations if the letter is used in a joint test project involving NHTSA and a vehicle manufacturer. Further, if the simplified letter results in greater owner response rates, there is an informal rulemaking procedure contained in the Administrative Procedure Act (5 U.S.C. §553 (1966)) which our Office of General Counsel says is available to NHTSA to revise its present regulations expeditiously.

DOT noted that we may be overly optimistic about revising the actual limits of behavioral response through following up on recall letters. As we stated on page 5 of our report, we cannot assure that our suggested changes will greatly increase owner response rates. However, experts we consulted and studies we reviewed indicate that changes such as use of reminder post cards could increase the rates. (DOT's entire comments and our evaluation of them are located in app. V.)

NHTSA's SAFETY DEFECT INVESTIGATION PROCESS

The National Traffic and Motor Vehicle Safety Act of 1966, as amended, gives NHTSA the authority to perform tests, inspections, and investigations to identify safety-related defects in motor vehicles and motor vehicle equipment. Using that authority, NHTSA has established an Office of Defects Investigation with three divisions--Defects Information, Engineering Analysis, and Defects Evaluation--and has given each specific responsibilities for performing safety defect investigations. A description of each Division's responsibilities follows.

Defects Information Division

This Division, among other things, gathers and organizes all information NHTSA receives relating to possible safety defects in motor vehicles or replacement equipment. The information is received in many forms and is the primary source from which NHTSA first learns of possible safety defects.

The Division operates a toll-free auto safety hotline (800-424-9393) which gives 24-hour service for consumers to report motor vehicle safety problems or request information on recalls. NHTSA sends a questionnaire to each consumer who calls the hotline about his or her potential safety defect so that vital information NHTSA needs in its investigations can be recorded. The consumer fills out the questionnaire and returns it to NHTSA for processing.

At the time of our review, NHTSA was receiving about 500 consumer calls a day (either by hotline operator or by a recording device). In addition, NHTSA was receiving about 2,000 to 3,000 letters a month. Some of the letters were hotline questionnaire returns; others were unsolicited complaints from consumers, requests for recall information, or specific defect search requests from lawyers and other interested parties.

The Division staff reviews consumer complaint letters and questionnaire forms and then enters those complaints determined to be safety-related into the Division's computerized data base. Copies of the complaint letters and questionnaire forms are then sent to the respective manufacturers for their records.

NHTSA's computerized data base contains other information--such as manufacturers' service bulletins that describe specific repair procedures to be followed by dealers, motor vehicle warranty data, and past defect recall reports--which can also be used to support safety defect investigations. All computerized data is stored for 9 years (complying with an 8-year-old statute of limitation requirement).

Periodically, the Division staff uses a computer program known as the "trender" to identify large numbers of complaints made against similar vehicle makes and models. This program

can provide early warnings to alert the staff that a vehicle or replacement item may be defective. In those instances, the staff turns over all pertinent data to ODI's Engineering Analysis Division for further analysis.

Engineering Analysis Division

This Division reviews numerous consumer complaints and other documents to analyze and identify potentially dangerous safety defects. As part of an engineering analysis, the Division staff examines hotline questionnaires, accident reports, manufacturers' and dealers' service bulletins, prior recalls, and other pertinent sources for data that could identify or pinpoint the problem.

At the start of an engineering analysis, the staff will usually notify the manufacturer that it is analyzing a possible defect. The staff will ask the manufacturer to submit detailed information on the particular item in question to help the ODI engineers analyze the extent of the problem. The staff may also perform tests during this phase to help determine the cause of the problem. Because an engineering analysis is an internal NHTSA activity that precedes a formal investigation, the staff is not required to make the analysis available to the public. However, an engineering analysis file is maintained for public view, and occasionally NHTSA will issue a press release if a potential defect poses an immediate threat to safety.

As part of a recent effort to improve its time frames, the staff has taken informal steps to generally open "inquiries" before or instead of engineering analyses. An inquiry is much less detailed and consists of a limited request for information from the manufacturer. Within a relatively short period, the staff can decide whether it wants to proceed with an engineering analysis, close the inquiry without additional work, or continue the inquiry to obtain more information on the potential problem. During an inquiry, if a manufacturer determines that a safety defect exists and initiates a recall, there may be no further need to analyze the problem.

A manufacturer may also agree to conduct a recall during an engineering analysis, which could negate any further need for NHTSA analysis. If a manufacturer takes no such action, the staff, after reviewing all information pertinent to the engineering analysis, may decide that a formal investigation is warranted. A NHTSA review panel--made up of representatives from ODI and NHTSA's Office of Chief Counsel--will then evaluate the information and determine either to

--open a formal investigation,

--perform additional engineering analysis work before making a final decision, or

--close the engineering analysis.

Defects Evaluation Division

This Division conducts formal investigations after NHTSA's review panel decides to proceed beyond the engineering analysis phase. ODI notifies the manufacturer that it has opened an investigation. This notification allows the manufacturer the opportunity to open its own investigation if it has not already done so. ODI also prepares a press release to inform the public that it is conducting a formal investigation. The purpose of the formal investigation is to collect as much additional information on the potential safety defect as possible so that NHTSA can sufficiently demonstrate--both legally and technically--that a safety-related defect does exist.

During a formal investigation, the staff may contract with outside sources for additional tests if it believes the tests conducted during the engineering analysis phase were not sufficient to adequately support its case. Also, the staff will usually contract to have interviews conducted with vehicle owners who have experienced the safety defect being investigated. During those interviews, the contractor will collect tangible evidence, such as vehicle parts and photographs, to help support the case.

At the end of each formal investigation, the staff prepares a report which includes such things as

--the basis for the investigation,

--a description of what was done during the investigation,

--information from the manufacturer,

--test results,

--consumer letters, and

--other documents pertinent to the investigation.

The report generally concludes with a recommendation that an initial determination of defect be made or that the case be closed without a recall. All recommendations require the concurrence of the Office of Chief Counsel. When the Chief Counsel concurs with an initial determination of defect, NHTSA's Deputy Administrator must also approve the determination before the case can proceed. After this approval, NHTSA notifies the manufacturer that it has made an initial determination of defect and has had a public notice printed in the Federal Register.

The manufacturer then has an opportunity to present its views at a public hearing, or it can decide to go ahead with the recall. If the manufacturer decides to present its views at a public hearing and the NHTSA Administrator believes that a final determination of defect is warranted after the public hearing,

the manufacturer must initiate a recall to correct the safety defect. Otherwise, NHTSA will proceed with court action against the manufacturer. The final decision to recall or not to recall is then made by the court.

APPENDIX II

READABILITY FORMULAS

THE FLESCH READABILITY FORMULA

Purpose

To determine "reading ease" or difficulty of reading material, using word and sentence lengths as variables.

Assumptions

1. Sentences containing many words are, in general, harder to read and comprehend than sentences containing fewer words.

2. Words containing many syllables tend to be more difficult to read and comprehend than words containing fewer syllables.

Procedure

Count

A 100-word sample starting at the beginning of the first complete paragraph on every 10th page. Count contractions and hyphenated words as one word; count as words numbers separated by space; count the number of syllables in each 100-word sample; figure the average sentence length for all samples combined. In each 100-word sample, find the sentence ending nearest the 100-word mark, e.g., 94th or 109th word. Count sentences to that point and divide words in those sentences by number of sentences.

Formula

Reading ease - 206.835 - .846WL - 1.015 SL

APPENDIX II

Scoring

Reading ease score	Description of style	Average syllables per 100 words	Average number of words per sentence	Public school grade level
0-30	Very difficult	192+	29+	The difficulty of very difficult technical material--may require professional training to read
30-50	Difficult	167	25	College level
50-60	Fairly difficult	155	21	Sophomore, junior, or senior in high school
60-70	Standard	147	17	8th grade or high school freshman
70-80	Fairly easy	139	14	7th grade
80-90	Easy	131	11	6th grade

Source: Flesch, Rudolf, "How To Test Readability," Harper & Row, Publishers, Inc., New York: 1951.

APPENDIX II

THE FRY READABILITY GRAPH

Purpose

To determine a grade-level score for reading material.

Assumptions

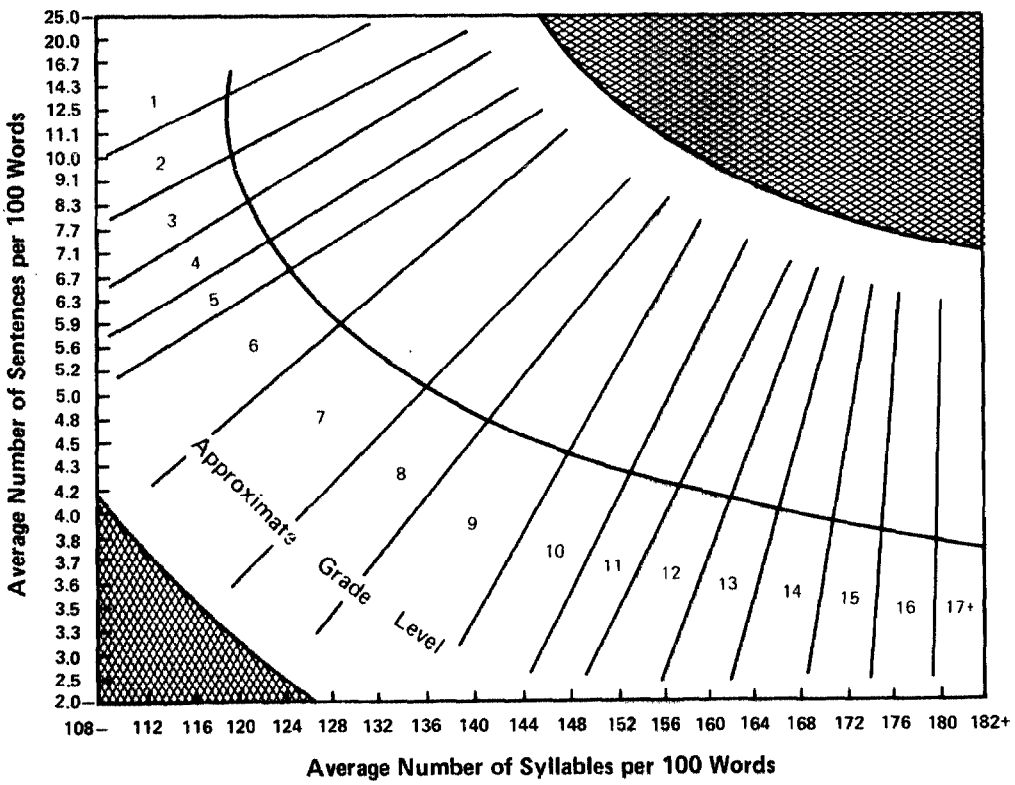
Difficulty increases in terms of grade levels as number of syllables and number of words increase in sentences.

Procedure

Randomly select three 100-word passages from a book or an article. Plot average number of syllables and average number of sentences per 100 words on graph to determine the grade level of material.

Scoring

Plot on graph to obtain grade-level score.



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Nichols, Robert C., and Mary Alice Meyer. "Timing Postcard Follow-ups in Mail Questionnaire Surveys," Public Opinion Quarterly, Vol. 30, 1966-67, p. 307.

APPENDIX V

U.S. Department of Transportation

Assistant Secretary
for Administration

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

JUL 19 1982

Mr. Henry Eschwege
Director, Community and Economic
Development Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

We have enclosed two copies of the Department of Transportation's (DOT) reply to the General Accounting Office (GAO) draft report, "Changes Needed to Improve the Motor Vehicle Recall Program," 1/ dated June 7, 1982.

We share GAO's concern with improving the effectiveness of motor vehicle safety recalls and intend to use all reasonable means to implement GAO's recommendations. However, we disagree with GAO's apparent conclusion that there is inadequate communication between the National Highway Traffic Safety Administration's (NHTSA) Office of Defects Investigation (ODI) and Office of Chief Counsel (OCC) and note that the draft report omits any discussion of several important ODI-OCC cooperative efforts during Fiscal Year 1981. Several additional examples of fully cooperative efforts have occurred in the six months since the GAO investigators visit. DOT requires such efforts and, by incorporating specific management objectives into performance standards, confidently expects them to continue.

If we can further assist you, please let us know.

Sincerely,

Robert L. Fairman

Enclosures

1/The report title was revised to "Changes to the Motor Vehicle Recall Program Could Reduce Potential Safety Hazards."

DEPARTMENT OF TRANSPORTATION REPLY TO GAO DRAFT REPORT ON "CHANGES NEEDED TO IMPROVE THE MOTOR VEHICLE RECALL PROGRAM"

A. SUMMARY OF GAO FINDINGS AND RECOMMENDATIONS

The GAO found that National Highway Traffic Safety Administration (NHTSA) safety defects investigations have resulted in the correction of 50-70% of the nearly 128 million vehicles, tires and other items of motor vehicle equipment recalled since the passage of the National Traffic and Motor Vehicle Safety Act of 1966, but that more could be done to improve the timeliness of recalls and the rate of owner response. Specifically, GAO recommended: (1) improving communication and coordination between NHTSA's Office of Defects Investigation (ODI) and Office of Chief Counsel (OCC) to eliminate delays; (2) a cooperative effort between NHTSA and vehicle manufacturers to simplify defect notification letters and test the revised letters in an actual recall campaign; and (3) a cooperative effort between NHTSA and vehicle manufacturers to test various "reminder techniques," such as follow-up post cards, to see if they increase response rates and are cost-beneficial.

GAO conducted most of its review in November-December 1981. The GAO Report emphasizes defect investigations pending in NHTSA at the time of the GAO review, but covers the defect recall program since its inception.

[GAO COMMENT: This summary is an accurate restatement of our basic findings and recommendations. Our review, however, was conducted from September 1981 to March 1982. The November-December 1981 time frame referred to by DOT did not include the entire period of our review, but rather, it included only the portion of our review wherein we examined ODI's engineering analyses and formal investigation case files.]

B. SUMMARY OF DEPARTMENT OF TRANSPORTATION POSITION

The Department of Transportation (DOT) shares GAO's concerns. The identification and correction of procedural and institutional delays within the NHTSA enforcement and rulemaking offices has been a high priority of this Administration. It has resulted in specific corrective actions already taken with respect to the process of reviewing and deciding upon petitions for rulemaking or exemption. The questions presented by the subject GAO Report have been similarly under review. The NHTSA intends to use all reasonable means to implement GAO's recommendations, including improved and formalized "fail safe" procedures to enhance coordination between NHTSA offices. DOT does not agree with the GAO investigator's apparent conclusion that there are systematic failures of communication between NHTSA's Office of Defects Investigation (ODI), and Office of Chief Counsel (OCC). We note that the GAO Report includes no discussion of several important ODI-OCC cooperative efforts during fiscal year 1981, including the sharply negotiated resolution of several major investigations (most significantly, the Ford transmission settlement, the General Motors mid-sized car rear window defroster recall, the Toyota HiLux Pickup shimmy recall, and the AM General recall of M.A.N. articulated buses). Several additional examples of fully cooperative efforts have occurred in the six months since the GAO investigator's visit. DOT requires such efforts and, by incorporating specific management objectives into performance standards, confidently expects them to continue.

[GAO COMMENT: We commend NHTSA for implementing action to enhance coordination between its offices. Although NHTSA may not agree that a communication problem between ODI and the Office of Chief Counsel does exist, our discussions with officials from both offices indicate that better communication of their information needs could improve the investigation process. In our report recommendation, we state that the NHTSA Administrator should specifically look at whether better coordination and more direct communication could speed up the process.

In response to DOT's comment that our report includes no discussion of several important cooperative efforts between ODI and the Office of Chief Counsel during fiscal year 1981, we point out that our report was limited to investigation cases that were active at the time of our review. Of 20 active cases, 11 were shown by ODI to be in the Office of General Counsel. When we examined those cases individually, we found that three cases had already resulted in recalls so the only pending Chief Counsel action in those cases was to determine what confidential

APPENDIX V

information could not be included in the public file or whether a penalty should be imposed against the manufacturer for attempting to prolong the recalls. Two of the case examples cited in the DOT comment above were included in the three cases we identified as having resulted in recalls. Our primary concern, however, as discussed in our report, was on how to speed up the Chief Counsel review on those cases still awaiting legal decisions, which represented the majority of the active cases we examined.]

DOT also believes that the GAO Report reflects an overly simplistic view of the defect investigation process. It improperly adopts a quantitative rather than a qualitative approach to the analysis of NHTSA's investigative activities. Many of the views attributed to one employee in the Report are not shared by responsible superiors, whom the GAO investigator did not interview. Thus DOT does not fully agree with the GAO investigator's conclusion that cases frequently are stalled in OCC and then improperly returned to ODI merely to update stale evidence. In fact, OCC's contribution to the development of evidence in cases referred by ODI is often substantial, and can be determinative to success from a legal standpoint. Particularly where novel or close questions of law are involved, cases properly remain administratively assigned to OCC rather than ODI while further evidence is being developed.

[GAO COMMENT: We agree with DOT that the Office of Chief Counsel's contribution to the development of evidence is often substantial in cases referred by ODI. We also recognize that some cases are not returned to ODI "merely to update stale evidence," as DOT incorrectly attributed to our report. However, we have added the following sentence to our report in order to eliminate any possible misinterpretation as a result of DOT's comments:

> "Some of the delays could be unavoidable, as Chief Counsel may have to develop substantial evidence before it can conclude that the ODI recommendation is or is not supported."

DOT's comment that one employee's views are not shared by responsible superiors further supports our contention that there are differences of opinion within NHTSA's offices that cannot be ignored if the defect investigation process is to improve. This is especially true in this instance, as the employee questioned is responsible for ODI's decisionmaking.]

DOT supports efforts to increase consumer responsiveness to recall campaigns and will gladly cooperate with manufacturers in efforts to simplify and clarify the language of recall notification letters. DOT believes that controlled experiments could be conducted, with the cooperation of the manufacturers, to determine the effectiveness of various types of notifications. First, many recall issues are exceedingly complicated and do not lend themselves to overly simplified explanations. In such cases, the policy preference would be to convey more rather than less substantive information. Second, relatively few recalls in fact represent extremely grave or urgent elements of risk or exposure. Oversimplification in all recall cases could lead to the equally undesirable results of either raising false levels of apprehension and public alarm, or inappropriate minimalization of the actual risks presented. DOT notes that the GAO investigator is perhaps excessively optimistic about the chances of simplifying the language of recall notifications without first conducting time-consuming notice and comment rulemaking to amend NHTSA's regulations covering defect notification campaigns. DOT will consider initiating such rulemaking. Finally, DOT notes that recall campaign completion rates seem to be improving, and that the completion rate for seven recent campaigns varied between 65 and 84% (numbers rounded off to nearest whole number). We believe this improvement is attributable in large part to ODI's recently-implemented procedure of reviewing every recall campaign after six months and contacting the manufacturer to suggest consideration of possible further action if the six-month review reveals a campaign completion rate of less than 50%.

[GAO COMMENT: If NHTSA and the motor vehicle manufacturers work together to implement our suggested changes to the recall letters, we are confident that they can jointly select appropriate recalls to measure the revised letter's effectiveness. However, we disagree with DOT's statement that time-consuming rulemaking action will be necessary before any attempts to simplify the recall letters can be made. Our Office of General Counsel has concluded that use of a simplified recall letter as we propose in our report will not violate existing NHTSA regulations if it is used in a joint test project involving NHTSA and a vehicle manufacturer. Further, if the use of a simplified recall letter should result in greater owner response to the recall, NHTSA could revise its present regulations expeditiously by an informal rulemaking procedure contained in the Administrative Procedure Act (5 U.S.C. §553 (1966)).]

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Further, we note that GAO may also be overly optimistic about the possibility of revising the actual limits of behavioral response through following up on recall notification letters. For example, in one of the most publicized recalls in history, the Ford Pinto fuel system recall, which involved a potentially serious risk to life, and which was accompanied by widespread media attention as well as a follow-up campaign by the manufacturer, the recall response rate was only 52%.

[GAO COMMENT: Studies in survey and marketing research show that a followup post card reminder, sent only a few days after a questionnaire is sent, can significantly improve response rates. Further, our discussions with officials from Ford Motor Company and General Motors Corporation indicate that they would be willing to use reminder post cards to see if they are successful in increasing owner response rates for recalls. Our report recommends that NHTSA work with the vehicle manufacturers to determine the effectiveness of various reminder techniques. In the Objectives, Scope, and Methodology section of our report, we acknowledge that we cannot assure that our suggestions will greatly increase owner response rates. However, we believe such an attempt is worth the effort.]

C. POSITION STATEMENT

The draft GAO Report emphasizes the needs to speed up the recall program and to increase owner responsiveness to recall notices, and makes several recommendations intended to further these goals. NHTSA shares GAO's concerns and intends to use all reasonable means to implement its recommendations. However, the agency notes that both the recommendations and the draft report, itself, reflect an apparent misconception of the investigative process and the institutional roles of the various participants in that process. The report presents a greatly oversimplified, quantified view of the defect determination process which apparently is derived almost exclusively from the GAO investigator's interview with the head of ODI, and which mistakenly assumes that all "delays" are avoidable.

[GAO COMMENT: It is difficult for us to comprehend how NHTSA can share our concerns and implement our recommendations if it disagrees with the findings within the report. Nowhere in our report do we mistakenly assume that all delays are avoidable. However, we do point out that the 11 investigation cases reported by ODI to be in the Office of Chief Counsel were still there after an average of 14 months and legal decisions were still pending in eight cases. The extreme case had been in the Office of Chief Counsel for 41 months. Surely, NHTSA officials cannot believe that an investigation review process which takes this long can be very effective.

Regarding DOT's statement that much of our report was based on views expressed by the head of ODI, we find it difficult to respond to that allegation. Since only two offices are involved in the defect investigation process--ODI and Chief Counsel--our interviews were exclusively between officials of those two offices. When ODI completes an investigation, its recommendations must be concurred with or denied by the Office of Chief Counsel. Regardless of how Chief Counsel decides, it is imperative that a decision be made in a timely manner. Our discussions with NHTSA staff from both ODI and the Office of Chief Counsel indicate that better coordination and communication is needed to improve the investigation process. NHTSA's positive response to our recommendation should help to alleviate this problem.]

1. Misplaced Emphasis on Delays

a. Cases in Litigation

A principal focus of the report and recommendations is on the length of time required to complete investigations and review. The GAO casts this portion of the report in terms of the "reduction of delays," apparently implying that all time spent in review of Office of Defects Investigation (ODI) recommendations is excessive. While it goes without saying that the prompt removal of defective vehicles from the highways is desirable, it is not always possible to avoid a lengthy investigatory process, particularly where the alleged defect is difficult to prove and the manufacturer denies its existence, or, more commonly, its relation to safety.

For example, the "Digest" section of the Draft Report notes at page i that "[i]n seven cases involving court

action to get manufacturers to recall, the entire process took from 67 to 86 months to complete, and the highest subsequent owner response rate was 20.5 percent, far below the average response rate." (A similar observation appears in Chapter 2 of the Draft Report at page 6.)

These seven cases represent the sum total of the agency's defects enforcement litigation over the entire period of its existence, and formed the foundation and legal definitions on which all subsequent recalls were based. They thus include the very first cases brought by the agency, when there was no directly applicable precedent and the agency's legal theories were novel as well as hotly contested. Such litigation normally includes time-consuming pretrial discovery procedures which the Supreme Court, in drafting the Federal Rules of Civil Procedure, has seen fit to accord to all participants in Federal civil litigation. Whenever possible, the agency has utilized the procedural device known as the motion for summary judgment in efforts to avoid full trials with their attendant further delays. While the agency has not always prevailed with this strategy, its notable successes have created landmark precedents for government regulatory action whose benefits have accrued to all other agencies with similar responsibilities.

In addition, appeals have followed the lower court decision in many litigated defect enforcement cases, postponing the ultimate outcome of the matters still further. In virtually all such cases, the length of time required to complete these proceedings was beyond the agency's control. Finally, where on balance the interest of safety would be served, the agency has not hesitated to settle pending litigation to achieve early resolution. (E.g., the Order of Settlement in United States v. Fiat Motors of North America, D.D.C., No. 80-0025).

Although the agency ultimately prevailed in all of these fully-litigated cases, the GAO surely is not suggesting that the manufacturers should not have been able to avail themselves of their rights to procedural due process, or that the agency should have refrained from litigating because litigation would be time-consuming. However, the GAO investigator's analysis of the length of time required for Office of Chief Counsel (OCC) review of ODI case disposition recommendations apparently proceeds from such an assumption, i.e., that OCC's role is to "rubber stamp" ODI or, at any rate, to perform only a superficial review of the ODI investigative report, without any further analysis. This is not the case. The OCC procedure is for the OCC staff lawyer assigned to the case to obtain a copy of the entire investigative file, and to review the file as well as the ODI report. This has proved by experience to be necessary in order to reconcile engineering and legal interpretations of information. Of course, it is also time-consuming.

[GAO COMMENT: DOT is correct in stating that we are not suggesting that manufacturers should not have been able to avail themselves of their rights to procedural due process or that NHTSA should have refrained from litigating because litigation would be time-consuming. DOT's lengthy comments preceding that statement are entirely unwarranted, however, and are taken completely out of context of the report.

The section of the report referred to by DOT (page i of the Digest and page 6 of the report body) discusses the effect that lengthy investigations have on recall response rates--the longer it takes to initiate a recall, the less owners respond by having their vehicles repaired. In an effort to provide examples to support that statement, we referred to court-action cases whereby recalls were initiated after several years of investigation. The investigation process in those cases had taken up to 86 months to complete, and the owner response rates were far below the average response rates of the other recalls. However, in order to avoid any possibility that this segment of the report will be misunderstood, we have revised the sentence to read:

> "For example, in six 1/ cases wherein the entire process took from 67 to 86 months to complete, the vehicles were 5 to 19 years old by the time they were recalled. The subsequent owner response rates ranged from 8 to 20.5 percent, far below the average response rate of the other recalls."
>
> 1/One of the seven cases referred to in our draft report was eliminated in the final report because the response rate on that case was not available at the time of our review.]

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The GAO investigator also has concluded that after cases have been stalled in OCC, they are returned to ODI merely to update stale evidence. In fact, examination of the list of eleven ODI cases pending in OCC at the time of the GAO investigator's visit reveals that OCC's contribution to the development of evidence in cases referred to it for closing by ODI is frequently far more substantial; that frequently, cases remain administratively in OCC while further evidence is being developed; and that the length of time required for OCC review often includes significant correspondence back and forth between NHTSA and the manufacturer.

[GAO COMMENT: The following sentences have been added to the report to recognize the Office of Chief Counsel's contribution to the defect investigation process:

> "Some of the delays could be unavoidable, as Chief Counsel may have to develop substantial evidence before it can conclude that the ODI recommendation is or is not supported."

Also, further in the report, we state:

> "ODI officials told us that as investigation cases are delayed in the Office of Chief Counsel, additional investigation work will continually be needed, as it may no longer be appropriate to support ODI recommendations made months or years before."]

b. Cases Recommended for Closing

In one case referred by ODI to OCC for closing in July 1978, OCC disagreed with ODI's recommendation; issued several sets of "special orders" (mandatory information-gathering requests, akin to subpoenas) to both the vehicle manufacturers and component manufacturers; took administrative depositions, and met informally with the manufacturer several times. These proceedings resulted in the eventual recall of some 1,165,000 additional vehicles, at several different times, as the manufacturer conducted further testing and inspections at OCC's urging. The length of time required for this process resulted in part from the highly technical nature of the materials OCC obtained from the manufacturer and its suppliers, which required statistical and comparative analysis by both lawyers and engineers. However, the potential hazard from the defect was decapitation, and the time appears to have been well spent.

In another case referred by ODI for closing in September 1979, OCC lawyers also pursued further investigation, drafted a follow-up investigatory letter for the ODI Director's signature, and conducted an administrative deposition, as well as requesting accident data from ODI. While OCC ultimately concurred in the recommendation to close, it was only after analysis of the additional material received that it was able to do so. We note that according to the record, this case remained in OCC throughout the period while the followup investigation was being pursued.

Of four other recommended case closings pending in OCC at the time of the GAO investigator's visit, two were matters where OCC had previously recommended further development of data because of questions about the sufficiency of the evidence rather than problems with its recency; the third was apparently suitable for closing but a matter of low priority;*/ the fourth was one involving alleged underhood fires, in which the Chief Counsel's office did not concur in closing on the basis of the record developed by ODI, and on which OCC accordingly requested periodic updates of incident information but retained the file rather than returning it to ODI. ODI was aware that OCC had adopted this approach; thus, the case cannot properly be described as forgotten in OCC.

*/ This last matter, which did not appear on either OCC's or ODI's docket sheet on the date of the GAO investigator's visit, was mistakenly described in the GAO Report as "misplaced". The attorney to whom it is assigned has always been able to locate it, but postponed completion of the closing because greater importance was accorded to other priority litigation cases to which she was assigned. The lawyer interviewed by the GAO investigator was unable to recall the case at the time of the GAO interview. We note that at approximately the time of the GAO investigator's visit, OCC litigation lawyers who normally handle ODI cases were involved in the extensive briefing for both the stay request and the merits of the litigation involving the rescission of FMVSS No. 208.

[GAO COMMENT: The case transferred to the Office of Chief Counsel in July 1978 was one of the three cases identified in our report as having resulted in a recall. Therefore, our discussions on specific review delays did not include that case. The case transferred in September 1979 was not listed by ODI as an active case at the time of our review; therefore, it was not mentioned in our report.

The case referred to in our draft report as "misplaced" was reported by ODI to have been transferred to the Office of Chief Counsel in July 1981. The lawyer to whom we were referred could not locate the case and he did not indicate to us that the case may have been handled by another lawyer. Nevertheless, we have revised the report conclusion to eliminate reference to this case as being misplaced. DOT's comment, however, that closing of the case was postponed (since July 1981) further supports our conclusion that better communication is needed between ODI and the Office of Chief Counsel.]

c. Cases Recommended by ODI for Initial Determination

Cases recommended by ODI for initial determination fall into two categories: those in which the Chief Counsel's office concurred in the recommendation, and those in which OCC did not concur. Although the GAO investigator's report implies that OCC timeliness is constantly a problem in such cases, in fact the record reveals that OCC concurred almost immediately in two high priority recommendations for initial determinations that were forwarded to OCC in late August 1981. Formal initial determinations were announced in early September; public hearings were scheduled; and the manufacturers decided to furnish statutory remedies by October 1981. However, these cases still remain on OCC's books, not because of inaction or oversight, but at the Administrator's express direction, because the need exists for determination of potential civil penalties, thereby requiring both further correspondence with the manufacturer and monitoring of the recall campaigns.

Several other cases involving engine stalling and related problems, in which ODI recommended initial determinations, were related to other similar cases, involving the same manufacturers, in which ODI recommended closing. OCC requested further investigatory work to ensure consistency and also to obtain necessary additional evidence. Once again, these cases remained on OCC's books while the additional investigatory work was done, and several continued to remain there after a recent follow-up meeting in which ODI agreed to revise its analysis in order to address issues previously raised by OCC but not answered by ODI. The complexity of the issue of engine stalling has long been recognized and debated both within and outside the agency.

Another case, described at page 10 of the GAO report as having "bounced back and forth" for 3 1/2 years for updating of complaints, in fact involved technical issues of causation, difference of opinion between OCC and ODI as to the significance of the evidence, a peer-group study, and possible inconsistency with precedent cases. Repeated discussions between ODI and OCC took place over this time period.

Finally, another doubtful case, described at page 10 of the GAO report was returned to ODI at ODI's request for further testing; not just for an updating of incident data, as the report implies.

From the above discussion, it would appear that the GAO investigator has an oversimplified*/ view of NHTSA's investigative process. Judgement is a critical element in the process and there can be honest differences of opinion.

[GAO COMMENT: The two cases reportedly transferred to the Office of Chief Counsel in late August 1981 were included in the three cases identified in our report as having resulted in recalls. Therefore, as our previous comment indicated, our report discussions on specific review delays did not include those cases.

Referring to another case, which a Chief Counsel lawyer said had bounced back and forth between his office and ODI for 3-1/2 years, we have included a sentence in the report to recognize that information involving technical issues of causation, differences of opinion between Chief Counsel and ODI, a peer group study, and possible inconsistency with precedent cases was also collected during that 3-1/2 year review time frame.

*/ This oversimplification is also apparent in the GAO investigator's version of the description of NHTSA's past philosophy (i.e., to open allegedly unwarranted engineering analyses) expressed by ODI's Director and Chief, Engineering Analysis Division. This description appears to be inaccurate. The actual statement involved appears to have been to the effect that in prior years, the means for implementing the goal of identifying safety defects was the engineering analysis, which itself was a detailed, thorough screening process. Many engineering analyses remained open but inactive for several years.

In the remaining case, which DOT refers to as "another doubtful case," our draft report stated:

> "This case was transferred to the Office of Chief Counsel in November 1980 after being under ODI investigation for 10 months. One year later, the Office of Chief Counsel had still not acted on the ODI recommendation. As a result, the case was returned to ODI at its request so that it could perform additional work to determine if its recommendation for an initial determination of defect was still warranted."

Our report has been revised so that additional work now includes specific reference to testing and updating of incident data.

Regarding DOT's concluding statement, we disagree that we have oversimplified and distorted NHTSA's investigation process. Our review disclosed that there is a definite delay in the process which appeared to be caused by a lack of coordination and communication between ODI and the Office of Chief Counsel. Cases remain in limbo in ODI for months awaiting Chief Counsel action.

Regarding DOT's footnote comment, our draft report did not state that NHTSA's past philosophy was to open allegedly unwarranted engineering analyses. ODI officials told us that NHTSA's past philosophy encouraged ODI to open as many engineering analyses as possible even though many of them appeared to be opened with few complaints and had little chance of resulting in recalls.]

2. Omission of Discussion of Significant Cooperative Investigative Efforts

Fiscal year 1981 was significant in that during that year several major investigations were resolved through negotiated settlements that resulted from joint efforts by OCC and ODI. Most noteworthy among these were the Ford transmission settlement, in which the manufacturer agreed to send notification letters and warning labels to owners of some 20 million vehicles, and the GM rear window agreement, in which General Motors voluntarily recalled some 80,000 intermediate station wagons. The GAO investigator's report contains no reference to either of these investigations, which exemplify the cooperative inter-office relationship he now "recommends" to the agency.**/ The two recalls discussed in Section 1(c)

**/Perhaps this omission resulted from the investigator's focusing on a "scorecard" of open cases rather than attempting to obtain an overview of agency accomplishments.

above also involved joint ODI-OCC efforts during the investigative phase.

In the six months that have gone by since the GAO investigator's visit, cooperative relationships have continued between OCC and ODI. As noted above, OCC attorneys recently met informally with ODI to explain their reservations about several ODI recommendations; ODI agreed to supplement its analysis but OCC retained the case files at that time. In addition, OCC attorneys have been working with ODI in the development of investigative information during the engineering analysis phase of various inquiries, and have met with ODI, drafted documents, issued special orders and begun planning for other administrative discovery. Thus, we believe that the GAO investigator's discussions did not go into the depth required to understand OCC's role.

Prior to the GAO investigator's report, NHTSA's Assistant Chief Counsel for Litigation had implemented a case docket system as a management tool to ensure the timely processing of all cases assigned to the Litigation Section, including ODI investigatory recommendations. The GAO Report has made it clear that the originally-established system of deadlines for reviewing ODI recommendations has not always been accorded sufficient priority. As a result of the Report, the Chief Counsel has instructed the Assistant Chief Counsel for Litigation to ensure that a written OCC analysis of each ODI recommendation be drafted within 14 days of receipt of the recommendation, except in cases of unusual complexity or where urgent litigation matters take priority. The recent publication of NHTSA's Final Rule on Confidential Business Information, 47 Fed. Reg. 24587 (June 7, 1982), should help to speed up the administrative case closing process. In cases where outstanding confidentiality determinations prevent the final administrative closing of a case, the manufacturer and the public will be formally notified that the case has been closed, and the remainder of the file will be released to the public, in accordance with the FOIA and NHTSA's present policy. NHTSA has followed this approach in recent months in an effort to resolve uncertainty among manufacturers whose vehicles are being investigated.

[GAO COMMENT: As we mentioned in our report, our review of ODI's defect investigation case files transferred to the Office of Chief Counsel was limited to active cases. To have also chosen past cases which DOT identifies as having exemplified a cooperative interoffice relationship does not alter the fact that many of the active cases we reviewed had been in limbo in ODI for months awaiting legal decisions from the Office of Chief Counsel.

In response to DOT's planned action to ensure that a written analysis of each ODI recommendation is drafted by the Office of Chief Counsel within 14 days of its receipt, we believe that adherence to such a time frame will definitely reduce delays in the investigation process. However, NHTSA has attributed much of its past review delays to exceptions such as those described in the DOT comment above. Therefore, we believe that NHTSA should monitor the review time frames and make every effort to maintain the 14-day period.]

3. Recommendations for Improving Consumer Response to Recalls

DOT supports all reasonable efforts to increase consumer responsiveness to recall campaigns, and will gladly cooperate in efforts to simplify and clarify the language of recall notification letters. However, such letters ordinarily are drafted in the first instance by the manufacturer and not the agency. The cooperation promised by two manufacturers' representatives to the GAO investigator will in fact be required for major improvements to be made. In addition, DOT notes that certain requirements for the content of notification letters are prescribed by NHTSA regulation, and cannot be changed without rulemaking action. DOT will consider amending these regulations to simplify the requirements. However, because such amendments might have the effect of changing the quality of admissions which manufacturers must make in their notification letters, and thus affect manufacturers' product liability exposure, any such rulemaking would require notice and comment, and therefore be time-consuming.

DOT also notes that the GAO investigator's proposed modifications might result in discouraging some manufacturers from undertaking voluntary recalls or entering into settlement agreements because of concern over increased product liability exposure. When NHTSA recently amended its Defect Reporting Regulation to require manufacturers to include the NHTSA Hotline telephone number in recall notification letters, three petitioners sought reconsideration and rescission of the requirement. Thus it is possible that the degree of simplification sought by the GAO investigator cannot be attained informally.

DOT believes that controlled studies of the effectiveness of revised notification letters and/or follow-up post cards could be carried out, with the cooperation of the affected manufacturers. However, because of budget limitations, no such studies are presently planned. Many manufacturers presently send follow-up letters (but not post cards) to owners who have not responded to initial defect notification letters. Some dealers have tried sending post card reminders, or even more effective but informal special secondary notices. (See attached copy of an example.)1/ To our knowledge, the comparative effectiveness of the two approaches has not been studied. DOT notes that as presently drafted, the law does not require manufacturers to send any kind of follow-up reminder.

[GAO COMMENT: We commend DOT for its willingness to cooperate in efforts to simplify and clarify the language of the recall letters. We recognize that such efforts will require cooperation from the manufacturers. Our discussions with officials from Ford Motor Company and General Motors Corporation indicate that they are willing to work with NHTSA on efforts to improve the readability of the recall letters.

In response to DOT's concern that NHTSA's regulations would first need to be amended by time-consuming rulemaking action, our Office of General Counsel has concluded that use of a simplified recall letter would not violate existing NHTSA regulations if the letter is used in a joint test project involving NHTSA and a vehicle manufacturer. Further, we do not believe NHTSA should consider amending its regulations until the simplified letter's effect on owner response rates has been measured. If the simplified letter results in greater owner response rates, there is an informal rulemaking procedure contained in the Administrative Procedure Act (5 U.S.C. §553 (1966)) which our Office of General Counsel says is available to NHTSA to revise its present regulations expeditiously.

We fail to see how our proposed recall letter modifications might discourage some manufacturers from undertaking voluntary recalls or entering into settlement agreements, as noted by DOT. Both NHTSA and the vehicle manufacturers have a responsibility for vehicle occupant safety. Therefore, any changes to present procedures which will increase that safety should be implemented. Our suggested changes to the recall letters will not add any new requirements to the letter content, such as the hotline telephone number change that DOT added. Thus, our changes may not meet with the same resistance.

1/The example is not included in this report.

APPENDIX V

We realize that NHTSA's budget limitations could be a factor for not carrying out controlled studies on the effectiveness of revised recall letters and followup post cards. However, in the past few years, NHTSA has funded studies to improve owner response rates and so far no measurable increase in the rates has occurred. NHTSA should now begin to work with vehicle manufacturers to test various techniques suggested in this report to determine whether they increase response rates and are cost-effective.]

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