STATEMENT OF
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BEFORE THE

COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION
U.S. HOUSE OF REPRESENTATIVES

HEARING ON

NHTSA OVERSIGHT: THE ROAD AHEAD

March 11, 2010

Chairman Rush, Ranking Member Whitfield, and Members of the Committee:

Thank you for the opportunity to appear before you today to discuss the Department of Transportation's vision for the future of the National Highway Traffic Safety Administration (NHTSA) and its important safety programs.

Safety is the Department's highest priority. NHTSA's safety programs are an integral part of addressing that priority. Over the last two years we have seen a dramatic reduction in the overall number of highway deaths. In 2008, we had the lowest highway fatality rate ever recorded and the lowest number of fatalities since 1961. Based on early projections, we expect to see similar reductions in 2009. Still, the loss of over 37,000 people in traffic-related crashes in a single year, as occurred in 2008, represents a serious public health problem to our nation.

One of the first questions I asked when I became the Administrator of NHTSA is whether our current statutory authority—drafted largely in the 1960s and 1970s—is sufficient to address the modern automobile and the global automotive marketplace. I have asked our legal and program staffs to take a very close look at the scope and effectiveness of those authorities and make recommendations about how they may be improved. I look forward to working with this committee on how NHTSA's ability to perform its mission might be strengthened through legislation.

An Overview of NHTSA and its Mission

NHTSA is not a large agency. We currently have 632 positions. The President's budget for fiscal year 2011 requests funds for an additional 66 positions to help strengthen our ability to address the enormous safety mission that this agency faces.

NHTSA's safety programs address both the behavioral and vehicle aspects of highway safety. Human behavior is by far the leading cause of highway crashes and deaths. This is why our programs place such a heavy emphasis on reducing drunk and drugged driving, encouraging seat belt use at all times, and underscoring the dangers of distracted driving. Secretary LaHood has sparked an important international dialogue on the subject of distracted driving, which we estimate contributes to about 6,000 deaths a year in the United States alone. Funding for the grant programs to states to conduct educational and enforcement efforts to address these behavioral problems is absolutely essential for the safety of drivers and their passengers. These programs have demonstrated enormous successes over the years in driving down the number of deaths involving alcohol and driving up the percentages of vehicle occupants who wear seat belts. For example, in the years 2000 through 2009 the percentage of people who used seatbelts rose from 71 percent to 84 percent. We are just beginning our efforts on the distraction issue, but we believe an effective program to reduce distracted driving can also yield enormous safety benefits.

Our vehicle safety program is also extremely important. Our research and rulemaking priorities are focused on finding the areas of highest risk where new or amended vehicle standards can make a significant impact on reducing the death toll on our nation's highways. NHTSA regulation of occupant crash protection has resulted in significant improvements in the crashworthiness of today's vehicles. These standards have saved many thousands of lives and prevented countless injuries. NHTSA has also used its vehicle crash ratings to motivate vehicle manufacturers to voluntarily improve the safety of their vehicles above the federal standards. This New Car Assessment Program (NCAP), known generally as the government's 5-star safety rating program, has been an overwhelming success in driving improvements in vehicle safety. NHTSA was the first vehicle safety agency in the world to implement such a program. Today, these programs have been implemented around the world.

Even though fatal crashes resulting from a vehicle problem are relatively rare by comparison to such crashes caused by human factors, we must do everything we can to find and eliminate those causes. Moreover, the emergence of crash avoidance technologies in vehicles offers significant promise for reducing crashes related to driver error. For example, electronic stability control, which is being rapidly phased into the new vehicle fleet, will be required by NHTSA in all new passenger vehicles manufactured on or after September 1, 2011. This technology will

significantly reduce fatalities that result from loss of control, including deadly rollover crashes. The agency estimates that when this technology is fully implemented into the fleet it could save up to 10,000 lives a year. Other technologies are now being developed and deployed into the fleet that also have the potential to reduce crashes, reduce injuries, and save lives. Technologies such as lane departure warning, forward collision warning, and crash imminent braking are now beginning to be offered in some new vehicles. One area we are looking at very closely is brake override, a system that ensures that a brake application will supersede a conflicting throttle application in certain circumstances. Manufacturers are equipping many of their vehicles with this feature, but there is not currently any standardization with regard to the conditions under which this feature will work or precisely how it will work. If our review indicates that requiring this feature could substantially reduce the most dangerous kinds of sudden acceleration, we will strongly consider a rulemaking to require it.

NHTSA's vehicle safety enforcement program has two major components: ensuring compliance with NHTSA standards and conducting defects investigations. The Office of Vehicle Safety Compliance tests new vehicles and equipment to determine whether they meet the applicable Federal Motor Vehicle Safety Standards (FMVSS). Manufacturers must certify that their products meet those standards. If the vehicles or equipment do not comply, manufacturers must recall them and provide a remedy to the consumer.

The Office of Defects Investigation (ODI) has a different mission. ODI searches through consumer complaints, manufacturer data, and other sources for information that might indicate a defect trend. Where it can find a possible defect trend, it investigates. If NHTSA can demonstrate that a defect exists and that it poses an unreasonable safety risk, the agency can order a recall. I will explain this process more fully below.

NHTSA's Programs for Informing the Public of Safety Issues

A central element of NHTSA's mission is getting timely information to the public on highway safety issues. This requires collecting solid data in the first place. NHTSA's National Center for Statistics and Analysis is the assembler and primary analyst of our safety data. That office maintains several national data bases and produces detailed and prompt analyses of the data to support public educational efforts, rulemaking, research, and enforcement.

In close collaboration with our program offices and data analysts, our communications office organizes and implements public awareness campaigns and paid advertising to support program efforts targeting the leading causes of crashes and encouraging use of the most important safety measures. These include the public campaigns to discourage drunk driving ("Over the Limit, Under Arrest") and to encourage seat belt use ("Click It or Ticket"). More recently, the agency

has mounted efforts related to distracted driving. We launched a government website--www.distraction.gov--with comprehensive information on distracted driving.

In the vehicle safety area, the agency issues safety advisories on some of the most important issues, including notable recalls. NHTSA's most well known program for providing vehicle safety information to the public is the NCAP program, which tests new vehicles and provides the results on a public website (www.safercar.gov). These "star ratings" are known to many consumers and used by many manufacturers to emphasize their products' safety. The program has helped inform consumers and motivate manufacturers to continually improve various safety features. NHTSA will soon launch a revised NCAP program to help push manufacturers to a new level of safety.

Important information on NHTSA's vehicle safety enforcement activities is also readily available to the public, also on www.safercar.gov. Consumers can find on the website information on recalls that might apply to their vehicles or vehicle equipment. In fact, over the last two years NHTSA has initiated a subscription service that allows consumers to sign up for immediate email alerts on recalls that affect their vehicles, child seats, or tires. Consumers who sign up do not have to rely on media reports or await official notification from the manufacturer to learn about recalls that may affect their safety. We are hoping that this new tool will help increase the percentage of consumers who have recall repairs done. We are concerned that many consumers ignore recall notices, leaving themselves and others unnecessarily exposed to safety risks.

The website also contains information concerning all open and closed safety defect investigations. Consumers who experience what they believe are safety problems with their vehicles or vehicle equipment may write to us or file complaints on the website or through NHTSA's telephone hotline. We review every complaint and analyze available data constantly to identify potential safety problems early. These complaints provide the most important data NHTSA's defect investigations staff have for deciding what emerging problems may warrant investigation. NHTSA is considering ways of making the online complaint form more user friendly as a way of encouraging more people to provide us information. We are also looking for ways to enhance the program's outreach to the public to increase awareness of the defects investigation program and the complaint process.

NHTSA's Defects Investigation and Recall Process

As previously mentioned, NHTSA's vehicle safety enforcement program has two major elements: (1) ensuring compliance with the safety standards, and (2) investigating possible safety defects in vehicles and vehicle equipment. While the compliance program rests on a large

body of detailed standards (the FMVSS) developed over the last four decades, the defects investigation program rests on a single statutory standard, i.e., the presence of a defect that creates an "unreasonable risk" to safety.

Manufacturers have a duty to inform NHTSA of defects that create an unreasonable risk to safety and to then initiate a recall to remedy the defect. In many situations, however, the presence of a defect and/or its relationship to safety risk is not readily apparent. Where data suggest that a defect exists and it presents an unreasonable risk but manufacturers have not made such a determination and initiated a recall, it is up to NHTSA to determine whether a defect exists and demonstrate that the defect creates an unreasonable risk.

NHTSA's defects investigation office, ODI, has a staff of 57 people. Of those, 14 people screen complaints and data for possible defect trends and 22 people actually conduct defect investigations. Their goal is to find possible defect trends that may indicate significant safety risks in particular makes, models, and model years; determine whether those trends create an unreasonable safety risk and are being caused by a defect that ODI can demonstrate; and, if so, persuade—or require--the manufacturer to conduct a recall. The remainder of the staff performs other important functions, such as tracking the hundreds of recalls that occur each year. That entails monitoring quarterly reports on completion rates, ensuring the scope of the recalls is correct, and compiling information on recalls for the public.

The defects investigation process begins with the screening of incoming information for evidence of possible defect trends. Complaints from consumers are the primary source of information. NHTSA receives over 30,000 complaints a year and reviews each one promptly. Although NHTSA staff make direct contact with some complainants to obtain additional information when it appears quite useful, they cannot contact every complainant. Screeners also look at technical service bulletins issued by manufacturers, reports of foreign recalls, and supplemental information such as occasional reports from insurance companies and information available on the Internet. Also, members of the public may file petitions asking NHTSA to investigate and order a recall on a particular matter. The agency carefully reviews each petition before making a decision on whether to grant or deny it. If granted, a formal investigation is opened.

Another important source of information is Early Warning Reporting (EWR) data submitted quarterly by manufacturers of vehicles, tires, and child seats. For light vehicle manufacturers, the data include counts of property damage claims, warranty reports, consumer complaints, and field reports. These aggregate data are broken down by make, model, and model year and by component category (e.g., steering, braking, engine, speed control). Manufacturers must also submit brief reports on each claim against the company for death or injury allegedly related to a

possible vehicle defect. The volume of the data received is enormous. NHTSA uses sophisticated data mining techniques to identify in the data any trends that may be evidence of safety defects.

Those who screen the EWR information and those who screen the other sources are in constant communication. When patterns emerge from any source, the screeners look very carefully at what may be behind the patterns. Where there is possible evidence of a defect trend, the screening staff recommends that the appropriate investigating division consider opening an investigation. ODI staff meets regularly to determine which recommendations warrant opening an investigation and which may warrant continued monitoring. Considerations in choosing what to investigate include the preliminary evidence on the frequency and severity of the problem and the available investigative resources.

An investigation begins with a preliminary evaluation. This often entails detailed interviews with complainants, requesting relevant information from the manufacturer, and analysis to determine whether there is sufficient evidence either to seek a recall or continue to a more in-depth investigation. The next stage is the engineering analysis, which involves gathering additional information from consumers and the manufacturer, perhaps some testing of vehicles or equipment or surveys of peer vehicle experience, and in-depth analysis of the underlying problem.

If, at any stage, ODI staff believes they have enough information to demonstrate both a specific defect and that it creates an unreasonable risk to safety, they can then push the manufacturer to conduct a recall. Where the manufacturer resists, ODI management and NHTSA counsel confer to determine the best course of action. If the agency decides it can meet its burden, it tells the manufacturer it expects a recall to occur. Where the manufacturer is not persuaded by NHTSA to undertake a recall voluntarily, NHTSA may issue an order requiring that the manufacturer conduct the recall. First, however, NHTSA must provide the manufacturer an opportunity for a hearing. Then, if the agency concludes that a recall should occur and issues an order, the manufacturer can resist the order. In that case, in order to prevail, NHTSA must go to court and prove that a defect exists and that it creates an unreasonable safety risk. All of this means that NHTSA must remain mindful of its burden of proving its case as it selects matters for investigation, completes the investigation, and moves to the formal process of requiring a recall. If ODI cannot establish that a safety-related defect exists, it must move on to other potential subjects for investigation.

We believe the defects program has functioned extremely well over the years in identifying defects that create unreasonable risks and ensuring that recalls occur in those situations. The result has been thousands of recalls involving hundreds of millions of vehicles and items of

motor vehicle equipment (such as child seats), which have helped to protect millions of consumers from the safety hazards they might otherwise have faced. We take our responsibility to protect consumers very seriously and will continue to ensure that manufacturers fulfill their obligations to identify and remedy safety defects in vehicles and equipment.

I hope my testimony has given the committee a useful overview of the breadth of NHTSA's mission, its dedication to achievement of that mission, and the challenges that the agency faces.

Thank you and I look forward to answering your questions.