



United States
General Accounting Office
Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-244224

July 30, 1991

The Honorable John D. Dingell
Chairman, Subcommittee on
Oversight and Investigations
Committee on Energy and Commerce
House of Representatives

Dear Mr. Chairman:

On June 28, 1991, in response to your request that we determine the actions taken by the Environmental Protection Agency (EPA) and the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) to resolve the safety issue associated with vehicle-based (onboard) vapor recovery systems, we issued a report entitled Air Pollution: New Approach Needed to Resolve Safety Issue for Vapor Recovery Systems (GAO/RCED-91-171). As you subsequently requested, this letter provides some further clarification of our recommendations.

As you are aware, the Clean Air Act Amendments of 1990 direct EPA to issue a regulation by November 1991 requiring onboard systems that would be phased in starting with model year 1996. We are recommending that EPA go forward with an onboard regulation, unless EPA determines that onboard systems pose an unreasonable risk to the public. As a basis for issuing a regulation, EPA believes NHTSA should provide EPA with a safety determination on onboard systems.

Although NHTSA plans to provide EPA with additional information and views, NHTSA officials have stated that they cannot provide a definitive safety assessment because these systems are not in use. They also said they would need vehicles equipped with prototype onboard systems to test in order to provide an evaluation that goes beyond the information available at this time.

We are also recommending that the Administrators of EPA and NHTSA develop an action plan to perform a safety evaluation

of manufacturers' onboard systems to identify and correct any safety defects or flaws well in advance of the 1996 model year so that an orderly phase in occurs. You expressed the concern that EPA may adopt the action plan approach we recommend rather than address the risk of onboard systems to the public prior to issuing a regulation.

Our recommendation for an action plan was not made to provide a basis for changing EPA's responsibility for safety related decision making prior to promulgating a regulation. Should EPA decide to require onboard systems, we believe the action plan approach to testing we recommend is a prudent step EPA and NHTSA could take to help ensure the safety of these systems. A dilemma facing these agencies, and that we considered in framing our recommendation, is that prototypes suitable for testing have not been available.

You also asked if this recommendation called for NHTSA to specifically approve of manufacturers' onboard systems as a condition of sale.

We do not intend our recommendation to be interpreted as calling for NHTSA to approve these systems as if to provide a "seal of approval." Our intention is that EPA and NHTSA would test prototypes and inform manufacturers if there were manufacturing flaws or design defects. We also expect that the manufacturers would then make appropriate changes or adjustments prior to sale. The testing we recommend is intended to reduce the potential safety problems before cars equipped with these systems are sold to the public.

This action plan approach we recommend could also result in a more cooperative effort among EPA, NHTSA and the manufacturers. As the report points out, there are additional environmental regulations such as those involving alternative fuels that could pose safety concerns. We believe EPA and NHTSA may find the concept of an action plan approach useful for resolving future differences on environmental and safety issues.

You also asked what affect our recommendations would have on NHTSA's legal authority to recall automobiles. We do not intend that any change in NHTSA's recall activities or legal authority would result from our recommendations. Should safety problems arise with onboard systems after they are introduced to the public, we expect NHTSA could apply

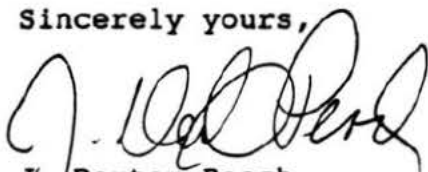
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its authority and usual methods to assure corrections are made.

You also asked a number of questions about how EPA and NHTSA would specifically implement the action plan we recommend. Our recommendation calls for EPA and NHTSA to develop an action plan that will accomplish the testing necessary to identify flaws or defects with prototype systems. We are expecting that the decisions about what, where, when, and how to test the prototypes would be worked out between EPA and NHTSA in an efficient manner that provides time for the manufacturers to correct problems that are identified.

We hope these clarifications are helpful to you. If you have any questions, please contact Richard L. Hembra, Director, Environmental Protection Issues at (202) 275-6111.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. Dexter Peach". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

J. Dexter Peach
Assistant Comptroller General