

CENTER FOR AUTO SAFETY

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August 14, 1992 (HAND DELIVERED)

Marion C. Blakey, Acting Administrator
National Highway Traffic Safety Administration
400 7th Street SW
Washington DC 20590

PETITION

Dear Administrator Blakey:

The Center for Auto Safety (CAS) and Public Citizen (PC) petition the National Highway Traffic Safety Administration (NHTSA) to initiate a defect investigation into and recall all Chevrolet/GMC full-size pickups (C/K-series) with the fuel tank(s) located below the cab, under right (main tank) and left (optional auxiliary tank) doors. The tanks are mounted outboard of frame rails; there is no frame member to protect the tank from crush in side impact or sideswipe.

As CAS has pointed out to NHTSA, the design is so bad that GM frequently settles the cases with confidentiality agreements. In just one case that went to trial, attorney James Seymour of San Francisco won a \$3 million judgment against GM. (Esparza v. GM. Articles on this case which CAS obtained from NHTSA files are provided as Attachment A.) Yet when CAS brought this egregious design defect to NHTSA's attention, the agency responded by saying:

NHTSA has no complaints regarding the subject fuel tank in any collisions, other than the report from CAS. . . . [A]ll vehicles subject to the standard (FMVSS 301) must meet the fuel spillage requirements in frontal, rear, and side impact tests. . . . The following GM pick up trucks have been tested by NHTSA and have passed the requirements of FMVSS No. 301: two 1977 C10 Series, two 1977 C20 Series, one 1977 C30 Series, one 1978 C20 Series, one 1979 K20 Series, one 1981 C10 Series, and one 1984 C10 Series. A total of nine trucks have been crash tested and all have successfully passed the fuel leakage requirements of FMVSS No. 301. Due to the lack of consumer complaints or fire reports and the fact that NHTSA tested the subject vehicles and they all passed FMVSS No. 301, no investigation was opened.

CAS has determined that NHTSA's statements are gross misrepresentations that cover up one of the worst fuel tank designs in history. NHTSA misled the public when it said it had no fire reports on these vehicles other than the one reported by CAS. Not only did CAS find information on the Esparza case in NHTSA's Jury Verdicts files, CAS also found information on Romine v. GM in the same NHTSA file. (A copy of NHTSA's Jury Verdict Report on Romine is provided as Attachment B.)

Romine resulted in a \$1.5 million verdict against GM on the rupture and fire of the side saddle tank on a 1976 Chevrolet C10 pickup which resulted in the death of Donna Romine after 120 days in intensive care from third degree burns over 60% of her body. This case is all the more important because it had the admission of Chevrolet's chief engineer that the location of the tank was done for marketing over engineering reasons. Thus NHTSA's own files contain the following statements about the design of these vehicles.

Plaintiff alleged GENERAL MOTORS was negligent in designing the truck's fuel system in (1) placing the side mounted saddle gas tanks outside of the frame rail of the truck as opposed to inside the frame rails of the vehicle, (2) by not constructing the gas tank out of more crash resistant materials and (3) designing the gasoline filler cap so as to protrude from the sheet metal. . . . At trial, the chief engineer for Chevrolet admitted on cross examination that the placement of the gas tanks was made at the direction of Chevrolet's marketing department since greater fuel capacity could be achieved with the tanks placed outside the frame rails thereby making the trucks have more sales appeal and that the selection of the tank materials was made, in part, because of the cost of the materials.

NHTSA's allegation it is unaware of any other fire in these vehicles other than the one reported by CAS on September 25 is also belied by the numerous other litigated cases of fire crashes in these trucks of which NHTSA was aware or could have easily discovered. One well known source of fire cases is the files of the Association of Trial Lawyers of America (ATLA) which NHTSA has consistently refused to access in its tragic neglect of the safety of the American public.

When ATLA ran a computer search of its files for pickup gas tank fires, the search turned up 50 cases including several GM side saddle cases that had been adjudicated or settled such that NHTSA should have been aware. (See Attachment C.) Among these 50 cases were many involving GM side saddle tanks including: Anderson v. GM (Mar. 21, 1981), 1973 Chevrolet Pickup - \$1.06 million settlement; Hart v. GM (July 23, 1982), 1975 Chevrolet C-30; and many cases which had not yet been filed or finished litigation but for which details were available to show the hazards of GM's side saddle tanks. Thus ATLA case number 72 came in on August 27, 1991 describing a broadside collision of a 1986 GMC pickup in which the fuel tank located outside the frame ruptured and burned causing severe burn injuries.

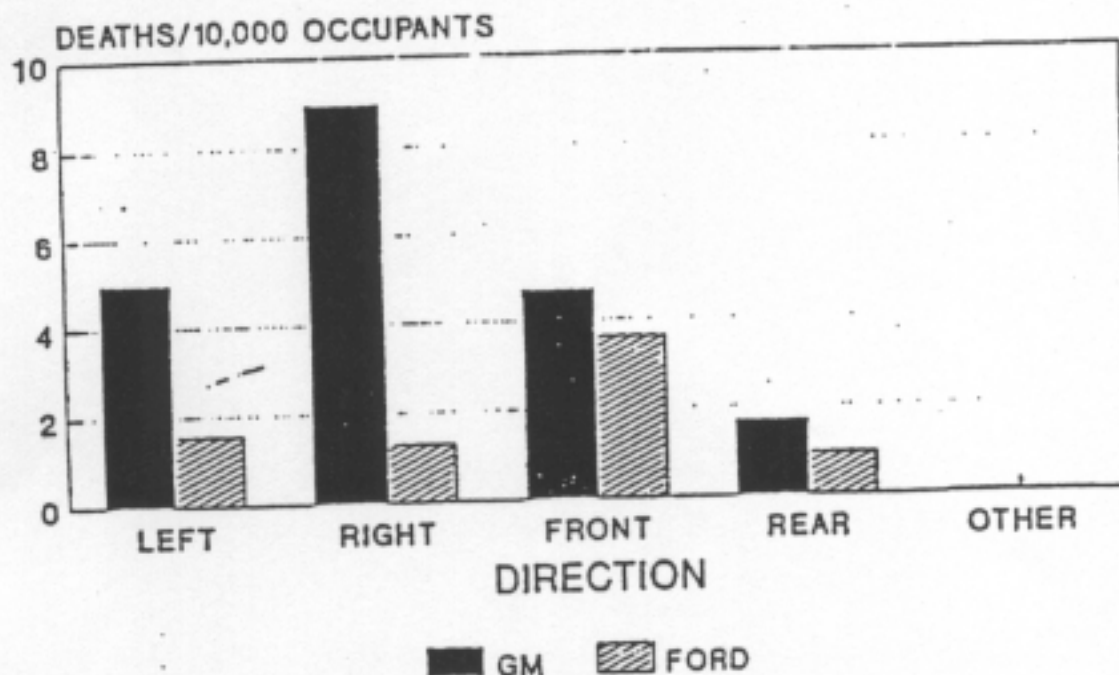
GM continues to settle these cases for a million dollars or more because of incriminating internal documents showing the hazards of these vehicles. In Zelenuk v. GM, Cause No. 96-131262-90 (96th D.C. of Tarrant County TX), GM settled the case involving the death of Frank Zelenuk in a side tank crash fire on a 1987 GM pickup after plaintiffs obtained the depositions of Ronald Elwell, a GM engineer who testified as to 22 crash tests GM had done on these vehicles in the early 1980's showing their hazardous design. (See Attachment D.) As Mr. Elwell's depositions show, these tests clearly revealed the hazards of the side tanks outside the frame because the tanks of the test vehicles ruptured like "split melons".

Mr. Elwell's depositions also revealed that other manufacturers had modified their fuel tank designs to be safer. Mr. Elwell testified that there was considerable concern at GM in the early 1980's that Ford and Chrysler had superior fuel tank system such that GM's were not defensible. Thus Mr. Elwell testified:

[GM was] having some serious problems with the defensibility of the original design [of the fuel storage system of the pickup], and that it did not -- they did not feel they could equate it to its contemporary competitors. Something had to be done, in other words. . . . Dodge and Ford and I'm not sure if we had a Jeep competitor and all that, but just that the competitors were able or better able to deal with the forces of impact.

The following figure shows the defective design of GM pickup fuel systems in side impacts compared to Ford with 1973-87 GM pickups about five times more likely to have a fatal fire in a side impact than a Ford.

FATAL FIRE RATES IN PICKUPS BY DIRECTION OF FORCE



1973-1987 Models

Although NHTSA cites its FMVSS 301 compliance tests as a basis for failing to investigate and recall these vehicles, NHTSA conceals the fact these tests were not done to test the vulnerability of the tanks to side impacts. When NHTSA tested the 1984 Chevrolet C10 pickup shown in Attachment E, it did not test for the 20-mph lateral moving barrier impact requirement of FMVSS 301. (Id. at page 11.) Similarly, when NHTSA did the FMVSS 301 compliance test for the 1979 Chevrolet Silverado K20 and 1981 Chevrolet C10 Series, it conducted only the 30-mph frontal impact and not the 20-mph side impact.¹

¹ NHTSA Test Repts. AETL 81-036 (April 13, 1981), AETL 79-107 (April 1, 1980). Copies are provided as Attachments F and G respectively. Other compliance tests cited by NHTSA could not be checked because NHTSA had removed the files from its Technical Reference Division. However, 1977 models only had to meet the perpendicular frontal impact requirement of S6.1 so the first five tests cited by NHTSA would not likely a lateral impact in any event

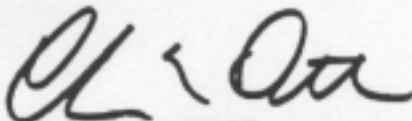
Since NHTSA's earlier failure to investigate and recall these vehicles was based on the absence of fire reports and the adequacy of its FMVSS 301 compliance testing, NHTSA must now open an investigation and recall the hazardous pickups in light of the materials which CAS and PC uncovered. Thus petitioners have uncovered evidence showing there have been many scores of crashes involving these vehicles, dozens of internal GM crash tests proving the hazard and incriminating internal GM documents showing stylists move the tanks external of the frame over engineering recommendations.

Petitioners have also shown NHTSA's reliance on nine FMVSS 301 compliance tests to be misplaced because the compliance tests did not test for ruptures of the vulnerable side tanks in lateral impacts. In side crash after side crash in the real world and in GM crash test after crash test on the proving grounds, the side saddle tanks ruptured. The only reason they did not fail in NHTSA's compliance tests is because the agency did not subject the pickups to a side impact.

In view of the clear and convincing evidence submitted, petitioners request NHTSA to open a defect investigation leading to an immediate recall of all GM pickups with fuel tanks located outboard of the frame rails.

Respectfully submitted,

CENTER FOR AUTO SAFETY
PUBLIC CITIZEN



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