

TOMS: NO 'MAGIC' IN 1973 PASSIVE RESTRAINT DEADLINE

The National Highway Safety Bureau is about to issue its controversial passive restraint rule. NHTSB Director Doug Toms indicated during a widely ranging interview with Status Report that the rule may avoid the "magic" of a January 1973 compliance deadline. Contradictory reports, however, indicate the deadline may still stand firm.

The rule also will contain "interim" measures that automakers must meet in preparation for the final passive restraint criteria. In September, the NHTSB proposed an "interim" rule that would require additional padding and other protective features inside the passenger compartment.

In the interview, Toms said that the bureau is still "actively pursuing" complaints of Ford lower control arm failures in non-police cars. He said the recently issued consumer protection bulletin about the control

arms had been an issue of considerable internal controversy at DOT for at least a month before its publication.

On another subject, Toms denied that he had ever planned to resign his post this fall. Following are major excerpts from the Status Report interview.

ON PASSIVE RESTRAINTS:

STATUS REPORT: If you had it to do over again, would you handle the passive restraint rulemaking any differently?

TOMS: No. It's working beautifully. In fact, I think that the amount of progress in the last six months has been absolutely awesome. It'll probably go down in history as being one of the most rapid developments of a technique that'll save human lives as any other thing that we've ever heard of

SPECIAL ISSUE

Because of the significance of statements by NHTSB Director Doug Toms in a Status Report interview, this special issue is devoted to those remarks. They covered:

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Now, I think that one of the interesting things from where we sit, privy to great tons of proprietary information, is the machinations of the media and some of the scare messages of vested interests: kind of humorous. You know, most people are abysmally naive about passive restraints and what they can do

One of the mild shortcomings is the fact you can't talk about your rulemaking action when you're in the process, and so the ignorant ones have got to babble on about all the rumors and all the misinformation that exists and we're helpless really to come out and set the record straight

Hopefully sometime after November 2, when the rule hits the street, we'll be able to open this up and get people the accurate information upon which passive restraint rule-making was predicated The only embarrassment will be (to) the dumb ones who said the wrong things for lack of information.

STATUS REPORT: In July, you told General Motors the bureau was interested in field testing 2,000 air bags by March 1972. GM said you would have to place an order by this past September. Have you placed such an order? And are you still planning field tests by 1972?

TOMS: We've not placed the order but I can assure you . . . there'll be a heck of a lot more than 2,000 of them on the street by '72. As a matter of fact, it'll be more like in the vicinity of 25 to 50 times that many

We probably will place some orders with some people who are doing some things that are really advanced, in order to pump-prime more innovation or more development. We will have air bags, I'm confident, this winter and this spring on bureau cars and on DOT cars. We have been trying to get passive restraints of all kinds, not just air bags I'm sure that we'll see a sprinkling of various passive devices on Coast Guard, FAA, FHWA and some GSA vehicles this winter and next spring

STATUS REPORT: What kind of passive restraints are you thinking about for these cars other than air bags?

TOMS: Blankets and automatic seat belts are the two leaders right now. Maybe nets. And there are some overhead bags that are mechanically triggered that look very promising that might get in the action at the tail end There's some extremely innovative stuff being done. Rocket Research is doing an outstanding job with these little thumb-size gas generators, and some Japanese companies have come up with some extremely interesting developments. We may try to pump-prime the development of some of these things rather than going along more traditional lines.

STATUS REPORT: During your meeting with GM you said, "An interim device that will accomplish the immediate goal of saving lives may take the pressure off for an early completion of the air bag." Are the occupant restraint proposals that were just issued by the bureau designed to provide such a device?

TOMS: No, the interim device will be in our November 2 rulemaking action From the legal viewpoint, our counsel advises us that there are certain things that have to be done in a sequence. So sometimes we've got to hold back what we want to do until we get our homework done and get these other things lined up

STATUS REPORT: So the September 25 issuances were in preparation for this interim device. And you're not at liberty to say what that device is?

TOMS: I'm under a moratorium right now. Wish I weren't, but I am. If I were to talk publicly about a rulemaking action, I could compromise that rule.

STATUS REPORT: Will the effect be to delay the ultimate introduction of a full passive restraint rule beyond the January 1973 deadline? Is that 1973 deadline still firm in your mind?

TOMS: Everybody puts a lot of magic on an air bag deadline. Number one, we don't talk "air bags." We talk passives. What we're talking about is crash survivability . . . under a 30 mile an hour crash and certain other conditions. There's a lot of ways you can do this. Our revised rule that will come out November 2 will set forth a pattern or a scheme to do this, and this scheme or this strategy is our best judgment of the fastest that we can move.

STATUS REPORT: Do you see a possibility of increased padding providing the "survivability" you mentioned?

TOMS: I could in some conditions, if a manufacturer wishes to do that. No question . . . it does a beautiful job in crashes. This has got to be the decision that the automaker makes. He's got to sell his car in the open competitive market. And if he can make it all contoured and padded . . . and he thinks he can sell it, fine. It meets our requirements beautifully. I just happen to personally think that some of these cushioned cars are not too cosmetic. I doubt that you're going to find stylists going in that direction.

But there's no mistake that the 1972 cars are going to be another large jump forward in the safety of the interiors I'm convinced that there are going to be '72 cars that can meet our 30 mile per hour crash (requirements) without any restraint. No lap belts, no bags, no cantilevers, no nothing.

STATUS REPORT: Do you feel that your September proposal to require increased padding and other car interior safety features is noteworthy in light of the fact that many of the changes are actually behind the state of practice by many auto manufacturers today? (See Status Report, Oct. 15, 1970.)

TOMS: That is preparing us for some other things. When we get to those other things, then we'll wipe out these old standards. There's going to have to be a whole lot of standards that are wiped out as we move on into performance standards that get away from specifics.

STATUS REPORT: Would you care to tell us which particular standards you have in mind for being wiped out?

TOMS: There's a lot of them.

STATUS REPORT: Would you care to list a few of them?

TOMS: I would someday. There will be a lot of them. There are a lot of things which at the time seemed to be the right thing to do, but we are beyond that now

We are obligated to eliminate those things that are passe We will go very strongly in terms of performance. That does two things: it guarantees survivability for occupants and it provides the industry maximum latitude for the innovators. They're not tied down.

ON THE FORD CONTROL ARM CASE:

STATUS REPORT: Is there an official ongoing investigation?

TOMS: Yes. Always has been.

STATUS REPORT: I think we need to make a distinction between whether your files are still open to receive information —

TOMS: Absolutely. Always open.

STATUS REPORT: — or whether you've got people actively going out and looking for information.

TOMS: Our files are always open. Period. They're never closed.

STATUS REPORT: On August 19, Secretary Volpe announced that Ford was recalling 85,000 police cars and that the investigation was "concluded." What about the non-police car control arm failures?

TOMS: . . . We're actively pursuing the other complaints or the other information that comes in to us. There's been a slight trickle of Ford control arm failures coming in all the time. We're doggedly pursuing them. And there have been some we tried to get to in the earlier phase that we just couldn't hit pay dirt. We're still working on them.

You never close anything like this — it would be ridiculous or naive of us to even consider closing it. It's a hot investigation, and we have been pursuing it with all the vigor we've got. It never has been closed in that sense. The docket's always open. Hell, it'll be open five years on this subject, I'm sure.

STATUS REPORT: Is the investigation being as actively conducted as it was prior to the recall of police cars?

TOMS: No. We can't do that. We pulled out every stopper. We pulled people out of other jobs to do this lower control arm thing at that stage of it. You can't do that forever. It's impossible. We'd have to cave in the whole bureau to maintain that level of investigation. But we are doing it within the limits of our compliance division. And we'll continue. If we get a rash of new information that we may need to pursue, I may very well pull people off and put (them) on it again.

STATUS REPORT: Why was there at least a month and a half between the announcement of the police car notification campaign and the consumer bulletin announcement initiated October 14?

TOMS: It stemmed from two things: Number one, genuine scientific disagreement over what ought to be said. We feel that as a government agency we have a solemn responsibility not to mislead the public in any way, shape or form. It doesn't pay for the bureau to be alarmist. And we want to make sure that what we say is well reasoned and absolutely

justified and will stand up in a court of law before God and everybody. There was a lot of disagreement among our professionals as to how we ought to go about this.

Number two, there's a lot of conflicting information, not the least of it in the media and from agencies like yourself and Ralph Nader and Consumer's Report. We wanted to make sure we didn't contribute. And so, it was a hard thing to try to get a consensus among the people who are intimately involved in the process.

Then, we had to get clearance upstairs (from Transportation Secretary John A. Volpe), and the damn thing went back and forth more times than I care to count before there was clearance and consensus. I think that it's probably fair to say that damn thing kicked around back and forth for four weeks before we really got it massaged to a point that I could ramrod it through.

I had people standing out here with tears in their eyes because they didn't agree with it. A lot of people thought we should be a lot tougher, and a lot of people thought we shouldn't go so hard. You know, you've got professionals that (have) got their souls on the line on this thing

ON CONSUMER COMPLAINTS:

STATUS REPORT: Does the bureau have any method of keeping track of and watching court cases, newspaper accounts and other sources of information which may reveal defects in automobiles?

TOMS: Not well enough There's no question that we could afford to get better input. I'd like to be on-line with a computer so that I could monitor letters that come in from the public, court cases, newspaper articles that report unusual crashes, but we aren't on-line and we don't have a big fancy computer that can do that. I'm not about to even ask for it when I know there are so many other things we could use our money for that would save more lives

We make no bones about it, we're not fussy. We'll take information that will help us do our work from anybody. Now, from that point on, it isn't always that easy. We get a lot of information and I send a guy out to track it down and it's bull. It's no good. It wastes a lot of time and money People tend to have big mouths and do a lot of talking sometimes for many reasons, often personal or emotional, and when you actually check it out, it's just wind

A great bulk of it is letters from people, newspaper stories, random clippings that we get from Ralph Nader and what we get from all kinds of other people. Ralph brings it over here by the truckload, you know. And the great bulk of it is just people spouting off. When you get out there and check it out, it doesn't amount to a hill of beans

ON REDUCING PROPERTY DAMAGE:

STATUS REPORT: Do you favor giving the bureau the authority to set standards to govern property damage such as by regulating bumper performance?

TOMS: Well, I've got to answer that in only one way: we haven't enough resources right now to eliminate deaths on our highways, and that's number one. Once we lick this

death problem, then I think we ought to tackle injuries. And once we get injuries under our belt, maybe we can start messing with property damage. I think the insurance industry is doing a beautiful job of bringing pressure on the industry to deal with property damage, and that can be a nice role for them to play. I really wouldn't want to get into it at this stage unless I had the resources to do my primary job right.

STATUS REPORT: Given the resources, do you think it's a proper field for the bureau to enter?

TOMS: I think there will be a day that the government will be more heavily involved in the regulation of the auto industry. Surely, the public deserves to have a better choice so that if they don't want a . . . car (that's expensive) to repair, that they can buy a car that is cheap and easy to repair

ON GOVERNORS' REPRESENTATIVES:

STATUS REPORT: If the House version of the 1970 Federal-Aid Highway Act becomes law, the governor of each state will no longer be held directly responsible for highway safety programs. He will be able to delegate that responsibility to an operating agency. How will this affect safety programs?

(NOTE: Present law requires that the governor of each state be "responsible for the administration of the (highway safety) program" in his state. To meet this requirement, governors have named representatives within their executive offices. The House Public Works Committee's report on its version of the highway act states that the new language would permit a governor to delegate that responsibility to "an existing state agency," such as the state highway department or department of motor vehicles.)

TOMS: As I interpret the '70 highway act (adopted in the House) — and I was there when the language was drafted — their intent is to provide more wherewithal or greater resources to a state to manage the traffic safety provisions of the highway safety act, and it is not their intention to eliminate the governors' highway safety representatives in any way, shape or form. It's to give this equal function enough muscle and enough support to get the job done. And as you're probably well aware a great many governors' highway safety reps are single-man agencies and they've long complained they can't coordinate the activities of an entire state from a single man. So they have testified to this effect before the Public Works Committee and this is the language the Public Works Committee put in there so that the governor has the choice to handle it the way he wants to

ON HIGHWAY SAFETY STANDARDS:

STATUS REPORT: Another provision in the House-passed act requires that any highway safety standards above the current 16 be approved first by Congress. Do you favor this?

TOMS: They talked to us at great length about this, and we understand thoroughly why they took that position. I've got no trouble with it at all. The existing 16 standards are probably more standards than we can fully implement in practice on a day-by-day, month-by-month basis anyway. There isn't enough money now to do a big job on each of the 16 standards. So we don't really need more standards to combat traffic deaths on our streets and highways

The language in the act in no way prohibits us from revising the existing standards. I think we've got enough work just bringing the existing 16 up to date to keep us busy for a long time I think the kind of communication that's gone on between the NHSB and Public Works is such that this stresses their feelings that they want to get cranked in on our planning, and I agree to that. They ought to be

STATUS REPORT: If you're satisfied with being limited to 16 standards, what do you plan to do with the school bus safety standard that the bureau has been working on?

TOMS: We'll take it to Congress (for approval as an addition to the 16). Or, if it's ready we'll promote it or promulgate it before the deadline hits. The same with the accident investigation (standard currently being studied).

ON RESIGNATION REPORTS:

STATUS REPORT: In midsummer there were reports that you planned to resign. We would like to offer you an opportunity to counter those reports or substantiate them.

TOMS: I was not planning to resign or to leave and I reported this to the media, but this appeared to be a good instance where the media felt that they had better information than that which came from the horse's mouth, and chose to use it. I'm still here and still expect to be here

ON THE BUREAU'S ROLE:

STATUS REPORT: Is your vision of the bureau's role one of objective administration or of active advocacy of safety programs?

TOMS: Both. Where there is genuine controversy, I look upon us as being the arbitrator or the objective party wherever possible: Ford lower control arms, Corvair rear axles, and this sort of thing, where there are definitely differences of opinions on a professional basis. Then we have a public obligation to be as objective as one can scientifically be — and not emotional. Where there isn't a difference of opinion, then we want to be the activist. Like air bags or like passive restraints. There are not differences of opinion as to whether or not they work or how good they are. There we're the activist and we'll force the industry to go in that direction.

STATUS REPORT: The air bag has been pretty controversial, hasn't it? The auto industry has questioned its effectiveness in some types of crashes.

TOMS: . . . If you can tell me there's a difference of opinion, I'd like to hear it. It's so clear-cut (on a) scientific basis that it's beyond reproach. I'll defy you to get a scientist to put his name on the line for that. Now, if he's dumb and he doesn't know the difference or if he isn't up to speed, he might stick his neck out, but if he's well informed, he won't. And my point is that if you're well informed and you know what's going on, passive restraints are beyond the controversial point If you want to argue whether they can get them in 10 million cars next year, sure that can be controversial. Or if you want to argue whether the industry wants to do it, that can be controversial. But if you talk scientifically whether it's better or not, that isn't controversial. They are better.

Now, when you talk Ford lower control arms, you'll get scientists who will disagree whether or not it's a defect. They won't disagree that there are some failing, but they might disagree as to why they are failing, and so then we've got to be objective in that we've got to find out. And that's what we're trying to do.

IIHS CHAIRMAN NAMED TO ADVISORY COMMITTEE

Thomas C. Morrill, board chairman of the Insurance Institute for Highway Safety and vice president of State Farm Mutual Automobile Insurance Company, has been appointed to the National Highway Safety Advisory Committee.

Nine others have also been appointed to the 35-member committee that advises and consults the Secretary of Transportation on federal standards for state and community highway safety programs.

The other new members are Dr. James E. Aaron, coordinator, Safety Center, Southern Illinois University, Carbondale, Ill.; Michael Baker, Jr., president and chairman of the board, Michael Baker, Inc., consulting engineers, Rochester, Penn.; Forrest C. Braden, president, Braden Machinery Co., Yuma, Ariz.; District Judge Sherman C. Finesilver, Denver, Colo.; State Sen. Elmer Huntley, Chairman, Washington State Legislative Highway Committee, Olympia, Wash.; Mel J. Personett, Public Safety Commissioner and Governor's Highway Safety Representative, Juneau, Alaska; State Rep. Gordon M. Scherer, chairman, House Highway and Transportation Committee, Cincinnati, Ohio; Joe R. Seacrest, managing editor, The Lincoln Journal, Lincoln, Neb., and Harold W. Sullivan, Highway Patrol Commissioner, Sacramento, Calif.

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