

**Avoidable Deaths and Avoidable Shame:
The Dire Need for Vehicle Rollover Prevention and Crashworthiness Standards**

Comments of Joan Claybrook before the National Academy of Sciences
Committee For the Study of A Motor Vehicle Rollover Rating System
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Thank you for the opportunity to speak to you today. My name is Joan Claybrook and I am the President of Public Citizen, a consumer advocacy organization with over 150,000 members nationwide. I will focus my comments on the unfinished business of preventing fatalities and injuries from vehicle rollover crashes.

It is essential to provide specific information to consumers at the point-of-sale in order to help them to make safety-oriented purchasing choices. However, information is no substitute for base-line safety protection, particularly where we know that deaths and serious injuries are preventable. Indeed, that is the basic premise of the National Traffic and Motor Vehicle Safety Act of 1966 as amended. For safety reasons, we have long had basic standards on many aspects of vehicles and vehicle equipment. It makes no sense whatsoever to exclude rollover safety standards from this list, which could save many more lives than many of the standards that are already on the books.

For both humanitarian and ethical reasons, a civil society must address major safety hazards that consumers cannot, on their own, remedy or prevent. Congress looks to this panel for its best advice about advancing rollover protection. While your specific assignment is to evaluate the static stability factor as information for consumers in assessing rollover and to compare SSF with dynamic tests for rollover information ratings, Congress would no doubt appreciate and give weight to your recognition of the critical need both to better design motor vehicles to prevent rollovers, and to reduce injuries when these crashes occur. The experts assembled here should maintain a larger vision concerning this essential assignment.

We must go beyond the present requirement for a consumer information program and establish minimum dynamic standards for rollover propensity and rollover crashworthiness, in addition to a rating system to show which vehicles surpass the minimum standard. The absence of a rollover standard — or indeed, any meaningful federal action on rollover — has enabled the creation of an entire class of popular but dangerously unstable vehicles.

I will not take the time to comment on the usefulness of the SSF as a measurement of rollover propensity, as others have focused on this issue. After two decades of debate over rollover safety and consumer information, the first, albeit incomplete, technical information is now available to consumers by make and model, in the form of the agency's addition of rollover propensity ratings to the New Car Assessment Program (NCAP). This a laudable development, despite its clear limitations.

While some sports utility vehicles (SUVs) are marginally better than others, the National Highway Traffic Safety Administration's (NHTSA's) recent static stability tables show that even the best SUVs only score three stars, the same as the very worst of the passenger cars. As the panel is well aware, there are 10,400 deaths annually from rollover, constituting nearly one-third of all vehicle occupant deaths in 1999 and 2000. Sixty percent of SUV/light truck deaths occur in rollover crashes. This death toll is unnecessary and unacceptable. It must be addressed by a sound and comprehensive standard and crashworthiness improvements program.

A More Effective Consumer Information Program Should Be the Next Step

In addition to the study that this panel is preparing under the direction of NHTSA's fiscal year 2001 appropriations bill to assess dynamic rollover ratings, the recently passed Transportation, Recall Enhancement, Accountability and Documentation (TREAD) Act mandated that NHTSA develop a dynamic rollover consumer information program within two years. This program will be an important leap forward from the current static measurement of rollover propensity.

The new program, like the existing one, will likely be carried out under the auspices of the agency's NCAP testing program. However, because it tests limited numbers of new cars, NHTSA's NCAP testing is limited in its reach. The new law also fails to require that rollover ratings from NHTSA or manufacturer testing under a NHTSA rule be included on dealer or virtual showroom stickers at the point of sale or in the owner's manual, for consumers to see when buying a car. This greatly limits the ratings' effectiveness as a market mechanism intended to push manufacturers toward the design of safer vehicles.

Under 49 U.S.C. § 30117, NHTSA has the authority to require the auto manufacturers to provide technical information, based on a test that NHTSA designs, to consumers at the point-of-sale. We urge this committee to refer to this section in existing law, and to make recommendations that assure that rollover information is widely available to consumers at the point of sale in the owner's manual, and in any of the other sale forms designated by NHTSA. Both of these serious limitations can and should be remedied by NHTSA under their existing statutory authority as the program is completed.

A Minimum Rollover Propensity Standard Is Needed

Fundamentally, a consumer information program is simply not enough to remedy this serious problem. Only a minimum rollover standard based on dynamic testing will truly do the job. In the 1991 Intermodal Surface Transportation and Efficiency Act, Congress directed NHTSA to conduct a rulemaking on a minimum rollover standard and in 1992 the agency issued an early draft of a proposed rule.

Despite this Congressional direction, in 1994 NHTSA abandoned its rulemaking, opting instead

to develop a consumer information rule. In formulating its recent rollover test under the New Car Assessment Program (NCAP) NHTSA reiterated that a standard was impracticable, and that “market forces” from a consumer education effort on rollover will somehow accomplish what NHTSA says it cannot through a standard. The agency first took this position in its 1994 terminating the rulemaking on a standard, and in a subsequent 1996 denial of petitions for reconsideration of its 1994 decision.

The agency’s reasoning was flawed in 1994 and it is still flawed. It may be true that consumer attention will force auto manufacturers to make critical rollover prevention design changes. However, lives will be needlessly lost in the interim and not all companies will act. NHTSA’s position on this issue begs the question — if consumer pressure can effect safety improvements, it is only a failure of political will that appears to be keeping the government regulators charged with protecting the public from drafting a standard that will cause significant rollover performance improvements.

Furthermore, NHTSA’s argument in 1994 that a standard was impractical was based upon now-obsolete data about the number of light trucks/SUVs in the vehicle fleet from the late 1980s, and fails to account for the past decade’s boom in SUV ownership. The agency’s very rough 1994 cost-benefit analysis also failed to adjust for the fact that costs to the auto manufacturers of a new standard can be minimized wherever sufficient lead time is written into a regulation. As the manufacturers regularly do redesigns of vehicle models, a few years notice also causes companies to shift gears in anticipation of a rule’s requirements. Ford, recognizing its public relations disaster, has already made changes to the next model years of four-door Explorers to minimize the vehicle’s propensity to rollover.

In addition, the agency’s consideration of a single standard ignores the authority in 49 U.S.C. § 30111(b)(3) to set safety standards by “type” of motor vehicle, an authority which the agency has exercised for years. The agency could preserve the class of vehicles, insofar as they may be worth saving, by simply formulating one standard for passenger cars and a second for vehicles built upon a light truck/SUV chassis.

The Lesson of Ford/Firestone

As a political lesson in the importance of a uniform standard, we are now faced with the full consequences of NHTSA’s multi-decade failure, in the face of intense industry opposition, to implement rollover prevention standards and rollover crashworthiness improvements. Faulty Firestone tires made public what the auto industry already knew: that there is an inherent design flaw in Ford’s Explorer. The defect was known to exist by Ford since the days of its design precursor, the tippy Bronco II. The human tragedy and public relations disaster of the Ford/Firestone debacle has been, among many other things, a dramatic demonstration of the narrowness of the margin of safety designed into the Explorer, and into SUVs generally, and the ultimate and costly consequences for auto and tire companies of avoiding safety investments.

Both companies are now experiencing an expensive and potentially devastating public relations nightmare. Regulators, who should be able to intervene in order to restore confidence and protect consumers, are bound up in a complex and time-consuming investigation. Research in two detailed reports produced by Public Citizen and Safetyforum.com in January and April 2001 has shown that design flaws in the Ford Explorer were the original source of the problem, and that vehicle instability and a defective tire has created a lethal situation for the public. However, a potential recall of the Explorer would need to surmount arguments to regulators from Ford that other SUVs are as lethal or worse than its Explorer. Two of the SUVs tested by NHTSA, the GMC Jimmy (4-door 4X2) and the Chevy Blazer (4-door 4X2), received one star, one star lower than the now-notorious Explorer.

This type of systemic road block to agency action occurs here without any reference to the kind of rollover safety improvements that are, in fact, currently within the realm of technological feasibility and instead employs the logic of the race-to-the-bottom. Even where the state-of-the-art is far superior to a particular product, if most of the product's competitors are equally as bad the agency will seldom act.

This is clearly an untenable situation. Consumers, as well as corporate revenues and the invaluable reputations of auto manufacturers, clearly need the protection that would be provided by an industry-wide standard. Ford's recent announcement that they will pay three billion dollars to replace Firestone tires shows that the auto manufacturers may realize that this is D-Day for rollover, and safety concerns, if unresolved, can threaten even the most popular brands and most trusted companies.

A rollover standard would have prevented this tragic situation. If there had been a uniform, dynamic standard in the late 1980s, Ford's engineers would have been required to delay production of the Explorer for the six months it would have taken to fix the Explorer's stability problems, as shown by the company's own tests in turning maneuvers on their proving grounds. This simple delay may have saved the 184 American lives, prevented 700 injuries nationally, and avoided other suffering around the globe. But the regulators and the manufacturers resisted any action for almost two decades.

I encourage this committee to treat any rating system as merely a first step, and to push for the implementation of a minimum standard based upon dynamic tests. Dynamic tests are preferred, as Consumers Union has already suggested to this panel, because such tests measure the performance of the vehicle in motion and incorporate the impact of additional crashworthiness safety features. They thus provide far better information to consumers concerning the real outcome of a crash. Of course, development of a dynamic test is already mandated by the TREAD Act's new consumer information program on rollover and should be the basis for development of a minimum standard.

More Attention to Rollover Crashworthiness Improvements Are Long Overdue

The auto industry continues to blame consumers for rollover crashes. But emergency situations that lead to rollover crashes are completely foreseeable. Therefore, the manufacturers have an obligation to design vehicles that are less rollover prone, and to design rollover crashworthiness improvements into their vehicles. I therefore encourage the committee to treat the problem of rollover holistically, and to broadly examine both pre-crash and crashworthiness in rollover crashes. The terrible fatality rates of rollover crashes can be most effectively decreased by the development of complementary safety technologies and standards. Areas for the committee's consideration should include the following:

- ! A dynamic roof crush standard is sorely needed to replace the current, overly simplistic, 30-year-old static test standard, which omits consideration of the dynamic forces operating in a crash, thus endangering consumers in rollover crashes and inflicting severe head, neck and back injuries and death. The public is increasingly aware of the problem having seen this effect in news coverage of the crushed-in Ford Explorers following a rollover crash. The occupant compartment must not be intruded in a rollover crash.
- ! Automatic pretensioning safety belts should be required, so that occupants remain in the seat structure during a rollover crash.
- ! The use of advanced window glazing (or safety glass) in side windows should be promoted as a measure to reduce the ejection of occupants during a rollover.
- ! Door and structural strength in rollover crashes should be advanced as a way of reducing the incidence of occupant ejection.
- ! Side air bags, window curtains, ceiling air bags and other types of cushioning devices should be implemented where effective, because the extra padding, as NHTSA research shows, dramatically reduces injuries.
- ! Other crashworthiness improvements, such as preventing fuel tank leakage or seat back failures, should be incorporated into the tests and made part of the dynamic assessment of rollover safety.

Since the whole purpose of addressing rollover safety is to prevent injury, crashworthiness protections cannot be ignored.

With or Without a Standard, Consumer Rollover Information Should Be More Widely Available

Even in the absence of action on a definitive rollover standard, it is critical that rollover ratings be made more widely available to consumers, in their current status under the NCAP program, the future dynamic tests required by the TREAD Act, and, preferably, as part of a NHTSA-designed test undertaken by every manufacturer for every new vehicle. While the NCAP's new rollover ratings may currently be receiving some attention due to the Ford/Firestone tragedy, the clamor will soon die down, and consumers tomorrow will have difficulty finding them or be aware that they exist.

Consumers need effective, readily available information at the point of sale in a clear, easy-to-

understand format. The current system is elitist because the many consumers without Internet access may never benefit from the agency's consumer information program. Widespread dissemination of the information on rollover propensity is an absolute prerequisite before auto manufacturers will be affected in their design and marketing decisions by an informed consumer demand for more crash-worthy, and less rollover prone, vehicles. Thus, no consumer information program is complete without the information available at the point of sale, prominently displayed on a window sticker and in the owners manual.

A final point. NHTSA's program are only as effective as their funding permits. Under the current appropriations bill, the programs are starving for resources. I urge this committee to address this issue in its recommendations and would be pleased to submit further information on this point if the committee would like.

I am attaching the comments of Public Citizen concerning NHTSA's current rollover rating system and hope that these remarks and the attachment will be made part of the public access file. I would at this point be pleased to have a dialogue with the members of the panel regarding my comments or any other matter relevant to your considerations.