

**“The Ford Motor Company's Recall of Certain Firestone Tires”
Washington, D.C.
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Written Testimony of Joan Claybrook, President of Public Citizen,
Submitted for the Record to the Subcommittees on
Commerce, Trade, and Consumer Protection and Oversight and Investigations,
Committee on Energy and Commerce,
United States House of Representatives

Thank you for the opportunity to submit this written testimony. My name is Joan Claybrook and I am the President of Public Citizen, a consumer advocacy organization with over 150,000 members nationwide. We ask that these remarks be made a part of the record of this hearing.

In my comments, I would like to rise above the recent, and well-publicized, disagreements between Ford Motor Company and Bridgestone/Firestone and focus upon the unfinished business of preventing fatalities and injuries from vehicle rollover crashes. I hope to call congressional attention to the dire need for a rollover propensity minimum standard and for a rollover crashworthiness standard that will protect the public during a rollover crash.

It is clear that, even in a rollover crash, people do not have to die. Given the types of engineering safeguards that have been available for many years to protect vehicle occupants during a crash, it is barbaric to design a vehicle that, due to poor handling, is prone to roll over, and yet is also likely to kill its occupants once it does. For just one example, many of the deaths and severe injuries in Ford's Explorer as well as other sport utility vehicles (SUVs) may be attributable to the vehicles' flimsy roof, which tends to crush during a rollover crash, intruding upon the passenger compartment and inflicting deadly or devastating head, neck and spinal injuries.

For both humanitarian and ethical reasons, a civil society must address major safety hazards that consumers cannot, on their own, remedy or prevent. In keeping with this sound principle, since 1968 we have had federal motor vehicle safety standards that establish a baseline of safety for consumers, covering issues from headlights and brakes to air bags and fuel tanks. However, as the Ford-Firestone disaster has made more than evident, safety regulators at the National Highway Traffic Safety Administration (NHTSA) and the automobile manufacturers have been tragically remiss with respect to rollover safety standards that should have been adopted long ago.

The size of the problem cannot be understated, and indeed dwarfs the problems addressed by many of the vehicle safety standards that are already on the books. Rollover crashes take more than 10,400 lives annually, a shocking one-third of all vehicle occupant deaths in 1999 and 2000. A stunning 60 percent of deaths in SUVs and light trucks occur in rollover crashes.

We must go beyond the present requirement for a consumer information program, as mandated

recently by the Transportation, Recall Enhancement, Accountability and Documentation (TREAD) Act, 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. I want to emphasize to the committees that 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.

The recently published and long-awaited static rollover propensity measurements from NHTSA score even the best SUVs at three stars, the same as the very worst of the passenger cars. According to the agency, this means that even the best SUVs are at least twice as likely to roll over than most passenger cars. This death toll, and the continued risk faced by the public from an entire category of unsafe vehicles, is unnecessary and unacceptable. It must be addressed by a sound and comprehensive federal rollover standard and rollover crashworthiness improvement program.

More Attention to Rollover Crashworthiness Improvements Is Long Overdue

The auto industry continues to blame consumers for rollover crashes. But the emergency situations that lead to rollover crashes are completely foreseeable. Manufacturers therefore have an obligation to design vehicles that are less rollover prone, and to design rollover crashworthiness improvements into their vehicles.

Rollover crashes are survivable, as we have seen from numerous examples in car racing, where drivers have roll cages, wear seat belts that keep them firmly in the seat structure, and protect their heads from the full impact of the crash. Much of the same types of protections should have been designed for the occupants of risky SUVs and other rollover-prone vehicles.

In fact, in a rollover crash, the forces exerted upon the vehicle and occupant are actually far less in gravitational terms than those that occur in many frontal crashes, which are now survivable due to the use of air bags and seat belts. Yet rollover crashes cause one-third of occupant deaths. The speed with which the vehicle impacts the road surface in a rollover crash is typically around 5 miles per hour, which is far lower than the speed of survivable frontal crashes. While rollover crashes are often fatal, they don't have to be.

Rollover crashes do pose some unique risks, and crashworthiness safety standards must be updated to address them. For example, the sensor technology for side and frontal air bags and for seat belts that tighten, or pre-tension, upon impact, must be adjusted to trigger these protections in a rollover crash. Thirty percent of the structural strength of many vehicles' roofs derive from the support provided by the windshield. Yet current windshield safety glass shatters upon impact, reducing the strength of the vehicle roof and producing a gaping hole through which the vehicle's occupants may be ejected. So the roof of vehicles must be strengthened, and advanced window glazing installed so that the windows do not fall out in a rollover crash.

There is no reason for the unconscionable fatality rates in rollover crashes. I encourage the committee to treat the problem of rollover holistically and to broadly examine both pre-crash — or rollover prevention — 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.

Indeed, correcting vehicle handling and stability problems, though it can be done, is a more complex undertaking than improving a vehicle's crashworthiness. For example, to retrofit vehicles on the road to provide better crash protection, Ford and the other manufacturers of SUVs could install a new kind of synthetic roof that acts like a roll bar and prevents roofs from crushing.

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 rollover crashes. As a result, too often such crashes unnecessarily inflict 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 roof crush standard must be rewritten to assure that the occupant compartment is not intruded upon in a rollover crash.
- ! The seat structure standard must be upgraded so that seats can withstand dynamic crash forces without failure and are strong enough for the belts to be attached to the seat.
- ! Automatic pretensioning safety belts should be required and rollover sensing technology used, so that occupants remain in the seat structure during a rollover crash.
- ! The use of advanced window glazing (a safety glass that prevents glass from falling out of the window area once it crumbles in a crash) in side and rear windows should be promoted to reduce the ejection of occupants during a rollover.
- ! Door and structural strength, as well as locks and hinges, should be used to reduce the incidence of occupant ejection in rollover crashes.
- ! Side air bags, window curtains, ceiling air bags and other types of cushioning devices such as air gap technology should be implemented and adapted for use in a rollover crash. NHTSA research shows the extra energy absorption protection that such measures provide dramatically reduces injuries.
- ! Other crashworthiness improvements, such as preventing fuel tank leakage, should be incorporated into the tests and made part of the dynamic assessment of rollover safety.

The whole purpose of addressing rollover safety is to prevent injury. Thus, crashworthiness protections are crucial to reducing the unnecessary death toll from rollover crashes.

History Shows that Congressional Intent to Protect the Public From Rollover Has Been Flouted

The 1991 Intermodal Surface Transportation and Efficiency Act 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. A static test and consumer information program were finally implemented in January of this year, and falls far short of the mark in many respects.

In formulating this recent static 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 the change that NHTSA suggested its standard could not. The agency first took this position in its 1994 notice terminating the rulemaking on a standard, as well as in its subsequent 1996 denial of the petitions for reconsideration of the 1994 decision. However, close inspection of the 1994 decision by the agency to terminate work on a rollover standard reveals that this decision was particularly ill-considered.

The agency’s reasoning in support of market mechanisms to fix rollover and stability problems was flawed in 1994 and it is still flawed. While it may be true that consumer attention will force auto manufacturers to make critical rollover prevention design changes, 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 by Congress with protecting the public from issuing a standard that will effect significant rollover performance improvements.

NHTSA also argued in 1994 that a standard was impractical, basing its conclusion upon now-obsolete data about the number of light trucks/SUVs in the vehicle fleet from the late 1980s, and thus failing to account for the past decade’s tremendous boom in SUV ownership. The agency reasoned that the number of lives saved by a standard would be small, due to the small number of SUV-type vehicles in the overall passenger car fleet. This reasoning is highly questionable on its face, and is now made obsolete by the huge growth in the popularity of this vehicles, and the now-enormous exposure on the part of the public to catastrophic rollover crashes. Sadly, a major factor contributing to the consumer acceptance of SUVs has been an emphasis upon their supposed safety. It turns out that consumer opinion has been tragically uninformed about the risks, in part due to the agency’s lateness in making any public information about rollover available.

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. Because manufacturers regularly do redesigns of vehicle models, a few years notice allows companies to shift gears in anticipation of a rule’s requirements. For example, Ford, recognizing its public relations disaster, has already made changes to the new model year four-door Explorer to minimize that vehicle’s propensity to rollover.

In addition, NHTSA's consideration of only a single rollover prevention standard to cover both cars and SUVs 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 are worth saving from a safety perspective, 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: Minimum Standards Protect Industry and the Public

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. I view this situation as a political lesson in the importance of a uniform rollover standard.

Faulty Firestone tires made public what the auto industry already knew: that there is an inherent design flaw in Ford's Explorer. Internal documents show that 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 narrow margin of safety designed into the Explorer, and into SUVs generally, and the ultimate and costly consequences for auto and tire companies of avoiding rollover and crashworthiness investments.

Both companies are experiencing an expensive and potentially devastating public relations nightmare. Research in two detailed reports produced by Public Citizen and *Safetyforum.com* in January and April 2001 showed 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 combination for the public.

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, and trapped in a possible double-bind caused by the failure of *all* SUVs, as a class, to perform well in terms of rollover safety. Undoubtedly, a potential recall of the Explorer would need to surmount arguments from Ford that some other SUVs on the market are as lethal or worse than its Explorer. For example, 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.

Critically, this type of systemic road block to agency action occurs 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 an untenable situation. Consumers, as well as corporate revenues and the invaluable reputations of auto and equipment manufacturers, clearly need the protection that would be provided

by an industry-wide standard. Ford's recent announcement that they will pay \$3 billion to replace Firestone tires shows that the auto manufacturers may realize that this is D-Day for rollover, and that safety concerns, if left 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 design the Explorer properly, as they have done with 2002 four-door model, or to delay production of the poorly designed 1991 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 these committees to push for the implementation of a minimum rollover standard based upon dynamic tests, as well as rating system that measures where vehicles perform beyond a minimum standard. 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 the exertion of gravitational forces in a crash. 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 such a minimum standard.

Consumer Rollover Information Should Be More Widely Available

After more than two decades of consistent efforts by Congress and safety advocates, NHTSA finally has published a series of rollover propensity evaluations by make and model under the agency's New Car Assessment Program (NCAP). The test is known as a static stability factor (SSF) and places a vehicle's track width in a ratio with the vehicle's height. Because the NCAP encompasses only a limited number of new cars each year, members of the public who are not driving one of a select number of brand new cars will remain in the dark about the rollover propensity of their vehicles. The agency makes its NCAP ratings available over the Internet.

The recently passed Transportation, Recall Enhancement, Accountability and Documentation Act (TREAD) mandated that a dynamic rollover consumer information program be developed within two years. This 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.

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

understand format. The current system is inadequate 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 owner's manual.

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. Thus, the authority to remedy both problems already exists: NHTSA could, under current law, require manufacturers to perform their own static or dynamic rollover propensity measurements and tests, and to publish this information to consumers at the point of sale.

NHTSA should assure that dynamic rollover testing 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. 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.

A final point. NHTSA's programs are only as effective as their funding permits. Under the current appropriations bill, the programs are starving for resources. I urge Congress to address this issue in the upcoming NHTSA reauthorization legislation.