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Firestone Tire Recall: NHTSA, Industry, and Congressional Responses

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Summary

On August 9, 2000, Bridgestone/Firestone, Inc. (Firestone) issued a voluntary safety recall of 14.4 million, 15-inch tires. Based on about 4300 complaints and other data, the National Highway Traffic Safety Administration (NHTSA) is aware of reports detailing a total of 148 deaths and more than 500 injuries allegedly related to certain Firestone tires. Most of the incidents that resulted in deaths reportedly involved sport utility vehicles (SUVs), primarily Ford Explorers. On September 1, 2000, NHTSA issued a warning to consumers recommending that users of an additional 1.4 million Firestone tires should take a number of actions to enhance their safety. Firestone had declined to extend its recall to include these additional tires. NHTSA is investigating whether the scope of Firestone's voluntary recall should be expanded to a mandatory recall affecting additional Firestone tires.

Industry states that more than 92% of the recalled tires have been replaced. To provide replacement tires, several actions were taken. For example, Ford suspended new vehicle production at several of its plants for a three-week period. Bridgestone Corporation, the parent company of Firestone, which is headquartered in Tokyo, conducted emergency airlifts of tires from Japan. Working with Ford, Firestone has urged other tire manufacturers to increase production. Firestone is conducting a consumer education program on proper tire maintenance. Numerous lawsuits regarding the deaths and injuries previously mentioned have been filed; a few have been settled. Although cost estimates of the tire recall and lawsuits vary, both companies have been financially hurt by this situation. For example, UBS Warburg, an integrated investment banking firm, has conducted a study that concluded that the Firestone tire recall and subsequent litigation could end up costing from $719 million to $2.7 billion.

Congressional hearings related to both government and industry responses to this safety challenge were held during the 106th Congress. The "Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, P.L. 106-414, was enacted to strengthen NHTSA's ability to detect and investigate vehicle and equipment defects. More specifically, the Act includes provisions to: increase or strengthen reporting requirements for manufacturers of motor vehicles or motor vehicle equipment, increase civil penalties for violations of the federal motor vehicle safety regulations, provide criminal penalties under certain conditions, require a rulemaking to revise and update NHTSA's tire standards, increase the number of years that a remedy for a defect must be provided without charge to the vehicle owner, and authorize increased funding for NHTSA. In addition, the Act requires the Secretary of DOT to undertake a comprehensive review of the criteria, procedures and methods used by NHTSA in determining whether to open a defects investigation. Within one year of enactment, the Secretary is to report to the authorizing committees of jurisdiction on the findings and actions taken pursuant to the report. NHTSA has begun to conduct the regulatory actions needed to implement various provisions of the TREAD Act.

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Introduction

The 106th Congress conducted several hearings that addressed the recall of certain Firestone tires. These hearings, press reports, and consumer concerns focused attention on the defects investigation program pertaining to motor vehicles and related equipment that is conducted by the National Highway Traffic Safety Administration (NHTSA) of the U.S. Department of Transportation. The 106th Congress debated whether this agency had the legal authorities, data, and resources necessary to ensure that motor vehicles and related equipment sold in the United States comply with existing federal safety regulations and are free of safety defects. P.L. 106-414 was enacted to substantially strengthen the capabilities of NHTSA to be advised of potential safety problems, to improve that agency's defects investigation program, and to issue improved tire safety regulations. The Act is also intended to strengthen civil and criminal penalties for violating federal motor vehicle safety regulations.

This report discusses the scope and nature of the safety challenge associated with the Firestone tire recall, and summarizes NHTSA's defect investigations process (as of the end of the 106th Congress) and several relevant actions that NHTSA has taken to date. Second, some of the key efforts of Ford Motor Company (Ford) and Bridgestone/Firestone Inc. (Firestone) to deal with this challenge and associated economic impacts of the reported tire failures, and the recall are summarized. Finally, a discussion is presented of some of the key public policy issues discussed during the various congressional hearings held during the 106th Congress together with a capsule of the provisions of P.L. 106-414.

Scope and Nature of the Safety Challenge

On August 9, 2000, Firestone issued a voluntary safety recall of 14.4 million, 15-inch tires that were produced in North America. At that time, it was estimated that about 6.5 million of these tires might still be in use; but subsequently, industry reports that more than 92% of the 6.5 million tires have been replaced. The recalled tires include all P235/75 R15 Firestone models ATX and ATX II manufactured since 1991, and all P235/75R15 size Wilderness AT tires produced since 1996 at Firestone's Decatur, Illinois plant.[1] These tires were mounted as original equipment

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[1]National Highway Traffic Safety Administration, available at:
(continued...)

primarily on Ford Explorers, although a small number appeared as original equipment on vehicles of other manufacturers. These tires also were sold in the aftermarket and could be found on any truck or sport utility vehicle (SUV) that uses the P235/75R15 tire size.[2]

A review of NHTSA's records shows that many of those who filed complaints to NHTSA about Firestone tires reported such problems as tread separation, a tire "explosion," or a tire blow out. Especially with SUVs with a high center of gravity, the result in some cases was reportedly loss of control and a rollover. The exact cause of the tire failures is still being determined. Ford, Firestone, and NHTSA are conducting investigations of the incidents. The design, manufacture, maintenance and operating conditions of the tires, and the dynamics of SUVs (which may contribute to rollover problems) are among the factors that are being discussed as possible causes or contributors to many of the crashes.

Firestone has concluded that the increased rate of tread separation claims related to the P235/75R15 Radial ATX and ATXII tires and Wilderness AT tires of the same size manufactured at the company's Decatur, Illinois plant is not due to one over-riding factor. Instead, Firestone concluded "...that a combination of design factors, external factors such as low inflation pressure and certain manufacturing factors at the company's Decatur plant–in extreme cases and working together–have contributed to the phenomenon."[3] Although it is continuing its investigation, Ford states that its ongoing statistical analysis and test data seem to be in agreement with many of the preliminary conclusions reached by Firestone. Ford maintains that "...it is a combination of manufacturing factors and the reaction of the tire design to field operating conditions including hot weather and very low tire pressure, that have caused the increased failure rate of these tires."[4] Ford also notes that the Explorer fatality rate is 17 percent lower than other SUVs according to government statistics.[5]

Based on about 4300 complaints (received by NHTSA during a 9-year period) and other data, NHTSA is aware of reports indicating in total 148 deaths and more than 500 injuries allegedly related to certain Firestone tires.[6] Most of the incidents that resulted in deaths reportedly involved sport utility vehicles (SUVs), primarily

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[1](...continued)
[http://www.nhtsa.dot.gov/hot/firestone/index.html].

[2]Ibid.

[3]Bridgestone/Firestone. Summary Root Cause Analysis. December 19, 2000. Firestone's summary report did not address vehicle performance or driver response issues after a tread separation occurs. For additional information see:
[http://mirror.bridgestone-firestone.com/news/newsmain.html].

[4]Ford Motor Company. Perspective on Issues Surrounding the Firestone Tire Recall, January 19, 2001.

[5]Ibid.

[6]National Highway Traffic Safety Administration, available at: [http://www.nhtsa.dot.gov/hot/firestone/update.html]. NHTSA notes that some of the complaints may be duplicates.

Ford Explorers. The scope of the safety challenge posed by these incidents needs to be placed within the larger context of the U.S. traffic safety challenge. Each day, about 110 fatalities occur in U.S. traffic crashes. Furthermore, it is not uncommon for safety recalls to occur. It is, however, uncommon for so many deaths to be allegedly identified with a specific defect.

Actions Taken and Planned by the National Highway Traffic Safety Administration (NHTSA)

NHTSA routinely investigates vehicle and tire defects and requires manufacturers to provide the owners of the affected vehicles with a remedy to the defect at no cost. NHTSA's Office of Defects Investigation (ODI), which collects and screens between 40,000 and 50,000 complaints of possible defects each year, goes through a multi-phased process to investigate possible defects and noncompliance with the federal motor vehicle safety regulations. Many complaints do not result in an investigation. Before initiating a formal investigation, NHTSA typically conducts an initial assessment to evaluate whether an investigation is needed.[7] If an investigation is judged warranted, NHTSA proceeds with the first step in an investigation (a preliminary evaluation), which is then followed by an engineering analysis (EA).

On May 2, 2000, NHTSA initiated a formal investigation into the Firestone tire situation. Based on the information that the agency evaluated prior to that date, NHTSA had determined that there was insufficient documentation to institute a preliminary evaluation.[8] Growing publicity, however, generated an increasing number of reports about problem tires or crashes allegedly involving these tires. NHTSA is now in the engineering analysis stage of its investigation. When the investigation is completed, the NHTSA Administrator may decide to order the tire manufacturer to implement a more comprehensive recall.

On August 4, 2000, NHTSA suggested that Firestone consider recalling the tires in question. On August 9, 2000, Firestone announced that it was voluntarily recalling the tires specified in the previous section of this report. NHTSA announced that it would oversee this voluntary recall to ensure that it is conducted properly and in a timely manner. On August 30, 2000, NHTSA recommended to Firestone that it expand its recall to include other specified models and sizes of tires. Firestone refused. On September 1, 2000, NHTSA issued a consumer advisory to owners of other specified models and sizes of Firestone tires to take actions to enhance their safety.

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[7]NHTSA considers numerous factors when determining whether to proceed with an investigation. These may include age of vehicle, seriousness of consequences of the possible defect, equipment type, and number of complaints, deaths, and injuries.

[8]The large number of Firestone tires sold may have obscured whether there was a safety challenge. For example, from 1991 until 1999, Firestone marketed approximately 47 million of the tires in question. During the same period, NHTSA recorded 46 reports that dealt with the alleged failure of the tires, a minute proportion of the total number of tires manufactured.

The Firestone tire recall, as well as the subsequent ongoing investigation, has focused NHTSA's attention on many aspects of its regulatory and enforcement program. For example, NHTSA is reviewing the threshold level it uses to trigger a preliminary evaluation. Also, NHTSA has promised to update its tire safety regulations, which have not been substantially revised since 1968.[9] The current tire tread separation problem is not the first time that interest has focused on the effectiveness of NHTSA's tire safety regulations and enforcement program. The *New York Times* reported,

> After the last huge recall of Firestone tires in 1978, when tread separation problems resulted in hundreds of crashes and dozens of deaths, Congress and regulators made a series of proposals to tighten federal tire standards. But the standards were not revised, and many of the same problems, including some that the proposals were designed to address, have arisen again in the 14.4 million Firestone tires being recalled now.[10]

Manufacturer Responses and Financial Ramifications

Ford is ranked as the number two world producer of automobiles, as well as the number two automobile manufacturer in the United States. The Ford Explorer has ranked in the top five of all vehicle sales by unit during the last two years.[11] Bridgestone Corporation, headquartered in Tokyo, the parent company of Firestone, is the world's largest manufacturer of tires and other rubber products. Firestone is the second largest tire maker in the United States. In 1999, Firestone produced approximately 21% of the estimated 61.5 million tires used as original equipment on vehicles built in the United States and 10% of the 191 million tires used in the aftermarket or replacement tire market. Ford has been Firestone's biggest customer, accounting for nearly 5% of Firestone's global sales.[12]

Manufacturer Responses and Replacement Efforts

Jacques Nasser, CEO of Ford, testified that Ford's actions have been guided by three principles: 1) guarantee customer safety, 2) work hard to replace faulty tires, as well as try to determine the specific cause of the tire problems, and 3) provide

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[9]NHTSA reports that there is not a separate standard governing the expected performance of steel-belted radial tires. As part of the rulemaking process, NHTSA's tire safety standards may be revised to better reflect the types of tires used today and the wide variety of operating conditions, e.g., off road travel by SUVs. NHTSA may formally begin its rulemaking action in the spring of 2001.

[10]Bradsher, Keith. Stricter Rules for Tire Safety Were Scrapped by Reagan. *The New York Times,* September 3, 2000.

[11]*Ward's Automotive Yearbook 2000*.

[12]Ford Angered by Bridgestone's Explorer Claims. *Financial Times*. September 11, 2000. [http://www.ft.com].

relevant data and statistics.[13] Consistent with these principles, Ford is working with other tire manufacturers to increase production of 15-inch replacement tires. In addition, at several of its plants, Ford suspended production of its Explorer, Mountaineer, Ranger and B series models for a three-week period beginning August 28, 2000, so that it had additional tires available as replacements for recalled tires. Those plants are now back in production. Ford released data and analysis pertaining to specific tire models that were previously discussed. The company also substantially increased public information about the recall.

Masatoshi Ono, (then) chief executive officer of Bridgestone/Firestone, Inc., apologized to the American public, especially families that lost relatives in the incidents. Firestone stated that its highest priorities included: 1) complete the recall as quickly as possible; 2) determine the root cause of the tire failures; 3) hire an independent expert to investigate failures; 4) accelerate the rollout of a nationwide consumer education program; and 5) work with NHTSA to develop a system to make it easier for a driver to determine tire pressure.[14]

Industry states that more than 92% of the recalled tires have been replaced. To conduct the replacement process, a number of measures were taken. For example, Bridgestone increased tire production in Japan. The tire manufacturer conducted emergency airlifts of tires from Japan beginning on August 23, 2000. Working with Ford, Firestone has urged other tire manufacturers to increase their production of replacement tires. Firestone is also reimbursing customers up to $100 per tire who replace recalled tires with competitors' brands.

Financial Ramifications

It is difficult to calculate the total costs to either Ford or Firestone of the recall, the costs of lawsuits associated with hundreds of incidents reportedly involving the tires in question, and the costs of other actions that may be taken against these companies. Cost estimates vary widely. For example, UBS Warburg, an integrated investment banking firm, has conducted a study indicating that the Firestone tire recall and subsequent litigation could end up costing from $719 million to $2.7 billion.[15]

Reuters wrote that a Ford spokesman stated that the Firestone tire recall cost Ford $500 million last year.[16] The production lost, due to the three week shutdown, amounted to approximately 39,000 vehicles. Reuters also cites that Bridgestone has stated that it would take a $750 million special loss this year to cover recall costs and

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[13]Nassar, Jacques. Prepared statement before the Subcommittee on Telecommunications, Trade and Consumer Protection and the Subcommittee on Oversight and Investigations of the House Commerce Committee. September 6, 2000.

[14]Ono, Masatoshi. Prepared statement before the House Subcommittee on Telecommunications, Trade and Consumer Protection and the Subcommittee on Oversight and Investigations of the House Commerce Committee. September 6, 2000.

[15]Firestone Recall Could Cost $2.7 Billion. *Reuters*. September 25, 2000.

[16][http://dailynews.yahoo.com/h/nm/20010118/bs/ford_outlook_dc_2.html].

potential damage claims.[17] The prices of both Bridgestone and Ford shares have declined since the announcement of the recall. During the first half of its fiscal year, Bridgestone's profits fell nearly 50% as a result of the recall, and its share price has declined about 50% since the recall was announced.[18]

Firestone is looking to its outside insurers to share some of the mounting costs associated with the recalls. However, most standard liability policies do not include costs tied directly to a recall, such as supplying and installing replacement tires and associated advertising costs about the recall. Some attorneys maintain that Firestone has liability insurance that requires it to pay up to $3.5 million per claim. Above that amount, they maintain Firestone's policy provides coverage up to at least $100 million.[19]

The tire recall has also adversely affected some of Ford's suppliers. For example, Visteon, the third largest automotive parts supplier in the world, which was spun off from Ford earlier this year, announced lowered third quarter earnings of $48 million compared to year ago earnings of $155 million. The drop in earnings was partly due to production cuts by Ford.[20]

Public Reaction and Liability Concerns

Despite the efforts by Ford and Firestone, some Members of Congress and some safety advocate organizations, such as Center for Auto Safety, do not think that the manufacturers acted quickly enough to initiate the voluntary tire recall. Some also want the scope of the recall to be expanded, especially to those tires that are specified in NHTSA's consumer advisory. In addition, others have been concerned about the amount of time that many consumers have had to wait to obtain replacements for their recalled tires. Also, the question has been raised as to when Ford or Firestone realized that there was a problem with some of the tires on Explorers and why they waited to notify NHTSA of this safety challenge.

Ford testified that it "...did not know there was a defect with the tire until we received confidential claims data from Firestone in July of this year."[21] Ford also stated that the reason that it was not aware of the problem is because it is standard practice in the automotive industry that tires are the only part of the vehicle not warranted by the vehicle manufacturer. Firestone stated that because of the growing number of failure reports in the summer of 2000 and the lack of any indication of problems using the traditional methods of assessing performance, Firestone, along with Ford, analyzed claims data. The analysis showed, according to Firestone, a

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[17][http://biz.yahoo.com/rb/001214/h.html]

[18][http://www.cbs.marketwatch.com]. See: Bridgestone Corp. (OTC: BB)

[19]New Car-Safety Rules Are Unlikely Now As Legislators Rush to Campaign Trail. *The Wall Street Journal*. September 8, 2000, p. A3/A8.

[20]Justin Hyde. Visteon Earning Down 69 Percent. Business News. October 19, 2000.

[21]Nasser, Jacques. Prepared statement before the Committee on Commerce, Science, and Transportation Senate. September 12, 2000.

substantial number of claims in the P235/75R15 size and an over representation of tires produced in the Decatur, Illinois plant. That analysis, coupled with reports of serious incidents involving tread belt separations on Ford Explorers, especially in hot climate states, led Firestone to decide on August 8, 2000, to conduct a voluntary recall for customer safety reasons.[22]

Senator John McCain, Chairman of the Senate Commerce, Science, and Transportation Committee, has stated: "The mounting evidence is making it increasingly difficult to credibly believe that neither of these companies knew anything of this problem until late this summer. A recent Washington Post article cites a Firestone report from mid-1998 that shows a dramatic increase in customer claims on one of the tires that is subject to this recall."[23] Senator McCain pointed out that Ford also had received numerous complaints about Firestone tires on Explorers in overseas markets.

Joan Claybrook, President of Public Citizen, a national public interest organization, presented a "Chronology of Firestone/Ford Knowledge of Tire Safety Defect," and concluded that "Ford and Firestone covered up safety problems with the tire/SUV combination for a decade." She stated:

> Numerous Firestone documents recently have become available revealing the company had reason to know since 1997 from property damage and injury claims and tire performance data (such as warranty adjustments and financial analysis of such claims) that its tires were failing. Several documents show a large jump in claims involving tread separations in 1997 and 1998. During all these years the company disclaimed any problem – to consumers, to state government officials and to Ford. One company chart reveals that tread separations for the Wilderness tire increased 194% in 1999 from 1998. Test data on the tires by Ford and Firestone are still not available.[24]

An official for Firestone observed that since the recall was announced, there has been strong public reaction, most of it negative. He pointed out that Firestone has received substantial criticism, class action lawsuits have been filed, and interest groups have urged Firestone to recall up to 34 million additional tires.[25] The tire recall has not only hurt Firestone's relations with many of its customers, but also with its largest buyer, Ford Motor Company. Ford has already talked to Michelin and Goodyear

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[22]Bridgestone/Firestone Testimony before the House Subcommittee on Telecommunications, Trade & Consumer Protection and the Subcommittee on Oversight & Investigations. September 6, 2000.

[23]Chairman John McCain. Prepared statement before the Committee on Commerce, Science, and Transportation Senate. September 12, 2000.

[24]Joan Claybrook, President of Public Citizen. Prepared statement before the Committee on Commerce, Science, and Transportation Senate. September 12, 2000.

[25]Ono, Masatoshi. Prepared statement before the House Subcommittee on Telecommunications, Trade and Consumer Protection and the Subcommittee on Oversight and Investigations of the House Commerce Committee. September 6, 2000.

about supplying tires for its 2002 model Explorer. For model year 2002, consumers reportedly will be able to choose between Firestone tires or certain non-Firestone tires to be placed on their Ford Explorers. Some auto dealers say some customers are leery of Firestone tires, even those on vehicles not affected by the recall. Independent tire dealers also report slower sales for Firestones.[26] Nevertheless, some financial analysts have said that while Firestone's name has been severely damaged by this crisis, it has sufficient history with consumers to survive.

Numerous lawsuits have been filed against both Firestone and Ford. On August 20, 2000, the state of Florida began a civil racketeering investigation of the voluntary U.S. recall of Firestone tires.[27] The non-profit Center for Auto Safety has filed a lawsuit in federal court to try to force the company to expand the recall to include all models of Firestone tires regardless of size and production location.[28] Forty attorneys general for various states have announced that they will assist one another in probing the deaths and actions surrounding the recall.[29] Some lawsuits have now been settled.

Policy Issues and Congressional Responses

As of November 1, 2000, four congressional hearings dealing with the Firestone tire recall have been held.[30] Considerable attention focused on the issues of when Firestone and Ford first knew about the tire safety problems, when these companies reported this information to NHTSA, and whether the responses of these companies were adequate and timely. The adequacy of information provided to consumers about tire pressure and the ability of consumers to obtain replacement tires in a timely manner also were questioned.

This section, however, summarizes some of the legislative issues pertaining to federal regulatory and enforcement authorities, activities, and budget that were discussed during the 106th Congress. Those include: Did NHTSA have sufficient legal authority and adequate regulations to deal with vehicle defects and other safety

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[26]Hyde, Justine. Experts: Firestone Can Recover. September 11, 2000. [http://www.auto.com].

[27]Florida AG Opens Civil Racketeering Inquiry Into Ongoing Tire Recall by Firestone, Ford. *Daily Report for Executives*. BNA. Inc. September 1, 2000, No. 171, p. A-19.

[28]Center for Auto Safety Sues Bridgestone to Force Expanded, Quicker Tire Recall. *Daily Report for Executives*. August 23, 2000, No. 164, p. A-14.

[29]Gillin, Eric. Attorneys General Join Forces Against Ford, Firestone. TheStreet, [http://www.thestreet.com].

[30]On September 6 and 21, 2000, two subcommittees of the House Committee on Commerce held joint hearings on the Firestone tire recall; see: [http://www.house.gov/commerce]. The Transportation Subcommittee of the Senate Appropriations Committee held a similar hearing on September 6, 2000; see: [http://www.senate.gov/~appropriations/transportation/hrgtest.htm]. The Senate Committee on Commerce, Science, and Transportation also held a hearing on the recall on September 12, 2000; see: [http://www.senate.gov/~commerce].

problems in a timely manner? How effectively has NHTSA conducted its regulatory and enforcement responsibilities? Was NHTSA's budget sufficient to allow the agency to conduct its motor vehicle safety responsibilities effectively?

Legal Authority and Regulations Regarding Defects and Safety Problems

As specified in Title 49 of the *Code of Federal Regulations* (see Parts 573 and 577), NHTSA, in general, requires that when a manufacturer of a motor vehicle determines that a vehicle contains a defect related to motor vehicle safety, or fails to conform to an applicable federal motor vehicle safety standard, the manufacturer must provide notification to NHTSA and the registered owner of the vehicle. These regulations apply to specified vehicle or tire defects noted in the United States; however, these regulations do not appear to apply to defects noted in foreign countries. Some critics, however, maintained that NHTSA had the authority under a 1966 statute to monitor recalls and defects abroad, but that the agency did not use that authority. Before enactment of P.L. 106-414, federal officials asserted that they had limited ability to monitor recalls and defects of cars sold abroad.[31]

The U.S. Department of Transportation submitted a proposal to Congress to strengthen NHTSA's information gathering capabilities that are relevant to its defect investigation and safety monitoring responsibilities. (Some of the provisions of DOT's proposal were either amended or served as an input into P.L. 106-414, which is discussed later in this report.) DOT's proposal was intended to require manufacturers of motor vehicles and items of motor vehicle equipment to obtain information and maintain records about potential safety defects in their foreign products that may pertain to the safety of vehicle equipment and vehicles in this country.[32] Although an expanded reporting requirement would add to paperwork burdens imposed on industry, the impact could be evaluated within the context of the benefits provided to NHTSA and consumers. Testimony by (then) U.S. Secretary of Transportation Rodney Slater emphasized that NHTSA recognizes the importance of conducting its defect investigations program within a more global context. The Department intends to strengthen its international activities to enhance its early warning capabilities and has sought legislation to underpin those activities.[33]

NHTSA's regulations also did not require the routine reporting of information about insurance claims or litigation involving possible vehicle or tire defects. DOT's proposal would have authorized the Secretary to require insurance companies to keep records or to make reports periodically regarding crashes or incidents of vehicles and equipment involving fatalities, serious injuries, or fires. DOT's proposal also would have required the Secretary to require manufacturers of vehicles or equipment to keep records and to make reports periodically with regard to crashes or incidents involving

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[31]Labaton, Stephen. U.S. Expands Scope of Inquiry on Faulty Tires. *The New York Times*, August 31, 2000.

[32]Letter submitted by Secretary Rodney Slater to the Honorable J. Dennis Hastert, September 11, 2000.

[33]Testimony of Rodney Slater, before the Senate Commerce Committee, September 12, 2000.

vehicles and equipment and to keep records and to report warranty or adjustment information related to actual or potential defects. Another component of the DOT proposal was intended to strengthen NHTSA's international efforts to cooperate with other governments in exchanging information on vehicle and equipment problems noted outside the United States. (Then) NHTSA Administrator Sue Bailey testified that various types of information, e.g., on insurance claims and data on safety problems occurring abroad, would strengthen the agency's ability to carry out its responsibilities.[34] While some industry leaders favored sharing more information publicly, they wanted information on trade secrets and the amount of settlements to be protected.

Timeliness of Actions

During the hearings, questions arose regarding the adequacy and timeliness of NHTSA's actions in implementing some of its regulatory and enforcement responsibilities. Critics of NHTSA maintained that there was sufficient evidence in 1998 for the agency to have initiated a formal investigation on the Firestone tires. NHTSA pointed out that it was reviewing hundreds of complaints about other tires at the time and the agency emphasized that it accelerated its investigation as it learned of additional problems and crashes. Although NHTSA has intensified its efforts, it remains uncertain when the investigation will be completed. Some link this issue to the first: if the agency had access to more complete sources of information, it might have been able to act in a more timely manner.

Adequacy of NHTSA's Budget

Some questioned whether NHTSA's Office of Defects Investigation (ODI) has had sufficient funds to conduct its activities effectively. In "current" dollars (not adjusted for inflation), the budget for this office has not increased much over time. The FY1980 working capital budget for NHTSA's defects investigation program was $2.2 million, while the same budget for FY2000 is $2.66 million.[35] During the last few months, NHTSA has substantially increased the resources and staff devoted to the Firestone tire investigation. In addition, the agency asked for and received a $9 million supplement to its FY2001 budget request to further strengthen its investigations program and provide resources for updating federal tire safety standards. Various Members of Congress have voiced their support for improved information systems to underpin NHTSA's enforcement program, as well as other program enhancements to ensure that NHTSA has sufficient resources so that a situation similar to the Firestone tire recall does not happen again.

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[34]Testimony of Sue Bailey, before joint hearings of the Subcommittee on Telecommunications, Trade and Consumer Protection and the Subcommittee on Oversight and Investigations of the House Commerce Committee, September 6, 2000, and other hearings specified in footnote 30.

[35]Written communication from NHTSA, 2000. These budget figures pertain only to the contract program (working capital) and do not include funds for personnel compensation and benefits or funds for NHTSA's hot line which is used to report complaints about vehicles and equipment.

The budget available to NHTSA, in general, and for its ODI, in particular, affect the agency's ability to monitor and respond to defects noted in this country and those abroad, as well as to carry out simultaneously its other safety responsibilities. Authorizing law does not now specify how much of NHTSA's budget should be allocated for defect investigations. The funding and personnel level for this function is set in DOT's annual appropriation act. Although NHTSA's defect investigation program is an essential component of its regulatory function, the agency has many other priorities that have historically consumed most of its budget. The difficult challenge of allocating limited federal funds among programs intended to increase seat belt use rates, reduce drunk driving, or enhance defect investigations remains.

Congressional Responses and NHTSA's Efforts to Implement the TREAD Act

The "Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act," P. L. 106-414, was enacted to improve and strengthen NHTSA's ability to detect and investigate vehicle and related equipment defects. More specifically, this Act includes provisions to: 1) increase or strengthen reporting requirements for manufacturers of motor vehicles or motor vehicle equipment, 2) increase civil penalties for violations of specified federal motor vehicle safety regulations, 3) provide criminal penalties of up to 15 years in prison under certain conditions, 4) require a rulemaking to revise and update NHTSA's tire standards, 5) increase the number of years that a remedy for a defect must be provided without charge to the vehicle owner, and 6) authorize increased funding for NHTSA. The bill also requires the Secretary of DOT to undertake a comprehensive review of the criteria, procedures and methods used by NHTSA in determining whether to open a defects investigation. Within one year of enactment, the Secretary is to report to the authorizing committees of jurisdiction on the findings and actions taken pursuant to the report.

Other relevant legislation considered by the 106th included: S. 3014, which sought to penalize the "knowing and reckless" introduction of a defective product into interstate commerce; and S. 3012 and H.R. 5154, which would have imposed criminal and civil penalties for false statements and failure to file reports concerning defects in foreign motor vehicle products, and required the timely notification of such defects.

NHTSA has begun the process of implementing the various provisions of the TREAD Act. For example, NHTSA published a final rule on November 14, 2000, that changed the limits on civil penalties for violations of 49 U.S.C. Chapter 301 – Motor Vehicle Safety. The penalty for a single violation was increased from a maximum of $1,100 to a maximum of $5,000, and the maximum civil penalty for a related series of violations was increased from $925,000 to $15,000,000. The rule also extends from 8 to 10 years the period for which a manufacturer must remedy without charge a noncompliance or safety-related defect. On December 1, 2000, NHTSA issued an Advanced Notice of Proposed Rulemaking intended to lead to improvements in the labeling of tires and to assist consumers in identifying tires that may be the subject of a safety recall. Also, NHTSA is considering amendments to its regulations to improve the quality and usefulness of tire information and its availability

and understandability to consumers. This information could include data on such topics as tire identification readability and location, loading, plies and cord material, tread wear indicators, Uniform Tire Quality Grading Standards, speed ratings, tire inflation pressure, and dissemination of any tire safety information.