

STATEMENT OF JOAN CLAYBROOK, ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON CONSUMER PROTECTION AND FINANCE, HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE, CONCERNING PROVISION OF ADEQUATE NOTICE TO OWNERS OF DEFECTIVE TIRES, MAY 24, 1979.

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before your Subcommittee today to discuss the use of public notice to alert owners about defective or noncomplying tires. Representative Rinaldo of this Committee has introduced a public notice bill for tires that would supplement the existing notice provisions contained in the National Traffic and Motor Vehicle Safety Act.

With me today are Acting Associate Administrator for Enforcement, Lynn Bradford, and Chief Counsel, Frank Berndt.

We are extremely sensitive to the issue of efficiently notifying owners about the potential dangers of defective tires and of an owner's right to obtain safe replacement tires at no cost within the recall period. We are in the midst of the largest tire recall ever conducted under the Vehicle Safety Act, the Firestone 500 steel-belted radial recall. Your Oversight Subcommittee held extensive hearings on the Firestone 500 last year and was instrumental in pursuing the safety issue to its present conclusion -- recall of more than 14 million potentially dangerous radial

500's. Our investigation reported thousands of accidents in which the tires were implicated, resulting in 41 deaths and 125 injuries.

The Vehicle Safety Act presumes that consumers have a basic right to know if their vehicle or equipment contains a safety defect. This is a fundamental protection that Federal auto safety law should provide. Indeed, Congress has amended the Act twice since 1966 to further strengthen this protection, in 1970 to ensure that as many owners as possible receive direct notification of defects, and in 1974 to provide for repair or replacement at no cost of vehicles or equipment found to contain safety defects.

Direct notification to tire purchasers is accomplished in the same manner as for automobiles. The dealer is responsible under a specific provision of the Act to assist the manufacturer in obtaining the purchaser's name and address and to forward it to the tire manufacturer. Tire registration has worked well in the case of company-owned stores and chain-type department stores, where registration is nearly 90 percent according to our informal surveys. Unfortunately, registration is much lower in the independent tire dealerships, amounting to about 20 percent according to our surveys, for an average in all outlets of about 45 percent.

There is certainly a need for additional means to advise tire owners and the general public when a tire line is found to be defective.

The Department supports the idea of providing public notice of a tire recall where the Secretary deems appropriate and after consultation with the manufacturer. In the Firestone 500 case, about 1.6 million of the estimated 8.7 million tires which qualify for free replacement have been returned by owners for replacement at no cost as a result of the publicity and Firestone's mass media campaign. More owners have received "rain checks" while more replacement tires are manufactured. While not a technique that could replace individual notice letters, public notice proved to be of substantial assistance in the initial stages of this important recall.

Public notice through various advertising media has several advantages to supplement direct notification by mail to the purchaser's listed address. Public notice is faster and can avert needless death and injury that could occur while numerous notice letters are prepared. Also, the ownership of tires typically changes with the transfer of vehicles, and direct notice to the original purchaser of aftermarket tires is unlikely to be re-transmitted to the new owner. Purchasers can also fail to receive notice simply because they move without leaving a forwarding address.

The Department would not support a provision that sought to substitute public notice for direct notice based on registration of tire purchases by the dealer. In our view, public notice does not have the same impact as direct notice in encouraging corrective action by the owner. Despite the massive Firestone publicity, only about 15 percent of the tires have been reported to dealers. Substantial direct mailings to individual owners have only commenced recently. Also, tire recalls typically will not be accompanied by the high level of publicity spontaneously generated in the Firestone case, particularly in the case of voluntary recalls. Thus, direct registration continues to bear the burden for successfully conducting a tire recall.

It has been argued that the mere provision of a registration card to be filled out at home by tire purchasers would equal or exceed the potential for registration under the present system at the dealership. We have studied this issue and are convinced this would not be the case. Voluntary registration of warranties on major appliances averages only 50 percent, with as low as 10-percent registration for the \$10 - \$30 appliances, despite the fact that a monetary incentive to register the warranty exists. Voluntary registration by tire purchasers would be particularly difficult because the identification number is often hard

to distinguish from several other numbers on a tire, and in the case of white walls, it is often located on the side opposite the whitewall so that it is virtually inaccessible after mounting without climbing under or lifting the car. Also, the registration imposes a very small amount of paperwork on the dealer in comparison to the death and serious injury occasioned by tire defects such as the Firestone 500 case which can be stopped with an effective recall. A simple "universal registration form" is provided to dealers, although dealers may choose use of other formats if they desire. Only the purchaser name and address, along with the tire I.D., must be added to the form. The purchaser can even be asked to fill out the name and address portion. Thus, there may be no need for the store personnel to do anything more than insert the tire number and check the form for completeness.

We have reviewed Mr. Rinaldo's bill, H.R. 3949, which would treat tires like any other replacement equipment and require that (1) direct notice by mail be provided to the most recent purchaser known to the manufacturer and that (2) public notice be provided as determined by the Secretary after consultation with the manufacturer.

Because registration records for vehicles are so good, we anticipate the bill would actually affect the replacement market for the most part, and be moderate in impact.

The bill as drafted represents a great improvement in consumer's rights to receive adequate notice of defective products, and would serve to compensate in part for the low tire registration rates experienced in some tire outlets. Accordingly, the Department of Transportation supports H.R. 3949.

Before concluding, I would like to mention another improvement that could be made to the tire recall provisions. When the "replacement without charge" requirements were added to the Act of 1974, a 3-year limit was placed on the "no charge" recall of tires during the legislative process. Our experience with tire recalls since then demonstrates that the useful life of tires commonly can be longer than three years. This is particularly the case where tires are removed and stored during winter tire use each year or where the owner travels relatively few miles annually.

In the Firestone case, for example, only somewhat more than half of the defective 500's still in use on the highways were sold within the 3-year cut-off date of September 1, 1975. That is, 8.7 million tires will be replaced

at no charge under the 3-year limit, but 5.3 million more were not covered by the statutory remedy of § 154. Thus, although there is an unlimited obligation to notify owners of a defect, there is a 3-year limit on the requirement that a replacement tire be provided for the defective one. The Department of Transportation has under consideration a proposal to extend this 3-year limit.

This completes my statement. I and my colleagues would be pleased to answer any questions you might have.