

March 9, 2004

Norman Y. Mineta
Secretary of Transportation
Office of the Secretary of Transportation
Department of Transportation (DOT)
400 7th Street, SW
Washington, DC 20590

Re: Need for Issuance of Overdue Final Rule on Tire Pressure Monitoring Systems

Dear Secretary Mineta,

We in the vehicle safety community are very concerned about the failure of the National Highway Traffic Safety Administration (NHTSA) to quickly re-issue a tire pressure monitoring system (TPMS) final rule following a court order from the Second Circuit Court of Appeals in *Public Citizen v. Mineta* on August 6, 2003. Over two decades¹ of extensive research, the full notice-and-comment process, and the court opinion, as well as the agency's fall-issued special order, should provide NHTSA sufficient information to issue a final rule in compliance with the court's ruling and the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act mandate. Hundreds of lives are at stake – the agency should act to protect them, as its statutory mission requires.

On November 1, 2000, following the discovery of the deadly combination of Ford Explorers and certain Firestone tires, Congress enacted the TREAD Act. The Act spelled out a deadline for the completion of rulemaking “to require a warning system in new motor vehicles to indicate to the operator when a tire is significantly under inflated” by November 1, 2001. According to TREAD, the requirement was supposed to become effective not later than 2 years after the date of the completion of the rulemaking. Congress intended the TPMS standard to be effective by, at the latest, *November 2003*, yet DOT has yet to issue a revised final rule compatible with the obvious instructions from Congress and the court.

As is clearly indicated by your own agency's cost-benefit analysis, in every year that passes without a TPMS requirement, 124 people die needlessly, and many thousands are unnecessarily injured. This cost-effective and lifesaving rule, which our litigation rescued from an auto industry highjacking via the Office of Management and Budget, should be issued immediately and without further delay.

¹ The NHTSA first solicited public comment on “low pressure warning devices” with a Notice of Proposed Rulemaking (NPRM) published on January 26, 1981. That rulemaking process was terminated in August of 1981.

Yet instead of amending the final rule in a timely fashion to conform to the court decision and deadlines in TREAD, DOT has remained silent on its activities since the August 2003 decision was handed down. It is very troubling to us that six months after the Second Circuit's decision and more than three years after the Congressional mandate was made law, the revised TPMS final rule has yet to be issued.

It is also very distressing to me that according to the Department of Transportation's (DOT's) "Rulemaking Management System – Report on DOT Significant Rulemaking" Website, NHTSA is planning, in July of 2004, to publish a *Notice of Proposed Rulemaking* (NPRM) to replace the previous rulemaking. During the agency's first attempt to answer the TREAD mandate on TPMS, it published an NPRM on July 26, 2001, which did not become a final rule until June 5, 2002. We see no reason why more notice-and-comment rulemaking is needed for a rule that has been debated and analyzed for over three years. More years of foot-dragging by the agency should not be acceptable to you or NHTSA Administrator, Dr. Jeffrey Runge.

Please respond to this letter by providing information regarding the progress of this important rule, including where it is within the department, the priority for issuance it is currently receiving, the date that that you are planning to reissue the final rule, and the intended effective date.

Sincerely

Joan Claybrook
President, Public Citizen

cc: NHTSA, Dr. Jeffrey Runge, Administrator