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## **Automakers Cannot Install Ineffective Systems for Detecting Underinflated Tires, Appeals Court Rules**

### ***Safety Agency Told to Rewrite Rule Following Consumer Advocates' Suit***

WASHINGTON, D.C. – Auto safety advocates scored a significant victory Wednesday when a three-judge panel of the United States Court of Appeals for the Second Circuit ordered the government to rewrite a rule that would have allowed automakers to install ineffective tire pressure monitoring systems and would have left too many drivers and passengers unaware of dangerously underinflated tires.

The judges ordered the National Highway Traffic Safety Administration (NHTSA) to rewrite a regulation issued in July 2002 that set forth standards for devices to alert drivers when tires are underinflated, resolving a lawsuit brought by consumer advocates Public Citizen, the Center for Auto Safety and the New York Public Interest Research Group.

Driving on underinflated tires is dangerous and far too common. More than a third of the passenger cars and light trucks on the road has at least one tire underinflated by 20 percent. More than a quarter has at least one tire underinflated by 25 percent and a fifth has at least one tire underinflated by 30 percent. To address this problem in the wake of the Ford/Firestone tragedy, Congress in November 2000 directed NHTSA to issue a rule requiring a warning system in new vehicles to alert the driver when a tire is significantly underinflated.

During the course of its rulemaking, NHTSA identified two types of systems that detect underinflated tires. One system warns a driver when any one tire or any combination of tires is 20 percent or more underinflated, based on the auto manufacturer's recommended tire pressure. It functions as soon as the vehicle is turned on, operates effectively on any type of road surface, and can be installed in any vehicle.

The other system, which works with a vehicle's anti-lock braking system, warns a driver when any single tire is 30 percent or more underinflated or when three tires are 30 percent or more underinflated as compared to the other tires. But the system is seriously flawed. It cannot detect when all four tires are underinflated or when two tires on the same side or the same axle are underinflated. It does not function until the vehicle has been driven for up to 10 minutes, and it does not function at speeds above 70 miles per hour or on bumpy or gravel roads. The system cannot detect 30 percent underinflation in half of the instances in which it occurs.

According to NHTSA's estimates, if installed in all passenger vehicles and light trucks, the first system would prevent 141 to 145 deaths and prevent or reduce the severity of more than 10,270 injuries each year. If all vehicles with anti-lock brakes used the second system and the remaining vehicles used the first system, only 79 deaths would be prevented and 5,176 injuries prevented or reduced in severity.

Notwithstanding NHTSA's express recognition that the first system is more reliable and effective and that it would better fulfill the purposes of the statute, the agency, under pressure from the Office of Management and Budget (OMB) and the auto industry, issued a rule allowing manufacturers to

install either system.

The court held that the portion of the rule allowing auto manufacturers to meet a weaker standard violated the express requirements of the statute and was arbitrary and capricious. The court vacated the rule and sent the matter back to NHTSA so the agency can revise the rule in accordance with the statute and the court's decision.

"The OMB tried and failed to override the judgment of safety experts at NHTSA," said Laura MacCleery, auto safety advocate at Public Citizen. "We are pleased that the court restored NHTSA's rightful role in putting safety ahead of industry convenience."

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