

## **OMB TESTIMONY ON NHTSA'S TIRE PRESSURE MONITORING RULE: HOUSE SUBCOMMITTEE ON CONSUMER AFFAIRS**

**Thursday, February 28th**

Mr. Chairman, and Members of this Subcommittee, thank you for inviting me to this hearing. I am John D. Graham, Ph.D., Administrator of the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget. My testimony will (1) explain the role that OMB plays in reviewing proposed and final regulations under Executive Order (E.O.) 12866, (2) describe the role we have played in reviewing rules issued by NHTSA pursuant to the Transportation Recall Enhancement, Accountability and Documentation (TREAD) Act of 2000, and (3) explain why we recently asked NHTSA to reconsider a draft final rule on tire pressure monitoring systems (TPMSs).

I am especially pleased to testify at the same hearing as my Administration colleague Dr. Jeffrey Runge. For years I have been an admirer of Dr. Runge's work in the field of trauma care and I am convinced that he will prove to be one of the finest Administrators that NHTSA has had in the agency's 35-year history. I know how hard Dr. Runge and his staff are working to implement the ambitious provisions of the TREAD Act.

OMB fully supports the safety goals of the TREAD Act and is working with NHTSA to produce the best possible regulatory actions given the resource and statutory constraints. We appreciate that NHTSA has been working under tight statutory deadlines and, as a result, OMB has performed its review function in an expedited yet rigorous manner.

### **OMB'S REGULATORY REVIEW ROLE**

Under E. O. 12866, OMB reviews all significant regulatory actions to ensure consistency with the principles of good regulatory analysis and policy. For those significant actions that cost the economy more than \$100 million per year, such as the tire-pressure monitoring (TPMS) rule, E.O. 12866 requires the agency to perform a cost-benefit analysis that is reviewed by OMB.

At both the proposed and final stages of a major rulemaking, OMB is provided up to 90 days to review an agency's rulemaking package, which includes the draft rule, the cost-benefit analysis and any other supporting materials. During the 90-day review period, analysts at OMB scrutinize the agency's work and, in some cases, collaborate with the agency to improve the analysis and/or the draft rule. There are ultimately three possible outcomes of OMB review: (1) clearance for publication in the Federal Register, (2) withdrawal by the agency for further consideration, and (3) return by OMB to the agency for further consideration.

When a rule is returned to the agency, it is the practice of this Administration to prepare a formal return letter that is made available to the public as well as the agency. Since I was confirmed by the Senate in July of last year, I have signed 20 return letters about various draft regulations. In most cases, the reason for the return was an inadequate regulatory analysis. The public can review these letters on OMB's web site at [www.whitehouse.gov/omb/info/reg/return\\_letter.html](http://www.whitehouse.gov/omb/info/reg/return_letter.html). In five of

those cases so far, the agency improved the regulatory package and resubmitted it to OMB, which cleared it for publication in the Federal Register.

Each year OMB performs reviews of about 600 significant regulations, and about 60-80 are at OMB during any given month. During my tenure as OIRA Administrator, we have treated the 90-day review period as a performance indicator except in unusual circumstances (e.g., when the agency requests an extension of the review period). Agencies have a right to expect that OMB will perform rigorous yet timely reviews. The monthly number of OMB reviews that extend beyond 90 days has plummeted from an average of 25 in calendar year 2000 to close to zero in the last three months.

When an agency is facing statutory deadlines, such as those in the TREAD Act, we offer the agency expedited review and rarely consume the entire 90-day review period. When agencies are facing a court-ordered deadline, our reviews are even swifter. In some cases, we work informally with the agency to make sure that a regulatory package is in good shape before it is even formally submitted to OMB.

### **PACE OF OMB REVIEWS UNDER THE TREAD ACT**

To date, OMB has conducted three formal reviews under the TREAD Act (including the draft final TPMS rule) under E.O. 12866. We have also reviewed another eight TREAD Act rules informally. Our average review time was 47 days for the formal reviews and 8 days for the informal reviews.

In the case of the TPMS rule, NHTSA submitted the draft final regulatory package to OMB on December 17, 2001. (The statutory deadline for issuance of the final rule was November 1, 2001). We returned the rule to NHTSA for reconsideration on February 12<sup>th</sup> and have worked diligently with NHTSA since that date.

### **TIRE PRESSURE MONITORING TECHNOLOGY**

The TREAD Act requires NHTSA “to require a warning system in new motor vehicles to indicate to the operator when a tire is significantly underinflated.” Currently, there are two different ways to measure tire pressure: the direct system and the indirect system.

The direct system has a battery-operated measuring device on each of the four tires and, as an optional feature, can provide a dashboard display of the inflation levels in each tire. This system is currently available only on certain high-priced models (e.g., the Lincoln Continental and the Lexus SC 430) and costs \$66 per vehicle to install, plus a lifetime maintenance cost of \$40.

The indirect system infers tire pressure by using information from a computer in the car’s anti-lock braking system. The difference in rotational speeds between wheels is compared to infer tire pressure. For vehicles with anti-lock brakes, the indirect system is inexpensive (\$13 per vehicle to install with negligible maintenance costs). A dashboard warning light indicates whether one of the tires is underinflated. The indirect system is currently installed on almost two million vehicles in the United States, including the Toyota Sienna and Ford Windstar.

Given current technology, it appears that both systems could meet a “1-tire” performance standard (i.e., the ability to detect 30% underinflation in one tire) while only the direct system could satisfy a performance standard that requires information on all 4 tires simultaneously.

## **THE ROLE OF ANTI-LOCK BRAKES**

From a tire-safety perspective, NHTSA has valid reasons for considering a mandatory “4-tire” standard for the future. This approach would assure that consumers would be warned when any combination of tires (1, 2, 3 or all 4) is underinflated. The 1-tire standard will provide warnings when 1 tire is underinflated but will not necessarily detect situations when 2 or more tires are underinflated. A further weakness of the 1-tire standard is that consumers may misperceive that their tires are fine (since the warning light is off) when in fact all four of their tires are equally underinflated. The 4-tire standard overcomes these problems.

The tire-safety advantages of the 4-tire rule may not be decisive because the 1-tire standard encourages vehicle manufacturers to install anti-lock braking systems in vehicles that do not currently have them. The best available evidence, though not definitive, suggests that anti-lock brakes reduce fatal crashes by 4 to 9%. Since these reductions apply to all fatal crashes, not just tire-related crashes, the safety benefits of more anti-lock brakes could easily outweigh the extra tire-safety benefits of the 4-tire rule. About one-third of new vehicles sold today -- primarily less expensive vehicles -- are not equipped with anti-lock brakes. OMB’s analysis indicates that retention of the 1-tire standard will encourage more consumer offerings of anti-lock brakes.

If a vehicle manufacturer is considering adding anti-lock brakes to vehicles that do not currently have them, the cost to consumers of purchasing anti-lock brakes will be smaller under a 1-tire standard than a 4-tire standard. NHTSA has estimated that adding anti-lock brakes costs an average of \$240 per vehicle. The cost of a direct tire-monitoring system plus anti-lock brakes would be about \$306 (\$240 + \$66). The cost of an indirect system plus antilock brakes is about \$253 (\$240 + \$13). (Note that these comparisons ignore maintenance costs). Thus, the option of complying with an indirect system reduces the cost of adding anti-lock brakes by about \$53 per vehicle (\$306 - \$253), or by about 20%. The basic principles of economics suggest that these cost savings will induce more vehicles to be equipped with anti-lock brakes than would be equipped under a 4-tire standard. According to NHTSA, one large vehicle manufacturer intends to install anti-lock brakes in more vehicles if indirect TPMS are permitted.

Many of the indirect TPMS now on the road are very crude and will need to be improved to meet NHTSA’s 1-tire standard. It is also likely that technological advances will permit indirect systems to detect moderate underinflation in 1, 2 or 3 tires. However, a purely indirect system cannot meet the 4-tire standard because the system works by sensing the differences in pressures between wheels.

OMB believes that a technology assessment should be conducted before making a final decision about whether the 1-tire standard should be retained or replaced by a 4-tire requirement. OMB has requested that NHTSA gather the following information: (1) an empirical study of actual tire pressure levels in vehicles with indirect systems and, if feasible, other types of TPMSs, (2) a

cost analysis of alternative TPMSs that accounts for probable economies of scale of mass production, (3) an updated analysis of the sales of anti-lock brake systems and their safety impacts, and (4) an assessment of technological progress in development of improved TPMS. The results of these analyses could inform the decision as to whether a new rulemaking should be conducted for model years 2007 and beyond.

### **SHOULD ANTI-LOCK BRAKES BE REQUIRED?**

Since OMB's analysis indicates that the safety benefits of anti-lock brakes may be substantial, it has been suggested that NHTSA should mandate anti-lock brakes in all new vehicles. This idea is worthy of consideration and would need to be addressed in a separate rulemaking. A good time to consider this option would be two years from now, when the real-world database on the safety benefits of anti-lock brakes may be large enough to draw definitive statistical conclusions.

Thank you for the opportunity to appear today.