

**§ 1600.4 Operation.**

In exercising its functions, duties, and responsibilities, the CSB utilizes:

(a) The CSB's staff, consisting of specialized offices performing investigative, administrative, legal, and financial work for the Board.

(b) Rules published in the **Federal Register** and codified in this title of the Code of Federal Regulations.

(c) Meetings of the Board Members conducted pursuant to the Government in the Sunshine Act and part 1603 of this title (CSB Rules Implementing the Government in the Sunshine Act) or voting by notation as provided in § 1600.5(b).

(d) Public hearings in connection with incident or hazard investigations.

**§ 1600.5 Quorum and voting requirements.**

(a) *Quorum requirements.* A quorum of the Board for the transaction of business shall consist of three Members; provided, however, that if the number of Board Members in office is fewer than three, a quorum shall consist of the number of Members in Office; and provided further that on any matter of business as to which the number of Members in office, minus the number of Members who have disqualified themselves from consideration of such matter is two, two Members shall constitute a quorum for purposes of such matter. Once a quorum is constituted, a simple majority of voting Members is required to approve an item of the Board's business. A tie vote results in no action.

(b) *Voting.* The Board votes on items of business in meetings conducted pursuant to the Government in the Sunshine Act. Alternatively, whenever a Member of the Board is of the opinion that joint deliberation among the members of the Board upon any matter at a meeting is unnecessary in light of the nature of the matter, impracticable, or would impede the orderly disposition of agency business, such matter may be disposed of by employing notation voting procedures. A written notation of the vote of each participating Board member shall be recorded by the General Counsel who shall retain it in the records of the Board.

**§ 1600.6 Office location.**

The principal offices of the Chemical Safety and Hazard Investigation Board are located at 2175 K Street NW, Washington, DC 20037.

Dated: November 14, 2003.

**Raymond C. Porfiri,**

*Deputy General Counsel.*

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**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****49 CFR Parts 571 and 590**

[Docket No. NHTSA 2003-16524]

RIN 2127-AJ22

**Federal Motor Vehicle Safety Standards: Tire Pressure Monitoring Systems; Controls and Displays; Amendment in Response to Court Decision**

**AGENCY:** Department of Transportation, National Highway Traffic Safety Administration (NHTSA).

**ACTION:** Final rule; notice of manufacturer responsibilities and agency plans.

**SUMMARY:** The agency is revising the Code of Federal Regulations to conform to a court decision vacating a Federal motor vehicle safety standard for tire pressure monitoring systems. Per a mandate in the Transportation Recall Enhancement, Accountability and Documentation Act, the agency issued a rule in June 2002 establishing the standard. The U.S. Court of Appeals for the Second Circuit concluded in *Public Citizen, Inc. v. Mineta* that a portion of the standard was both contrary to law and arbitrary and capricious, but vacated the entire standard. Since this document simply revises the Code to conform to the court decision, prior notice and public comment are not required.

**DATES:** The amendments made by this final rule are effective on November 20, 2003.

**ADDRESSES:** Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** For technical and other non-legal issues, you may call Mr. George Soodoo or Mr. Samuel Daniel, Office of Crash Avoidance Standards (Telephone: 202-366-2720) (Fax: 202-366-4329).

For legal issues, you may call Eric Stas, Office of Chief Counsel (Telephone: 202-366-2992) (Fax: 202-366-3820).

You may send mail to these officials at National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** Congress enacted the Transportation Recall Enhancement, Accountability, and

Documentation (TREAD) Act (Pub. L. 106-414) on November 1, 2000. Section 13 of the TREAD Act mandated the completion of "a rulemaking for a regulation to require a warning system in new motor vehicles to indicate to the operator when a tire is significantly under inflated." NHTSA published a final rule establishing a standard requiring tire pressure monitoring systems on June 5, 2002. (67 FR 38704) Public Citizen, Inc., New York Public Interest Research Group, and the Center for Auto Safety, petitioned for judicial review of the standard. On August 6, 2003, the U.S. Court of Appeals for the Second Circuit issued an opinion vacating the rule establishing the standard. *Public Citizen, Inc. v. Mineta*, No. 02-4237, 2003 U.S. App. LEXIS 16556 (2d Cir. Aug. 6, 2003). The mandate from the Court issued on the same date.

Pursuant to the Court's decision, NHTSA is removing the regulatory text added to the Code of Federal Regulations by the rule issued on June 5, 2002. Consequently, motor vehicle manufacturers have no obligation to begin certifying their vehicles to the standard on November 1, 2003, as previously required. However, NHTSA intends expeditiously to issue a standard setting forth performance-based requirements consistent with the Court's decision and in accordance with the Administrative Procedure Act.

NHTSA has determined that it has "good cause" under section 553(b)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), to promulgate this final rule without prior notice and opportunity for comment. The agency finds it "unnecessary" to provide an opportunity to comment because this action involves a ministerial removal of regulatory text in direct response to a court decision. The rule amends only those regulatory provisions directly affected by the Court's decision. For the same reasons, the agency finds that this final rule should be effective immediately because the public would benefit from the prompt removal from the Code of Federal Regulations of regulatory requirements that are no longer applicable as a result of the court's decision.

**VIII. Administrative Requirements****A. Executive Order 12866: "Significant Regulatory Action Determination"**

This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866, "Regulatory Planning and Review." The rulemaking action is also not considered to be significant under the Department's