

May 24, 2004

Jeffrey W. Runge, M.D.
Administrator
National Highway Traffic Safety Administration
U.S. Department of Transportation
400 Seventh Street, S.W.
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Dear Dr. Runge:

We were puzzled to read your allegation that the issuance of new rollover-related safety standards was delayed because the National Highway Traffic Safety Administration (NHTSA) “was preoccupied by rules required by Congress after the Firestone tire scandal.” *SUVs Blamed for Rise in Traffic Deaths in 2003*, USA Today (May 6, 2004). This statement is at odds with the NHTSA’s budget submissions to Congress these past few years, your own House and Senate testimony and other public documents related to the agency’s research and regulatory programs. A chart used at the press conference on May 12, 2004 to announce the new side impact crash protection rule shows that 33 per cent of all passenger vehicle occupant fatalities occur in rollover crashes. The rollover prevention and crashworthiness requirements in S. 1072 have significant lifesaving benefits and have been researched and debated by NHTSA for at least two decades.

The statement attributed to you inappropriately casts aspersions on the value of the rules required by Congress in the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act (Nov. 2000). As you recall, the NHTSA was slow to identify, comprehend, and respond to the problem of tread separation in Firestone/Bridgestone tires that contributed to Ford Explorers rolling over, resulting in several hundred deaths and at least 700 serious injuries. The implication in the press report was that addressing consumer information needs on rollover propensity and tire safety, and making changes in how NHTSA conducts its business in order to ensure that other serious defects are discovered before hundreds of lives are lost, “preoccupied” the agency, distracting it from pursuing new rollover safety standards.

Senate passage of S.1072 was a bi-partisan acknowledgement that through several Administrations the agency has allowed rollover-related standards to languish for decades without significant improvement. Although the issues of rollover stability, roof crush and ejection mitigation have been part of the agency’s research and rulemaking agendas for many years, little definitive action has been taken by the agency to improve either vehicle stability or crashworthiness in a rollover crash. In 1994, when the NHTSA terminated its rulemaking on rollover stability, the Secretary of Transportation and the agency announced that other actions would be taken to improve vehicle crashworthiness to make up for the agency’s failure to issue a vehicle rollover stability standard. Few such actions were taken and no improved safety standards were issued.

Since these events took place prior to the discoveries that led Congress to pass the TREAD Act (and before your tenure as NHTSA Administrator), it is incorrect to assert that the TREAD Act was the reason for delayed agency action to issue new rollover-related safety standards. Your own head of rulemaking admitted as much in an article published just last month. "If you look at the things we promised [on rollover], then you're right, we didn't put out," Stephen Kratzke, NHTSA's Associate Administrator for Safety Performance Standards told the *Detroit News* in a story published in April 2004. "It's fair enough to hold us accountable for that."

Furthermore, the TREAD Act was accompanied by an authorization to add 30 additional full-time employees to the agency staff specifically to deal with TREAD Act mandates, and millions more in funding was authorized and appropriated to address TREAD Act issues and requirements. Thus, Congress provided additional resources to ensure that the agency could carry out its responsibilities under the TREAD Act as well as continue to pursue other important safety initiatives.

Moreover, the record does not contain any documentation to support your statement that there were insufficient resources, financial and staff, to complete the TREAD rulemakings and pursue other regulatory issues related to rollover crashes. The agency did not form its internal Integrated Project Team (IPT) on rollover mitigation until September 2002, long after the TREAD Act took effect and the agency began to respond to its mandates. Any suggestion that the TREAD Act delayed formation of the IPT is belied by the fact that the IPT report, *Initiatives to Address the Mitigation of Vehicle Rollover* (June 2003), makes no mention of any delay in forming the IPT or in the conduct of agency research or rulemaking activities aimed at strengthening rollover-related standards.

In addition, the NHTSA's *Vehicle Safety Rulemaking Priorities and Supporting Research: 2003-2006*, in discussing rollover issues including reducing ejections and improving roof crush resistance, never states that these or other rollover-related initiatives have been delayed in any respect.

Furthermore, the agency budget requests for fiscal year (FY) 2000 through FY 2004 do not indicate any concern about insufficient funding that would delay the development of tougher rollover-related standards. During those years, none of the NHTSA budget requests indicate that rollover-related issues were delayed for lack of resources, or claim that a substantial increase in funds was needed to pursue tougher rollover-related standards and to keep those efforts on track. In fact, the budget requests for the research and analysis program, and the safety performance support program, actually understate any concern that rollover-related activities were being pushed aside because of the TREAD Act or any other reason.

For example, in the year prior to enactment of the TREAD Act, the NHTSA FY2000 budget request for the crashworthiness research sought only \$8.858 million – nearly \$2 million less than the \$10.558 million budgeted in the previous year FY1999 –

despite the fact that this budget covered research to enhance occupant protection in rollover crashes, reduce occupant ejection, and improve roof structure performance. Post-TREAD Act budgets similarly lack any indication that a preoccupation with TREAD Act work was hampering progress on rollover-related initiatives. In FY2002, the agency budget request for research and analysis was \$9.084 million, nearly \$200,000 less than the FY2001 budget for crashworthiness research of \$9.268 million, even though the justification for this amount included the same rollover-related activities. The agency received \$9.071 million (enacted) for this budget in FY2002. Likewise, the NHTSA FY2003 budget requested only a slight increase to \$9.084 million for its crashworthiness research budget that included the agency's continuing research on rollover. And although the agency plans to conduct rulemaking on several rollover-related issues in 2004, the NHTSA FY2004 request for the Safety Performance (rulemaking) safety standards support budget is only \$2.077 million, just \$35,000 more than the FY2003 budget request of \$2.042 million for this purpose. Even the agency FY2004 request for Safety Systems in the Research and Analysis budget is only \$154,000 more than the FY2003 budget, which the agency budget characterizes as an inflationary increase.

As this record reflects, the agency has not previously asserted in its budget requests to Congress that more funds were necessary to ensure that rollover-related rules are issued in a timely fashion. At no time, in the public documents we have reviewed, has NHTSA substantiated any delay because of TREAD Act requirements or any request for additional funding to offset delays in the agency's schedule for researching, developing, and issuing stronger rollover-related standards.

Since 2000, the year in which the TREAD Act was passed, at least 41,462 people have died in rollover crashes. It is time to address this catastrophic loss of life and the tragic infliction of serious injuries. S. 1072 will provide the roadmap, resources, and resolve to complete long overdue regulatory actions that have the potential to save thousands of lives each year during your tenure in office and thereafter. No more excuses – it is far past time for NHTSA to decisively address rollover risks.

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