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B-309379

April 30, 2007

The Honorable Daniel Inouye  
Chairman  
The Honorable Ted Stevens  
Ranking Minority Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable John D. Dingell  
Chairman  
The Honorable Joe Barton  
Ranking Minority Member  
Committee on Energy and Commerce  
House of Representatives

Subject: *Department of Transportation, National Highway Traffic Safety Administration: Federal Motor Vehicle Safety Standards; Electronic Stability Control Systems; Controls and Displays*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Transportation, National Highway Traffic Safety Administration (NHTSA), entitled “Federal Motor Vehicle Safety Standards; Electronic Stability Control Systems; Controls and Displays” (RIN: 2127-AJ77). We received the rule on April 13, 2007. It was published in the *Federal Register* as a final rule on April 6, 2007. 72 Fed. Reg. 17,236.

The final rule requires electronic stability control (ESC) on all passenger cars, multipurpose passenger vehicles, trucks, and buses with a gross vehicle weight rating of 4,536 Kg (10,000 pounds) or less. ESC systems use automatic computer-controlled braking to assist the driver in maintaining control when the vehicle is in danger of spinning out or plowing out. The requirement to have ESC will be phased in starting in 2008 and be complete in 2011. This rule is part of a comprehensive plan that seeks to reduce the risk of rollover crashes and the risk of death and serious injury resulting from those crashes.

Enclosed is our assessment of the NHTSA’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that NHTSA complied with the applicable requirements.

If you have any questions about this report, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236. The official responsible for GAO evaluation work relating to the subject matter of the rule is Patricia Dalton, Managing Director, Physical Infrastructure. Ms. Dalton can be reached at (202) 512-2834.

signed

Robert J. Cramer  
Associate General Counsel

Enclosure

cc: Milton E. Cooper  
Program Analyst, National Highway  
Traffic Safety Administration  
Department of Transportation

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF TRANSPORTATION,  
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION  
ENTITLED  
"FEDERAL MOTOR VEHICLE SAFETY STANDARDS;  
ELECTRONIC STABILITY CONTROL SYSTEMS;  
CONTROLS AND DISPLAYS"  
(RIN: 2127-AJ77)

(i) Cost-benefit analysis

NHTSA performed a cost-benefit analysis of this final rule. NHTSA estimates that compliance with this rule will cost \$985 million per year and will have benefits as high as \$11.4 billion per year. NHTSA made these estimates based on the difference between manufacturers' plans of having 71 percent of the light vehicle fleet with ESC by 2011 and this final rule's requirement of 100 percent by 2011. This rule will prevent between 67,466 and 90,807 crashes annually. NHTSA estimates that the rule will save 1,547 to 2,534 lives per year and reduce the number of serious injuries by 46,896 to 65,801 per year. Further, NHTSA estimates the rule will save annually \$376 to \$535 million in property damage and travel delay. NHTSA estimates the cost per equivalent life saved to range from \$0.18 to \$0.33 million (using a 3-percent discount rate) or from \$0.26 to \$0.45 million (using a 7-percent discount rate).

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

NHTSA performed a Final Regulatory Flexibility Analysis with regard to this final rule. The analysis concluded that the final rule will have a significant economic impact on a substantial number of small entities, specifically four small domestic motor vehicle manufacturers. However, NHTSA predicts that these manufacturers will be able to pass this cost on to purchasers because the demand for high-end, luxury vehicles is relatively inelastic and the total vehicle cost is expected to increase only 0.2 to 1.1 percent.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

NHTSA concluded that this final rule is not expected to result in an expenditure by state, local, or tribal governments of more than \$100 million annually. However, the rule will result in such expenditure by vehicle manufacturers and their suppliers. Therefore, NHTSA prepared a written assessment of the costs, benefits, and alternatives considered in this rulemaking.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

NHTSA issued this final rule using the notice and comment procedures found in the Administrative Procedure Act. 5 U.S.C. § 553. NHTSA published a Notice of Proposed Rulemaking on September 18, 2006. 71 Fed. Reg. 54,712. A variety of parties commented on the proposed rule, including seven automobile manufacturers and trade associations, nine automobile equipment suppliers and trade associations, four safety advocacy organizations, and eight individuals. After consideration of the comments, NHTSA decided to adopt most of the elements of the proposed rule in the final rule. NHTSA responded to the comments in the final rule. 72 Fed. Reg. 17,250-96 (Apr. 6, 2007).

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

This final rule contains an information collection titled “Phase-In Production Reporting Requirements for Electronic Stability Control Systems.” NHTSA is submitting this information collection to the Office of Management and Budget (OMB) for review and clearance. NHTSA estimates under this information collection that there are approximately 21 manufacturers which will be respondents, that the annual hour burden will be 42 hours, and that the annual cost burden will be \$2,100.

Statutory authorization for the rule

NHTSA promulgated this rule under the authority found at 49 U.S.C. §§ 30101-70.

According to NHTSA, this final rule also satisfies the statutory mandate found in section 10301 of the Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users of 2005, Pub. L. No. 109-59, 119. Stat. 1144, 1939-1940 (Aug. 10, 2005).

Rulemaking Requirements of 49 U.S.C. §§ 30101-70

Under section 30101 to 30170 of title 49 of the United States Code, vehicle safety standards must be practicable, meet the need for motor vehicle safety, and be stated in objective terms. 49 U.S.C. § 30111(a). The standards must be set at the minimum level considered safe. 49 U.S.C. § 30102(a)(9). NHTSA must consider all relevant, available motor vehicle safety information. 49 U.S.C. § 30111(b). NHTSA considered these requirements in conducting this rulemaking by evaluating available research, testing results, and other information; by documenting the capabilities of current ESC systems; and by stating the standard in objective terms.

National Technology Transfer and Advancement Act, 15 U.S.C. § 272

In compliance with this statute, NHTSA based the equipment requirements of this rule on voluntary consensus standards from the industry. NHTSA did not use voluntary consensus standards for the performance test because there are none.

Executive Order No. 12,866

This final rule is significant under the order and was reviewed by OMB. NHTSA estimates that compliance with this rule will cost \$985 million per year and will have benefits as high as \$11.4 billion per year. NHTSA estimates the cost per equivalent life saved to range from \$0.18 to \$0.33 million (using a 3-percent discount rate) or from \$0.26 to \$0.45 million (using a 7-percent discount rate).

Executive Order No. 13,132 (Federalism)

NHTSA concluded that no additional consultation with states, local governments, or their representatives is mandated beyond the rulemaking process. The final rule does not have federalism implications because it does not have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and the responsibilities among the various levels of government.”

Executive Order No. 12,988 (Civil Justice Reform)

This final rule was promulgated consistent with the requirements of the order.

Executive Order No. 13,045 (Protection of Children from Environmental Health and Safety Risks)

This order applies to any rule that is significant under Executive Order 12,866 and concerns an environmental, health, or safety risk that may have a disproportionate effect on children. NHTSA concluded that problems associated with loss of vehicle control equally impact all persons in the vehicle, so this final rule does not disproportionately affect children.