



United States General Accounting Office
Washington, DC 20548

Office of the General Counsel

B-285354

May 25, 2000

The Honorable John McCain
Chairman
The Honorable Ernest F. Hollings
Ranking Minority Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

Subject: Department of Transportation, National Highway Traffic Safety Administration: Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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; Occupant Crash Protection" (RIN: 2127-AG70). We received the rule on May 8, 2000. It was published in the Federal Register as a final rule on May 12, 2000. 65 Fed. Reg. 30680.

The final rule amends the occupant crash protection standard to require that future air bags be designed to create less risk of serious air bag-induced injuries than current air bags, particularly for small women and young children.

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 with one exception.

The final rule has an announced effective date of June 12, 2000. The Congressional Review Act requires major rules to have a 60-day delay in their effective date following publication in the Federal Register or receipt of the rule by Congress,

whichever is later. 5 U.S.C. 801(a)(3)(A). The rule was not published in the Federal Register until May 12, 2000, which means the final rule will not have the required 60-day delay in the effective date.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is John Anderson, Director, Transportation Issues. Mr. Anderson can be reached at (202) 512-2834.

Robert P. Murphy
General Counsel

Enclosure

cc: Ms. Rebecca MacPherson
Attorney Advisor, National Highway
Traffic Safety Administration
Department of Transportation

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF TRANSPORTATION,
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
ENTITLED
"FEDERAL MOTOR VEHICLE SAFETY STANDARDS;
OCCUPANT CRASH PROTECTION"
(RIN: 2127-AG70)

(i) Cost-benefit analysis

NHTSA performed a cost-benefit assessment for the final rule, and the results vary depending on which compliance scenario is selected by the manufacturers. Based on 15.5 million vehicle sales per year, the range of potential costs is from \$21 to \$128 per vehicle with an annual potential cost of over \$2 billion.

Likewise, the benefits of the final rule depend on the choices made by the manufacturers. NHTSA estimates from 93 to 179 fatalities could be prevented, injuries would be fewer and less severe, and property damage savings from these requirements could total up to \$85 over the lifetime of the average vehicle for a potential savings of \$1.3 billion.

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

Both the Initial Regulatory Flexibility Analysis and Final Regulatory Flexibility Analysis prepared by NHTSA comply with the requirements of the Act.

The analyses discuss the steps taken to lessen the impact on small entities, especially small-volume manufacturers and second-stage suppliers and alterers. NHTSA is allowing a longer lead time for these entities.

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

The final rule will impose a mandate of over \$100 million in any one year on the private sector, as defined in title II of the Act. NHTSA has prepared the required statement in connection with the other assessments it made in the Final Economic Assessment as permitted by 2 U.S.C. 1532(c).

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

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

The final rule was issued using the notice and comment procedures found at 5 U.S.C. 553. On September 18, 1998, NHTSA published a Notice of Proposed Rulemaking in the Federal Register. 63 Fed. Reg. 49958. Upon receipt of the comments, a Supplemental Notice of Proposed Rulemaking was issued on November 5, 1999, incorporating changes based on the comments and other new information. The preamble to the final rule contains NHTSA's responses to the comments.

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

The final rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. OMB has approved the collections of the final rule, including the annual Phase-in Reporting requirement, warning labels, and information in the owners' manuals concerning the advanced air bags.

Statutory authorization for the rule

The final rule was issued under the authority of 49 U.S.C. 322, 30111, 30115, 30117, and 30166 and the Transportation Equity Act for the 21st Century (Pub.L. 105-178, June 8, 1998).

Executive Order No. 12866

The final rule was found to be an "economically significant" regulatory action and was reviewed and approved by the Office of Management and Budget as complying with the requirements of the Order.

Executive Order No. 13132 (Federalism)

NHTSA has determined that the final rule does not have sufficient federalism implications to warrant either consultation with state and local officials or the preparation of a federalism summary impact statement.