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United States Government Accountability Office
Washington, DC 20548

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January 10, 2005

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

The Honorable Joe Barton
Chairman
The Honorable John D. Dingell
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; Head Restraints*

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; Head Restraints" (RIN: 2127-AH09). We received the rule on December 27, 2004. It was published in the Federal Register as a final rule on December 14, 2004. 69 Fed. Reg. 74848.

The final rule upgrades NHTSA's head restraint standard in order to reduce whiplash injuries in rear collisions. For front seats, the rule establishes a higher minimum height requirement, a requirement limiting the distance between the back of an occupant's head and the occupant's head restraint, as well as a limit on the size of gaps and openings with head restraints. In addition, the rule establishes requirements for head restraints voluntarily installed in rear outboard designated seating positions.

Enclosed is our assessment of 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 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 Patricia Dalton, Managing Director, Physical Infrastructure. Ms. Dalton can be reached at (202) 512-2834.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: George Feygin
Attorney Advisor, National Highway
Traffic Administration
Department of Transportation

ENCLOSURE

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;
HEAD RESTRAINTS"
(RIN: 2127-AH09)

(i) Cost-benefit analysis

NHTSA performed a cost-benefit analysis and found that the total estimated recurring fleet cost for all changes required by the final rule would be \$84.2 million. The agency estimates yearly economic cost savings of approximately \$127 million (\$2.61 million X 48.79 equivalent fatalities).

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

NHTSA has determined that the final rule will not have a significant economic impact on a substantial number of small entities.

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

NHTSA states that while the final rule will impose a private sector mandate, as defined in title II, of \$84.2 million, such a mandate is not more than \$120.7 million (\$100 million adjusted for inflation with a base year of 1995) in any one year. Therefore, NHTSA did not prepare a written assessment of the costs, benefits, and other effects of the final rule that would have been required if the mandate was over the statutory limit.

(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 January 4, 2001, NHTSA published a Notice of Proposed Rulemaking in the Federal Register. 66 Fed. Reg. 968. The agency received 50 comments in response to the proposal and the comments are discussed in the preamble to the final rule.

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

The final rule contains an information collection that has already been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB approval for the collection will expire on January 31, 2005, but NHTSA anticipates renewal of the collection (OMB Control No. 2127-0541) before the requirements of the final rule become mandatory.

Statutory authorization for the rule

The final rule is promulgated under the authority found at 49 U.S.C. 322, 30111, 30115, 30117, and 30166.

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

The final rule does not have sufficient federalism implications to warrant the preparation of a federalism impact analysis.