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May 24, 2024

The Honorable Maria Cantwell  
Chair  
The Honorable Ted Cruz  
Ranking Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Sam Graves  
Chairman  
The Honorable Rick Larsen  
Ranking Member  
Committee on Transportation and Infrastructure  
House of Representatives

Subject: *Department of Transportation, National Highway Traffic Safety Administration: Federal Motor Vehicle Safety Standards; Automatic Emergency Braking Systems for Light Vehicles*

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; Automatic Emergency Braking Systems for Light Vehicles” (RIN: 2127-AM37). We received the rule on May 9, 2024. It was published in the *Federal Register* as a final rule on May 9, 2024. 89 Fed. Reg. 39686. The effective date of the rule is July 8, 2024.

According to NHTSA, this final rule adopts a new Federal Motor Vehicle Safety Standard to require automatic emergency braking (AEB) systems, including pedestrian AEB systems, on light vehicles. NHTSA explained that the rule fulfills a mandate under the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 24208 (Nov. 15, 2021), codified at 49 U.S.C. § 30129, directing the Secretary of Transportation to promulgate a rule requiring all passenger motor vehicles manufactured for sale in the United States be equipped with a forward collision warning (FCW) system and an AEB system. According to NHTSA, the rule specifies that an AEB system must detect and react to an imminent crash with both a lead vehicle or a pedestrian. NHTSA notes that the purpose of the rule is to reduce the number of deaths and injuries resulting from crashes in which drivers do not apply the brakes or do not apply sufficient braking power to avoid or mitigate a crash, and to reduce the consequences of such crashes.

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. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to

the subject matter of the rule, please contact Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Milton E. Cooper  
Director, Rulemaking Operations  
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;  
AUTOMATIC EMERGENCY BRAKING SYSTEMS FOR LIGHT VEHICLES”  
(RIN: 2127-AM37)

(i) Cost-benefit analysis

The Department of Transportation, National Highway Traffic Safety Administration (NHTSA) determined that, as a result of this final rule, an estimated 362 fatalities and more than 24,000 non-fatal injuries, at levels 1–5 on the maximum abbreviated injury scale (MAIS) will be mitigated. NHTSA also estimated the incremental costs associated with the rule to include costs associated with software and hardware improvements. Taking into account both software and hardware costs, NHTSA estimates the total annual cost associated with the rule is approximately \$354.06 million in 2020 dollars. According to NHTSA’s analyses, the rule is considered to be cost-effective, and society will be better off as a result of the rule.

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

NHTSA certified that this 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 determined that this final rule is not likely to result in expenditures of more than \$100 million, adjusted annually for inflation, by state, local, or tribal governments, in any one year. However, NHTSA estimated that the rule would result in expenditures by automobile manufacturers, and/or their suppliers, of \$354 million, or around \$23 per light vehicle, each year. According to NHTSA, they discussed these effects in a Regulatory Impact Analysis (RIA), which estimates the impacts of the rule. NHTSA also noted that the Act requires the agency to select the “least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule,” and explained their process for considering different testing options.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act’s exemptions (and specifying the relevant

exemption); the OMB Director granted a waiver of the Act's requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act" in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

NHTSA did not discuss the Act in this final rule or in its submission to us.

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

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

On June 13, 2023, NHTSA issued a proposed rule. 88 Fed. Reg. 38632. NHTSA received over 1,000 comments from a wide variety of stakeholders and interested persons. According to NHTSA, the agency carefully considered the comments and made a number of changes to the proposed rule based on the comments.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

NHTSA determined that this final rule contains no information collection requirements under the Act.

Statutory authorization for the rule

NHTSA promulgated this final rule pursuant to the authority in sections 322, 30111, 30115, 30117, 30122, and 30166 of title 49 of the United States Code, and a delegation of authority at section 1.95 of title 49, *Code of Federal Regulations*.

Executive Order No. 12866 (Regulatory Planning and Review)

NHTSA determined that this final rule is significant under the Order and submitted it to OMB for review.

Executive Order No. 13132 (Federalism)

NHTSA concluded that this final rule will not have sufficient federalism implications to warrant consultation with state and local officials or the preparation of a federalism summary impact statement.