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December 11, 2015

The Honorable John Thune
Chairman
The Honorable Bill Nelson
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Fred Upton
Chairman
The Honorable Frank Pallone, Jr.
Ranking 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 for Heavy 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; Electronic Stability Control Systems for Heavy Vehicles” (RIN: 2127-AK97). We received the rule on November 30, 2015. It was published in the *Federal Register* as a final rule on June 23, 2015. 80 Fed. Reg. 36,050.

The final rule establishes a new Federal Motor Vehicle Safety Standard No. 136 to require electronic stability control (ESC) systems on truck tractors and certain buses with a gross vehicle weight rating of greater than 11,793 kilograms (26,000 pounds). According to NHTSA, ESC systems in truck tractors and large buses are designed to reduce untripped rollovers and mitigate severe understeer or oversteer conditions that lead to loss of control by using automatic computer-controlled braking and reducing engine torque output. In 2018, NHTSA expects that, without this rule, about 34 percent of new truck tractors and 80 percent of new buses affected by the final rule would be equipped with ESC systems. NHTSA believes that, by requiring that ESC systems be installed on the rest of truck tractors and large buses, the final rule will prevent 40 to 56 percent of untripped rollover crashes and 14 percent of loss-of-control crashes. As a result, NHTSA expects that this final rule will prevent 1,424 to 1,759 crashes, 505 to 649 injuries, and 40 to 49 fatalities at \$0.1 to \$0.6 million net cost per equivalent life saved, while generating positive net benefits.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). This final rule has a stated effective date of August 24, 2015. The rule was received by Congress on November 30, 2015, and published in the *Federal Register* on June 23, 2015. 161 Cong. Rec. H8969 (Dec. 2, 2015); 161 Cong Rec. S8486 (Dec. 8, 2015); 80 Fed. Reg. 36,050. Therefore, the final rule does not have the required 60-day delay in its effective date.

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. Other than the 60-day delay, our review of the procedural steps taken indicates that NHTSA complied with the applicable requirements.

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 Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing 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 FOR HEAVY VEHICLES”
(RIN: 2127-AK97)

(i) Cost-benefit analysis

The National Highway Traffic Safety Administration (NHTSA) discussed the benefits and the costs of this final rule, including estimates of the electronic stability control (ESC) system’s effectiveness and the size of the crash population. Based on NHTSA’s assumptions regarding costs and the estimates of ESC and roll stability control (RSC) system penetration in the market in 2018, it stated that it expects that this final rule will result in a total cost of \$45.6 million. Summaries of the costs are set forth in tables in the final rule. The total cost is based upon 21.3 percent of truck tractors sold annually upgrading from RSC systems to ESC systems, 44.8 percent of truck tractors sold annually without stability control systems installing ESC systems, and 20.0 percent of large buses sold annually without stability control systems installing ESC systems. The tables included also show that the net cost per equivalent life saved from this final rule range from \$0.1 to \$0.3 million at a 3 percent discount rate and from \$0.3 to \$0.6 million at a 7 percent discount rate. According to NHTSA, safety benefits can occur at any time during the vehicle’s lifetime. Therefore, the benefits are discounted at both 3 and 7 percent to reflect their values in 2013 dollars, as reflected in other tables included in the final rule. According to NHTSA, the net benefits of this final rule are estimated to range from \$412 to \$525 million at a 3 percent discount rate and from \$312 to \$401 million at a 7 percent discount rate. NHTSA believes that, by requiring that ESC systems be installed on the rest of truck tractors and large buses, the final rule will prevent 40 to 56 percent of untripped rollover crashes and 14 percent of loss-of-control crashes. As a result, NHTSA expects that this final rule will prevent 1,424 to 1,759 crashes, 505 to 649 injuries, and 40 to 49 fatalities at \$0.1 to \$0.6 million net cost per equivalent life saved, while generating positive net benefits.

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

NHTSA states that it considered the effects of the final rule under the Regulatory Flexibility Act and certified 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 determined that the final rule will not result in any expenditure by state, local, or tribal governments or the private sector of more than \$100 million, adjusted for inflation.

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

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

On May 23, 2012, NHTSA published a notice of proposed rulemaking. 77 Fed. Reg. 30,766. NHTSA also conducted a public hearing on July 24, 2012, in Washington, D.C., notice of which was published in the *Federal Register* on July 2, 2012. 77 Fed. Reg. 39,206. In addition to the three comments received at the public hearing, NHTSA received written comments from another 43 individuals or entities. The commenters represented individuals, truck drivers, truck fleet operators, vehicle component manufacturers, truck and bus manufacturers, and safety advocacy organizations. NHTSA responded to the comments in the final rule.

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

NHTSA states that there are no information collection requirements associated with the final rule.

Statutory authorization for the rule

NHTSA promulgated this final rule under the authority of the National Traffic and Motor Vehicle Safety Act (Motor Vehicle Safety Act). 49 U.S.C. Chapter 301, Motor Vehicle Safety (49 U.S.C. § 30101 et seq.) NHTSA states that the Motorcoach Enhanced Safety Act contains no independent statutory authority in support of a mandate for stability enhancing technology. According to NHTSA, where the considerations in the Motorcoach Enhanced Safety Act regarding the implementation of regulations conflict with any requirements and considerations set forth in subsections (a) and (b) of 49 U.S.C. 30111, the requirements of the Motor Vehicle Safety Act supersede the Motorcoach Enhanced Safety Act. Thus, any mandate requiring stability enhancing technology pursuant to the Motorcoach Enhanced Safety Act is dependent on satisfying the considerations and requirements of the Motor Vehicle Safety Act.

Executive Order No. 12,866 and 13,563 (Regulatory Planning and Review)

NHTSA determined that this final rule is economically significant under the Order. The rule was reviewed by the Office of Management and Budget.

Executive Order No. 13,132 (Federalism)

NHTSA determined 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.