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August 20, 2009

The Honorable John D. Rockefeller IV  
Chairman  
The Honorable Kay Bailey Hutchison  
Ranking Minority Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Henry A. Waxman  
Chairman  
The Honorable Joe L. 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; Air Brake Systems*

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; Air Brake Systems” (RIN: 2127-AJ37). We received the rule on August 7, 2009. It was published in the *Federal Register* as a final rule on July 27, 2009, with a stated effective date of November 24, 2009. 74 Fed. Reg. 37,122.

The final rule amends the federal motor vehicle safety standard on air brake systems to improve the stopping distance performance of truck tractors. The rule requires the vast majority of new heavy truck tractors to achieve a 30 percent reduction in stopping distance compared to currently required levels. For these heavy truck tractors (approximately 99 percent of the fleet), the amended standard requires those vehicles to stop in not more than 250 feet when loaded to their gross vehicle weight rating and tested at a speed of 60 miles per hour. For a small number of very heavy severe service tractors, the stopping distance requirement will be 310 feet under these same conditions. In addition, this final rule requires that all heavy truck tractors must stop within 235 feet when loaded to their lightly loaded vehicle weight.

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 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;  
AIR BRAKE SYSTEMS"  
(RIN: 2127-AJ37)

(i) Cost-benefit analysis

National Highway Traffic Safety Administration (NHTSA) analyzed the costs and benefits of this final rule. The costs will vary depending on which of a variety of possible solutions manufacturers select to meet the requirements of this rule (e.g., installation of enhanced drum brakes, air disc brakes, or hybrid disc/drum systems). NHTSA believes the most likely low cost scenario would be for a significant majority of tractors to use enhanced drum brakes, with about 18 percent of manufacturers needing to use more expensive disc brakes. Under this scenario, annual costs would be about \$50 million. If disc brakes were used for all tractors, annual costs would be \$178 million. Once all subject heavy truck tractors on the road are equipped with enhanced braking systems, NHTSA estimates that annually, approximately 258 lives will be saved and 284 serious injuries will be prevented. In addition, NHTSA expects this final rule to prevent \$205 million in property damage annually at a 3 percent discount rate or \$169 million at a 7 percent discount rate.

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

NHTSA certifies 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 expected to result in the expenditure by state, local, or tribal governments, in the aggregate, of more than \$118 million annually, but that it may result in an expenditure of that magnitude by vehicle manufacturers and/or their suppliers. NHTSA believes that the approach it took with this rulemaking is consistent with safety and should provide a number of choices regarding the means used for compliance (e.g., enhanced drum brakes, all-disc brakes, or hybrid drum/disc brakes), thereby offering flexibility to minimize costs of compliance with the standard. NHTSA has prepared a detailed economic assessment in the final regulatory impact assessment in which the agency analyzed

the cost-benefit analysis of both a 20 percent and a 30 percent reduction in required stopping distance. NHTSA determined that although the 30 percent requirement does cost more to implement, the benefits estimated in the 30 percent reduction scenario far outweighed those identified in the 20 percent reduction scenario.

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

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

NHTSA published a notice of proposed rulemaking on reducing the stopping distance for truck tractors on December 15, 2005. 70 Fed. Reg. 74,270. NHTSA received 27 comments on the proposed rule, to which it responded in the final rule. 74 Fed. Reg. 37,127–37,154.

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

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

Statutory authorization for the rule

NHTSA stated that it promulgated this rule under the authority of sections 322, 30111, 30115, 30117, and 30166 of title 49, United States Code.

National Environmental Policy Act (NEPA), 42 U.S.C. sections 4321-4370f

NHTSA determined that implementation of this action will not have a significant impact on the quality of the human environment.

National Technology Transfer and Advancement Act of 1995, 15 U.S.C. 272

NHTSA determined that there are no voluntary consensus standards related to heavy truck stopping distance available at this time. However, NHTSA stated that it will consider any such standards as they become available.

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

NHTSA determined that this final rule is economically significant under the Order because the estimated costs of the rule could exceed \$100 million. This rule was reviewed by the Office of Management and Budget.

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

NHTSA determined that this final rule is consistent with the requirements of the Order in that the rule clearly specifies the preemptive effect; clearly specifies the effect on existing federal law or regulation; provides a clear legal standard for

affected conduct, while promoting simplification and burden reduction; clearly specifies the retroactive effect, if any; adequately defines key terms; and addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Executive Order No. 13,045 (Protection of Children)

NHTSA determined that this final rule does not involve decisions based upon health and safety risks that disproportionately affect children because the problems associated with crashes involving heavy trucks and other vehicles equally impact all persons riding in a vehicle, regardless of age.

Executive Order No. 13,132 (Federalism)

NHTSA determined that this final rule does not have federalism implications, because the rule does not have a substantial direct effect 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. NHTSA does not currently foresee any potential state requirements that might conflict with today's final rule. Without any conflict, NHTSA determined there could not be any implied preemption.