



441 G St. N.W.
Washington, DC 20548

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July 12, 2022

The Honorable Maria Cantwell
Chairwoman
The Honorable Roger F. Wicker
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Frank Pallone, Jr.
Chairman
The Honorable Cathy McMorris Rodgers
Republican Leader
Committee on Energy and Commerce
House of Representatives

Subject: *Department of Transportation, National Highway Traffic Safety Administration:
Occupant Protection for Vehicles With Automated Driving 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 "Occupant Protection for Vehicles With Automated Driving Systems" (RIN: 2127-AM06). We received the rule on April 12, 2022. It was published in the *Federal Register* as a final rule on March 30, 2022. 87 Fed. Reg. 18560. The effective date is September 26, 2022.¹

According to NHTSA, the final rule amends the occupant protection federal motor vehicle safety standards (FMVSSs) to account for future vehicles that do not have the traditional manual controls associated with a human driver because they are equipped with Automated Driving Systems (ADS). NHTSA states this final rule makes clear that, despite their innovative designs, vehicles with ADS technology must continue to provide the same high levels of occupant protection that current passenger vehicles provide. According to the agency, the occupant protection standards are currently written for traditionally designed vehicles and use terms such as "driver's seat" and "steering wheel", that are not meaningful to vehicle designs that, for example, lack a steering wheel or other driver controls. NHTSA states that this final rule updates the standards in a manner that clarifies existing terminology while avoiding unnecessary terminology, and, in doing so, resolves ambiguities in applying the standards to

¹ This report is delayed because we waited for confirmation of receipt of the rule by both the House and the Senate. The Senate received the rule on April 25, 2022, and the *Congressional Record* reported this on May 3, 2022. 168 Cong. Rec. S2273 (daily ed. May 3, 2022). The House received the rule on April 26, 2022, but the *Congressional Record* did not report this fact until June 23, 2022. 168 Cong. Rec. H5876 (daily ed. June 23, 2022).

ADS-equipped vehicles without traditional manual controls. In addition, the agency states that this final rule amends the standards in a manner that maintains the existing regulatory text whenever possible, to make clear that this rule maintains the level of crash protection currently provided to occupants in more traditionally designed vehicles. According to NHTSA, this final rule is limited to the crashworthiness standards to provide a unified set of regulatory text applicable to vehicles with and without ADS functionality.

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 Shari Brewster, Assistant General Counsel, at (202) 512-6398.

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
Policy Advisor
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
“OCCUPANT PROTECTION FOR VEHICLES
WITH AUTOMATED DRIVING SYSTEMS”
(RIN: 2127-AM06)

(i) Cost-benefit analysis

The Department of Transportation, National Highway Traffic Safety Administration (NHTSA) estimated the final rule would create costs of \$200,000,000 annually at a three percent discount rate and \$100,000,000 at a seven percent discount rate. NHTSA further estimated the final rule would create a benefit due to cost savings of \$2,700,000,000 annually at the three percent discount rate and \$900,000,000 at the seven percent discount rate. NHTSA stated this would lead to a net cost impact reduction of \$2,500,000,000 at the three percent discount rate and \$900,000,000 at the seven percent discount rate.

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

NHTSA certified the final rule would 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 the final rule does not contain a mandate that would impose costs on state, local, or tribal governments, in the aggregate, or on the private sector, of more than \$100 million annually, adjusted for inflation.

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

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

NHTSA published a proposed rule on March 30, 2020. 85 Fed. Reg. 17624. NHTSA received 45 comments from vehicle and equipment manufacturers, Automated Driving Systems developers, industry associations, consumer advocates, advocates for persons with disabilities, states, insurance organizations, a university, an oil independence advocacy group, and members of the general public. NHTSA addressed the comments in the final rule.

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

NHTSA determined the final rule does not contain any information collection requirements subject to PRA.

Statutory authorization for the rule

NHTSA promulgated the final rule pursuant to sections 322, 30111, 30115, 30117, and 30166 of title 49, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

NHTSA stated the final rule is significant because it raises novel legal and policy issues surrounding the regulation of vehicles equipped with Automated Driving Systems. NHTSA also stated the final rule is the subject of much public interest. Finally, NHTSA determined the final rule has anticipated annual economic impacts greater than \$100 million.

Executive Order No. 13132 (Federalism)

NHTSA determined the final rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.