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Washington, DC 20548

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November 2, 2017

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

The Honorable Greg Walden
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; Minimum Sound Requirements for Hybrid and Electric 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; Minimum Sound Requirements for Hybrid and Electric Vehicles” (RIN: 2127-AK93). We received the rule on October 18, 2017. It was published in the *Federal Register* as a final rule on December 14, 2016. 81 Fed. Reg. 90,416.

The final rule establishes a federal motor vehicle safety standard setting minimum sound requirements for hybrid and electric vehicles. This new standard requires hybrid and electric passenger cars, light trucks and vans, and low speed vehicles to produce sounds meeting the requirements of this standard. The rule applies to electric vehicles and to those hybrid vehicles that are capable of propulsion in any forward or reverse gear without the vehicle’s internal combustion engine operating.

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 was published in the *Federal Register* on December 14, 2016. 81 Fed. Reg. 90,416. It was received October 18, 2017, and has a stated effective date of September 5, 2017. Therefore, the final rule does not have the required 60-day delay in its effective date. However, NHTSA stated that the final rule has an initial compliance date of September 1, 2018, and a full compliance date of September 1, 2019.

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. With the exception of the 60-day delay in effective date requirement, 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
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;
MINIMUM SOUND REQUIREMENTS FOR HYBRID
AND ELECTRIC VEHICLES”
(RIN: 2127-AK93)

(i) Cost-benefit analysis

The Department of Transportation (DOT), National Highway Traffic Safety Administration (NHTSA) estimates the costs of this rule to be \$49 million for Model Year 2020. This included \$46 million in installation costs and \$3 million in lifetime increased fuel costs. NHTSA also stated there are non-quantifiable costs to drivers who value the quietness of their own cars as the sound from the system may intrude into the passenger compartment. NHTSA stated there also may be a non-quantifiable minimal cost to the environment due to the increased noise coming from the cars.

NHTSA also estimates the benefits of the rule to be between \$197.6 million and \$244.9 million due to a decrease in pedestrian and pedalcyclist injuries for Model Year 2020. NHTSA stated there is also a non-quantifiable benefit to blind and visually impaired individuals of continued independent mobility. By requiring alert sounds on hybrid and electric vehicles, NHTSA states that blind pedestrians will be able to navigate roads safely and effectively.

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

NHTSA certifies that the rule will not have a significant economic impact on a large number of small entities. NHTSA states this is because there are few vehicle manufacturers that qualify as small businesses. NHTSA also states it believes that the economic impact upon these entities will not be significant because the cost of the systems is a small proportion of the overall vehicle cost for even the least expensive electric vehicle. NHTSA also states the rule also provides a lead time and the option of waiting until the end of the phase-in to meet the minimum requirement which should reduce the economic impact to 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 the expenditure by state, local, and tribal governments in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any one year.

(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 January 14, 2013. 78 Fed. Reg. 2797. The agency received comments from trade associations, vehicle manufacturers, advocacy groups, suppliers, academia, standards development organizations, governments, and private individuals. The agency responded to these comments in the final rule. The final rule was published December 14, 2016. 81 Fed. Reg. 90,416.

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

NHTSA submitted an information collection request for approval by the Office of Management and Budget. NHTSA states it estimates total burden hours for this information collection to be 42 hours (2 hours per manufacturer per year). The agency did not discuss the estimated cost in the final rule.

Statutory authorization for the rule

NHTSA states the rule was required by the Pedestrian Safety Enhancement Act of 2010, Pub. L. No. 111-373.

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

The Office of Management and Budget determined that the final rule is a major rule under Executive Order No. 12,866. NHTSA has prepared a Final Regulatory Impact Analysis.

Executive Order No. 13,132 (Federalism)

NHTSA found the rule would 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 responsibilities among the various levels of government. Because of this, NHTSA found that no further consultation was needed beyond the rulemaking process.