

Black boxes spark uproar

Safety advocates, automakers ask feds to rewrite the rules

David Shepardson / The Detroit News

WASHINGTON -- A new federal rule to standardize minimum requirements for "black boxes" in vehicles wasn't expected to be controversial, but it has ignited a firestorm of protests from groups that largely agree the information collected by the devices improves auto safety.

All U.S. and foreign automakers have asked the National Highway Traffic Safety Administration to rewrite the rule because they say it's too vague and will cost too much to implement. Safety advocates say it doesn't go far enough.

A NHTSA spokesman said last week the agency will respond to the requests, but did not say when. If denied by the NHTSA, the petitioners can ask a judge to block the rule from being implemented.

The new rule is set to take effect in September 2010. Automakers have asked NHTSA to respond quickly -- by March -- because product planning for 2010 models will begin as early as next year.

The standoff comes a decade after the National Transportation Safety Board and NASA recommended using data from auto event data recorders, or EDRs, much like airlines use information from black boxes in airplanes.

The NHTSA has said standardizing black box data can help the auto industry and safety researchers study how and why accidents occur and how to prevent them.

The devices collect a variety of data in the moments before, during and after a crash, such as speed and acceleration, whether the driver was wearing a seat belt and whether the driver hit the accelerator or the brake.

In August, the NHTSA unveiled its final rule for standardizing EDRs, which are now installed in most new cars and trucks, paring back some mandates in its original 2004 proposal to acknowledge concerns raised by automakers.

The final rule reduced the number of data elements required from 18 to 15, said data recorders must be able to record two events in very serious crashes, rather than three, and required data to be retrievable for 10 days instead of 30.

The NHTSA did not mandate that the devices be put in all vehicles. Rather, it followed California's lead in telling automakers they must inform customers if their vehicle has one.

But the NHTSA's final rule ended up pleasing no one.

Automakers told the NHTSA this month that roughly 11 types of data required to be collected can be inaccurate in current recorders and that they may not be able to comply without installing more expensive sensors because the rule requires a closer margin of error than current sensors allow.

"Most of these other error sources are inherent to the current state-of-the-art EDR technology and cannot be eliminated without significant cost," Robert Strassburger, director of vehicle safety for the Alliance of Automobile Manufacturers, wrote to the NHTSA.

The alliance, which represents nine automakers including General Motors Corp., Ford Motor Co., DaimlerChrysler AG and Toyota Motor Corp., and the trade group that

represents most foreign manufacturers are asking the NHTSA to increase the margin of error for acceleration from plus or minus five percent to 10 percent, among other revisions.

The automakers also asked that the requirements be phased in, with complete compliance in 2013. "It is not practical to implement these product changes across the entire product fleet by September 1, 2010," Strassburger wrote.

Automakers are not alone in asking for changes to the rule, which has many components.

Safety advocacy group Public Citizen said NHTSA's action will delay the potential benefits of black boxes for years.

"NHTSA has squandered an opportunity to fully realize the numerous safety benefits offered by EDRs," Public Citizen President Joan Claybrook wrote to the agency.

"With over 40,000 people dying on American roads each year, it is unconscionable for the agency to stumble on this issue and to prevent the maximization of EDR benefits."

Public Citizen is demanding that more data be collected from the devices. The group also wants stricter standards for the survivability of crash data and insuring that investigators can quickly access EDR data.

In the final rule, devices must only survive a 35 mph frontal crash. Public Citizen notes that about 75 percent of vehicles involved in fatal crashes are traveling faster than that.

AAA, with 48 million members nationwide, blasted the final rule for delaying until 2008 the requirement that the auto companies inform drivers of the devices.

"We believe motorists must know what data is being collected by their vehicles and how it can and cannot be used," AAA CEO Robert Darbelnet wrote in asking the NHTSA to reconsider its decision. "The public's right to know cannot be compromised."

Most automakers already inform consumers, since California mandated it in 2004. And most vehicles already have the devices.

For 2005, about 64 percent of new models had black boxes, a figure that likely is much higher now. Toyota installs them in all of its vehicles, while GM and Ford equip nearly all their models. DaimlerChrysler AG's Chrysler Group has the technology in more than half.

The data, collected beginning five seconds before a crash at the time air bags are deployed, can help determine who was at fault in an accident and the cause.

Unlike airplane black boxes, vehicle EDRs don't record voices. And without a crash being severe enough to prompt an air bag deployment, no data is recorded.

W. Scott Palmer, CEO of Injury Sciences in Texas that helps insurers collect black box data, said insurers will eventually be able to gather and evaluate millions of EDR data records. "NHTSA's ruling heralds a major, technology driven change in the way policies are underwritten," he said.

NHTSA estimates the rule will cost automakers \$11 million to \$33 million annually, depending on how many vehicles are equipped with data recorders and whether additional data elements are required in the future. The automakers say if the rule isn't changed, it will cost them far more than that.

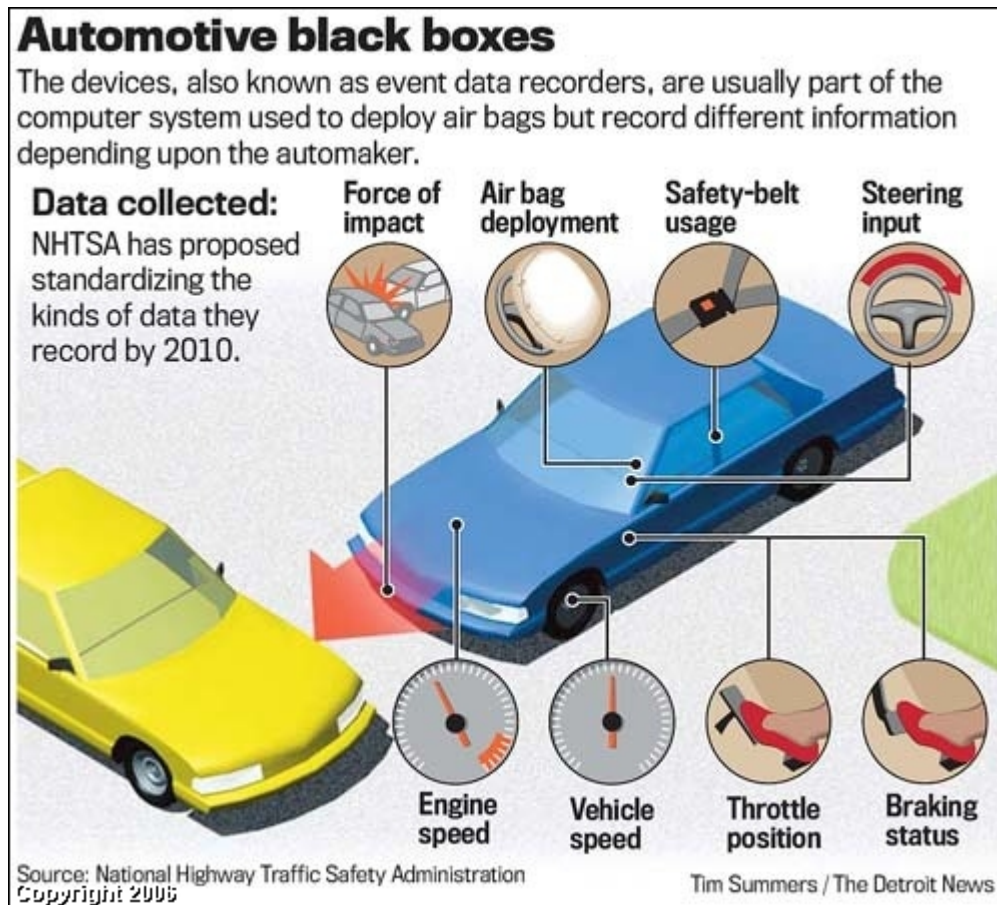
Forty states haven't passed any legislation governing data recorders. Ten states -- Arkansas, California, Colorado, Maine, Nevada, New Hampshire, New York, North Dakota, Texas and Virginia -- have laws on the books.

The laws generally require manufacturers to disclose the presence of recorders in vehicles or clarify that the data is owned by vehicle owners and can only be accessed with their permission.

This year Colorado, Maine, New Hampshire and Virginia adopted regulations to clarify when law enforcement may retrieve data. States are split on whether police need a warrant to get the data.

Privacy advocates have voiced concern about data falling into the wrong hands or about "spying" on drivers. Hundreds have written to the NHTSA in recent months denouncing the devices.

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Rule requirements

- Automakers must tell consumers by 2008 whether a new vehicle is equipped with an event data recorder.
- By September 2010, data recorders must record 15 essential data elements and up to 30 additional elements if the vehicle is equipped to record these elements. The items include speed, time of airbag deployment, change in speed, seat belt status, brake status and engine throttle.
- Recorders must be able to record two events.
- Automakers must make a retrieval tool for data commercially available.