



**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 563**

**Docket No. NHTSA-2012-0177**

**RIN 2127-AK86**

**Federal Motor Vehicle Safety**

**Standards; Event Data Recorders**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** NHTSA withdraws its December 13, 2012 notice of proposed rulemaking (NPRM) that proposed a new Federal motor vehicle safety standard (FMVSS) mandating installation of an Event Data Recorder (EDR) that meets NHTSA's current EDR standard in most light vehicles. At the time NHTSA published the NPRM, the agency noted that a significant number of light vehicles were being sold without EDRs, and said it believed a mandate was needed. Today, EDRs are installed on nearly all new light vehicles. In light of these changed circumstances, NHTSA believes that a mandate for today's EDRs is no longer necessary and withdrawal of the NPRM is therefore warranted.

**DATES:** The NPRM "Federal Motor Vehicle Safety Standards; Event Data Recorders," RIN 2127-AK86, published December 13, 2012 (77 FR 74144), is withdrawn as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**

**ADDRESSES:** Electronic Access: You can view and download related documents and public comments by going to the website <https://www.regulations.gov>. Enter the docket number NHTSA-2012-0177 in the search field.

**FOR FURTHER INFORMATION CONTACT:** For technical issues, contact Ms. Carla Rush, Office of Crashworthiness Standards, Telephone: 202-366-458, Facsimile: 202-493-2739. For legal issues, contact Mr. Daniel Koblenz, Office of Chief Counsel, Telephone: 202-366-2992, Facsimile: 202-366-3820. The mailing address for these officials is: National Highway Traffic Safety Administration, 1200 New Jersey Avenue S.E., Washington, DC 20590.

**SUPPLEMENTAL INFORMATION:**

**Background**

Event data recorders (EDRs) are an invaluable tool for aiding and validating crash reconstruction, investigation, and analysis. An EDR is a function or device installed in a motor vehicle to record technical information about the status and operation of vehicle systems for a few seconds immediately before and during a crash for the primary purpose of post-crash assessment.<sup>1</sup> EDRs are regulated under 49 CFR Part 563.

Part 563 was established on August 28, 2006 (71 FR 50998) and requires that light vehicles<sup>2</sup> equipped with EDRs meet certain requirements for data elements, data capture and format, data retrieval, and data crash survivability. An EDR as defined by Part 563 is not

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<sup>1</sup> See 49 CFR 563.5.

<sup>2</sup> As used in this notice, “light vehicles” includes passenger cars, multipurpose passenger vehicles, trucks, and buses with a gross vehicle weight rating (GVWR) of 3,855 kilograms (kg) (8,500 pounds) or less and an unloaded vehicle weight of 2,495 kg (5,500 pounds) or less, except for walk-in van-type trucks or vehicles designed to be sold exclusively to the U.S. Postal Service. See 49 CFR Part 563.3.

required to record data such as audio or video recordings and does not log commercial operator-associated data, such as hours of service.<sup>3</sup>

The requirements of Part 563 apply only to those light vehicles that are voluntarily equipped with EDRs that were manufactured on or after September 1, 2012. In the 2006 rulemaking, NHTSA chose not to mandate installation of EDRs in order to encourage voluntary development and installation, while alleviating costs on manufacturers and consumers. The agency stated at the time that the “marketplace appears to be adopting EDRs and we do not currently see a need to mandate their installation.”<sup>4</sup>

### **The NPRM**

On December 13, 2012, NHTSA published a notice of proposed rulemaking (NPRM) proposing to convert Part 563’s “if-installed” requirements for EDRs into a new Federal motor vehicle safety standard (FMVSS) mandating installation of EDRs in most light vehicles.<sup>5</sup> The NPRM did not propose making any changes to the current EDR regulation’s performance requirements, including those for the required data elements. At the time that NHTSA issued the NPRM, the agency estimated that about 92 percent of model year (MY) 2010 light vehicles had some EDR capability. NHTSA believed that the universal installation of EDRs would improve vehicle safety by aiding the agency in investigating potential safety defects and developing new standards. Absent a mandate, it appeared that manufacturers of the remaining 8 percent of light vehicles would not equip those vehicles with EDRs. Thus, the agency believed that a safety need existed to mandate the installation of EDRs on light vehicles.

### **NHTSA Decision to Withdraw the NPRM**

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<sup>3</sup> 49 CFR 563.5.

<sup>4</sup> 71 FR 50998, 51011 (Aug. 28, 2006).

<sup>5</sup> 77 FR 74144 (Dec. 13, 2012).

NHTSA has decided to withdraw the December 2012 NPRM because the agency has determined that a mandate is not necessary at this time to achieve the nearly universal installation of EDRs on new light vehicles. This is because NHTSA’s internal analysis shows that, for Model Year (MY) 2017, 99.6 percent of new light vehicles sold were equipped with EDRs that meet Part 563’s requirements. Given the near-universal installation of EDRs in light vehicles, NHTSA no longer believes that the safety benefits of mandating EDRs justifies the expenditure of limited agency resources.

Because NHTSA has determined not to move forward with a mandate for EDRs at this time, the agency is withdrawing the December 2012 NPRM from consideration. However, the agency will continue its other efforts to modernize and improve EDRs regulations, including fulfilling the agency’s statutory mandate to promulgate regulations establishing an appropriate recording duration for EDR data to “provide accident investigators with vehicle-related information pertinent to crashes involving such motor vehicles.”<sup>6</sup> In addition, NHTSA is actively investigating whether the agency should consider revising the data elements covered by Part 563 to account for advanced safety features.

#### **Note on Comments on the NPRM**

While NHTSA’s decision to withdraw the NPRM was made for reasons unrelated to the issues raised by commenters, the agency believes it would be beneficial to the public to briefly describe and explain the agency’s views on some key concerns due to the large number of comments received on them.

In response to the December 2012 NPRM, NHTSA received over 1,000 comments from a wide variety of commenters, including trade associations, vehicle manufacturers, safety and

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<sup>6</sup> See the Fixing America’s Surface Transportation (FAST) Act Pub. L. 114-94 (Dec. 4, 2015), Section 24303.

privacy advocacy groups, equipment suppliers, standards development organizations, crash reconstructionists, attorney organizations, and over 950 individuals. Safety advocacy organizations, crash reconstructionists, and several other commenting organizations generally supported mandating the installation of EDRs, citing the importance of the information for vehicle safety. Vehicle manufacturers, equipment suppliers, and some crash reconstructionists, were supportive of the idea of requiring EDRs, but opposed placing the mandate and associated EDR requirements in a FMVSS. In addition, a number of individuals also supported the mandate, though many indicated that their support was conditional on the adoption of provisions to protect the privacy of individuals. Other commenters urged NHTSA to expand the list of required data elements in order to better support traffic safety research and thus, improve the safety of motor vehicles.

The majority of comments raised a variety of privacy concerns associated with EDRs and the data they record. Many commenters seemed to believe that Part 563 requires EDRs to extensively record potentially sensitive driver-related information, such as vehicle location or driving behavior, on an ongoing basis. This belief was incorrect. The agency recognizes the importance of privacy to consumer acceptance of technology and that the agency has a legal obligation to assess and be transparent about the impacts of Federal activities on individual privacy.<sup>7</sup> Part 563 requires only that EDRs capture a narrow set of data elements that are designed to assist investigators with the reconstruction of crashes, such as data relating to the operational status of the vehicle at the time of the crash.<sup>8</sup> Moreover, Part 563 requires that

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<sup>7</sup> See E-Government Act of 2002, Pub. L. 107-347, § 208, 116 Stat. 2899, 2921-23; Consolidated Appropriations Act, 2005, Pub. L. 108-447, § 522, 118 Stat. 2809, 3268-69.

<sup>8</sup> 49 CFR 563, Tables I & II.

EDRs capture this data to the device or function only for the few seconds leading up to a rare event, the deployment of air bags, (i.e., not on an ongoing basis).

Second, many commenters expressed concerns with regard to who owns EDR data, who has access to EDR data and under what circumstances, and the purposes for which it may be used. NHTSA believes that Congress resolved many of these concerns when it enacted the Driver Privacy Act of 2015 (DPA), part of the Fixing America's Surface Transportation (FAST) Act,<sup>9</sup> which addresses issues of EDR data ownership and access. Specifically, the DPA states that EDR data are the “property of the owner, or, in the case of a leased vehicle, the lessee of the motor vehicle in which the event data recorder is installed.”<sup>10</sup> It also specifies that data recorded or transmitted by an EDR is accessible only to the vehicle owner or lessee, unless access falls into one of several enumerated exceptions.<sup>11</sup>

Finally, many of the privacy-related comments requested that NHTSA mandate consumer notification of the existence of EDRs. NHTSA agrees with commenters that ensuring consumer awareness is an important goal. A vital tool the agency uses to inform consumers about the existence and function of various aspects of motor vehicles, including the existence of and function of EDRs, is the owner’s manual that accompanies motor vehicles sold in the U.S. Part 563 currently requires that vehicle manufacturers that choose to equip their vehicles with EDRs include a standardized statement in the owner’s manual indicating that the vehicle is equipped with an EDR and describing the functions and capabilities of the EDR.<sup>12</sup>

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<sup>9</sup> Pub. L. No. 114-94, §§ 24301-24302, 129 Stat. 1312, 1713-14 (2015).

<sup>10</sup> *Id.*

<sup>11</sup> *See id.*

<sup>12</sup> 49 CFR 563.11.

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Heidi Renate King,  
Deputy Administrator

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