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United States General Accounting Office  
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B-287546

April 19, 2001

The Honorable John McCain  
Chairman  
The Honorable Ernest F. Hollings  
Ranking Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable W. J. "Billy" Tauzin  
Chairman  
The Honorable John D. Dingell  
Ranking Minority Member  
Committee on Energy and Commerce  
House of Representatives

Subject: Department of Transportation, National Highway Traffic Safety  
Administration: Light Truck Average Fuel Economy Standard, Model Year  
2003

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 "Light Truck Average Fuel Economy Standard, Model Year 2003" (RIN: 2127-AI35). We received the rule on April 5, 2001. It was published in the Federal Register as a final rule on April 2, 2001. 66 Fed. Reg. 17513.

Section 32902(a) of title 49, United States Code, requires the Secretary of Transportation to prescribe by regulation, at least 18 months in advance of each model year, average fuel economy standards (known as "Corporation Average Fuel Economy" or "CAFE" standards) for non-passenger automobiles manufactured in that model year. Under subsections 32902(a) and (f), the standard is to be the maximum feasible average fuel economy level that the Secretary decides manufacturers can achieve in that model year taking into consideration technological feasibility, economic practicability, the effect of other government motor vehicle standards on fuel economy, and the need of the United States to conserve energy.

The light truck CAFE standard for model year 2002 was established at 20.7 miles per gallon (mpg). On October 23, 2000, the Department of Transportation and Related

Agencies Appropriations Act for Fiscal Year 2001 was enacted. Section 320 of that Act provides:

“None of the funds in this Act shall be available to prepare, propose, or promulgate any regulations pursuant to title V of the Motor Vehicle Information and Cost Savings Act prescribing corporate average fuel economy standards for automobiles, as defined in such title, in any model year that differs from standards promulgated for such automobiles prior to enactment of this section.”

NHTSA interprets section 320 of the Appropriations Act as requiring it to prescribe the same light truck CAFE standard for model year 2003 that applies to model year 2002. Accordingly, the rule continues the 20.7 mpg standard for 2003. This is the same interpretation NHTSA has applied for the four preceding model years and Congress has continued to insert the same language in the yearly appropriations acts and has not objected to NHTSA’s interpretation.

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 indicates that NHTSA complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is John Anderson, Director, Physical Infrastructure. Mr. Anderson can be reached at (202) 512-2834.

signed

Kathleen E. Wannisky  
Managing Associate General Counsel

Enclosure

cc: Mr. Otto Matheke  
Attorney, National Highway  
Traffic Safety Administration  
Department of Transportation

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF TRANSPORTATION,  
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION  
ENTITLED  
"LIGHT TRUCK AVERAGE FUEL ECONOMY STANDARD,  
MODEL YEAR 2003"  
(RIN: 2127-AI35)

(i) Cost-benefit analysis

NHTSA did not conduct a cost-benefit analysis of the final rule because it contends it has no discretion regarding the issuance of the standards. NHTSA notes that all past fuel economy rules have had economic impacts in excess of \$100 million per year.

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

NHTSA has certified that the 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 took no action under the Unfunded Mandates Reform Act of 1995 based on its lack of discretion in the issuance of the standard.

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

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

NHTSA did not issue a Notice of Proposed Rulemaking or solicit comments on the final rule since it contends it cannot expend any funds to set the 2003 standard at any level other than the 2002 standard.

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

The final rule does not contain any new information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Statutory authorization for the rule

Section 32902(a) of title 49, United States Code, states that the Secretary of Transportation shall prescribe by regulation corporate average fuel economy standards for light trucks for each model year.

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

NHTSA has determined that the final rule does not have federalism implications under the order.