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United States General Accounting Office
Washington, DC 20548

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April 19, 2002

The Honorable Ernest F. Hollings
Chairman
The Honorable John McCain
Ranking Minority 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
2004

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 (DOT), National Highway Traffic Safety Administration, entitled "Light Truck Average Fuel Economy Standard, Model Year 2004" (RIN: 2127-AI68). We received the rule on April 5, 2002. It was published in the Federal Register as a final rule on April 4, 2002. 67 Fed. Reg. 16052.

The final rule establishes the average fuel economy standard (known as "Corporation Average Fuel Economy" or "CAFE" standards) for light trucks manufactured in the 2004 model year. The standard is set at 20.7 mpg.

Since 1995, the standards-setting process for light truck CAFE standards was affected by restrictions imposed in the Department of Transportation's annual appropriations acts. These acts provided that none of the funds were available to prepare, propose, or promulgate any regulations prescribing CAFE standards in any model year that differed from standards previously promulgated.

The restrictions ended with the enactment of the Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 2002. However, this was not

enacted until December 18, 2001. According to NHTSA, that was so close to April 1, 2002—the date by which the model year 2004 standard must be issued—that it precluded the agency from preparing the factual and analytical foundation for a CAFE rulemaking.

Enclosed is our assessment of the DOT'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 the DOT 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, Managing Director, Physical Infrastructure. Mr. Anderson can be reached at (202) 512-2834.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Robert M. Knop
Attorney-Advisor
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 2004"
(RIN: 2127-AI68)

(i) Cost-benefit analysis

In view of the short time period between lifting the restriction on NHTSA and the date by which the model year 2004 light truck standards would have to be issued, NHTSA states that it has been unable to prepare an economic analysis of the final rule.

(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

The final rule does not contain either an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million 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.

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On January 24, 2002, NHTSA published a Notice of Proposed Rulemaking in the Federal Register. In response, NHTSA received approximately 130 comments, which are discussed in the preamble to the final rule.

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

The final rule does not contain any information collections that are subject to review by the Office of Management and Budget 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 the Office of Management and Budget 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.