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March 4, 2004

The Honorable John McCain
Chairman
The Honorable Ernest F. Hollings
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: Automotive Fuel Economy Manufacturing Incentives for
Alternative Fueled 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 "Automotive Fuel Economy Manufacturing Incentives for Alternative Fueled Vehicles" (RIN: 2127-AI41). We received the rule on February 23, 2004. It was published in the Federal Register as a final rule on February 19, 2004. 69 Fed. Reg. 7689.

The final rule extends the incentive created by the Alternative Motor Fuels Act of 1988 to encourage the continued production of motor vehicles capable of operating on alternative fuels by continuing the alternative corporate average fuel economy (CAFE) incentive for four additional model years.

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 Michael Gryzkowiec, Managing Director, Physical Infrastructure. Mr. Gryzkowiec can be reached at (202) 512-2834.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: 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
"AUTOMOTIVE FUEL ECONOMY MANUFACTURING INCENTIVES
FOR ALTERNATIVE FUELED VEHICLES"
(RIN: 2127-AI41)

(i) Cost-benefit analysis

NHTSA estimates that by allowing manufacturers producing dual-fuel vehicles to produce less efficient, conventionally fueled vehicles (a CAFE credit of 0.9 mile per manufacturer) may result in additional annual fuel costs of more than \$100 million.

(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 found at 5 U.S.C. 553. On March 11, 2002, NHTSA published a Notice of Proposed Rulemaking in the Federal Register. 67 Fed. Reg. 10873. The comments received in response to the notice 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 (OMB) under the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule is promulgated under the authority contained in the Alternative Motor Fuels Act of 1988 (Pub. L. 100-494) as codified at 49 U.S.C. 32905 and 32906.

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 sufficient federalism implications to warrant the preparation of a federalism summary impact statement.