



G A O

Accountability \* Integrity \* Reliability

United States Government Accountability Office  
Washington, DC 20548

---

B-319693

May 21, 2010

The Honorable Barbara Boxer  
Chairman  
The Honorable James M. Inhofe  
Ranking Member  
Committee on Environment and Public Works  
United States Senate

The Honorable Henry A. Waxman  
Chairman  
The Honorable Joe Barton  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives

Subject: *Environmental Protection Agency and Department of Transportation,  
National Highway Traffic Safety Administration: Light-Duty Vehicle  
Greenhouse Gas Emission Standards and Corporate Average Fuel Economy  
Standards; Final Rule*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Environmental Protection Agency (EPA) and Department of Transportation, National Highway Traffic Safety Administration (NHTSA) (collectively, the agencies), entitled “Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule” (RINS: 2060-AP58; 2127-AK50). We received the rule on April 5, 2010. It was published in the *Federal Register* as a final rule on May 7, 2010, with an effective date of July 6, 2010. 75 Fed. Reg. 25,324.

The final rule establishes a National Program consisting of new standards for light-duty vehicles that will reduce greenhouse gas emissions and improve fuel economy. This joint final rule is consistent with the National Fuel Efficiency Policy announced by President Obama on May 19, 2009, responding to the country’s critical need to address global climate change and to reduce oil consumption. EPA is finalizing greenhouse gas (GHG) emissions standards under the Clean Air Act, and NHTSA is finalizing Corporate Average Fuel Economy (CAFE) standards under the Energy Policy and Conservation Act, as amended. These standards apply to passenger cars,

light-duty trucks, and medium-duty passenger vehicles, covering model years (MYs) 2012 through 2016, in an effort to represent a harmonized and consistent National Program. Under the National Program, automobile manufacturers will be able to build a single light-duty national fleet that satisfies all requirements under both programs while ensuring that consumers still have a full range of vehicle choices. NHTSA's final rule also constitutes the agency's Record of Decision for purposes of its National Environmental Policy Act (NEPA) analysis.

Enclosed is our assessment of the agencies' 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 of the procedural steps taken indicates that the agencies complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer  
Managing Associate General Counsel

Enclosure

cc: Nicole Owens  
Director, Regulatory  
Management Division  
Environmental Protection Agency

ENCLOSURE

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
ENVIRONMENTAL PROTECTION AGENCY AND  
DEPARTMENT OF TRANSPORTATION,  
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION  
ENTITLED  
"LIGHT-DUTY VEHICLE GREENHOUSE GAS EMISSION  
STANDARDS AND CORPORATE AVERAGE FUEL  
ECONOMY STANDARDS; FINAL RULE"  
(RINS: 2060-AP58; 2127-AK50)

(i) Cost-benefit analysis

The agencies summarized the projected costs and benefits of the CAFE and GHG emissions standards. The agencies note that for several reasons, the estimates for costs and benefits presented by NHTSA and EPA, while consistent, are not directly comparable, and thus should not be expected to be identical. The agencies also state that it is important to note that there is significant overlap in costs and benefits for NHTSA's CAFE program and EPA's GHG program and therefore combined program costs and benefits, which together comprise the National Program, are not a sum of the two individual programs. Notably, NHTSA estimates that the total benefits of these CAFE standards will be more than three times the magnitude of the corresponding costs.

NHTSA has analyzed in detail the costs and benefits of the final CAFE standards. NHTSA estimates that these new CAFE standards will lead to fuel savings totaling 61 billion gallons throughout the useful lives of vehicles sold in MYs 2012–2016. NHTSA states that at a 3-percent discount rate, the present value of the economic benefits resulting from those fuel savings is \$143 billion and \$112 billion at a 7-percent discount rate. NHTSA further estimates that these new CAFE standards will lead to corresponding reductions in CO<sub>2</sub> emissions totaling 655 million metric tons during the useful lives of vehicles sold in MYs 2012–2016. Additionally, NHTSA estimates that the increases in technology application necessary to achieve the projected improvements in fuel economy will entail considerable monetary outlays. NHTSA estimates that incremental costs for achieving its standards—that is, outlays by vehicle manufacturers over and above those required to comply with the MY 2011 CAFE standards—will total about \$52 billion (*i.e.*, during MYs 2012–2016). NHTSA projects that manufacturers will recover most or all of these additional costs through higher selling prices for new cars and light trucks. To allow manufacturers to recover these increased outlays (and, to a much lesser extent, the civil penalties that some companies are expected to pay for noncompliance), NHTSA estimates that the standards would lead to increases in average new vehicle prices ranging from \$457 per vehicle in MY 2012 to \$985 per vehicle in MY 2016. NHTSA concludes that its

standards would produce net benefits of \$130.7 billion at a 3-percent discount rate (with FFV credits, \$138.2 billion) or \$94.5 billion at a 7-percent discount rate over the useful lives of vehicles sold during MYs 2012–2016.

EPA analyzed in detail the costs and benefits of the final GHG standards. Overall, EPA estimates that these new GHG standards for MY 2012-2016 will lead to a combined fuel savings for light trucks and cars of 77.7 billion gallons of fuel. EPA states that at a 3-percent discount rate, the present value of the economic benefits resulting from those fuel savings is \$182 billion and \$142 billion at a 7-percent discount rate. The agency further estimates that these new GHG standards will lead to corresponding reductions in CO<sub>2</sub> emissions totaling 962 metric tons. EPA's estimated incremental and total technology outlays for cars and trucks for each of the model years 2012–2016 will total about \$52 billion. EPA notes the technology outlays are for the industry as a whole and do not account for fuel savings associated with the program. EPA estimated the incremental cost increase of the average new vehicle for each model year 2012–2016. EPA explains that the values are incremental to a baseline vehicle and are not cumulative—in other words, the estimated increase for 2012 model year cars is \$342 relative to a 2012 model year car absent the National Program, while the estimated increase for a 2013 model year car is \$507 relative to a 2013 model year car absent the National Program (not \$342 plus \$507).

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

NHTSA and EPA certify 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 states that the final rule will not result in the expenditure by state, local, or tribal governments, in the aggregate, of more than \$126 million annually, but it will result in the expenditure of that magnitude by vehicle manufacturers and/or their suppliers. In promulgating this final rule, NHTSA considered a variety of alternative average fuel economy standards lower and higher than those proposed. NHTSA is statutorily required to set standards at the maximum feasible level achievable by manufacturers based on its consideration and balancing of relevant factors and has concluded that the final fuel economy standards are the maximum feasible standards for the passenger car and light truck fleets for MYs 2012–2016 in light of the statutory considerations.

EPA states the final rule is not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. Additionally, EPA states that the final rule contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for state, local, or tribal governments. EPA states the rule imposes no enforceable duty on any

state, local or tribal governments. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. EPA has determined that this rule contains a federal mandate that may result in expenditures of \$100 million or more for the private sector 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 regulations were issued using the notice and comment procedures found at 5 U.S.C. § 553. On September 28, 2009, the agencies published a notice of proposed rulemaking (NPRM) entitled, “Proposed Rulemaking to Establish Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards.” 74 Fed. Reg. 49,454.

In developing technology inputs for the analysis of the MY 2012–2016 standards, the agencies reviewed the technology assumptions that NHTSA used in setting the MY 2011 standards, the comments that NHTSA received in response to its May 2008 NPRM (73 Fed. Reg. 24,352), and the comments received in response to the NPRM for this rule. The agencies state that this review is consistent with the request by President Obama in his January 26 memorandum to the Department of Transportation (DOT). In addition, the agencies reviewed the technology input estimates identified in EPA’s July 2008 advance NPRM. 73 Fed. Reg. 44,354. The review of these documents was supplemented with updated information from more current literature, new product plans from manufacturers, and from EPA certification testing.

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

In its submission to the Comptroller General, NHTSA did not include an analysis of the final rule under this Act.

EPA submitted the information collection requirements in this final rule for approval to the Office of Management and Budget (OMB) and was assigned OMB control number 0783.57. EPA is finalizing requirements for manufacturers to submit information to ensure compliance with the provisions in this rule.

Statutory authorization for the rule

NHTSA is finalizing CAFE standards under the Energy Policy and Conservation Act, as amended by the Energy Independence and Security Act of 2007, Pub. L. No. 110-140, 121 Stat. 1492 (Dec. 18, 2007). 49 U.S.C. § 32902.

EPA states that the statutory authority for the vehicle controls is found in section 202(a) (which authorizes standards for emissions of pollutants from new motor

vehicles which emissions cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare), 202(d), 203–209, 216, and 301 of the Clean Air Act, 42 U.S.C. 7521(a), 7521(d), 7522, 7523, 7524, 7525, 7541, 7542, 7543, 7550, and 7601.

#### Executive Order No. 12,866 (Regulatory Planning and Review)

NHTSA states the rulemaking proposed in this NPRM is economically significant. Accordingly, OMB reviewed it under Executive Order 12,866. Additionally, NHTSA notes that the rule is significant within the meaning of DOT's Regulatory Policies and Procedures. Because the rule is economically significant under both DOT's procedures and OMB guidelines, the agency has prepared a Final Regulatory Impact Analysis (FRIA) and pursuant to OMB Circular A-4, NHTSA has prepared a formal probabilistic uncertainty analysis for this rule.

EPA has determined the final rule is an “economically significant regulatory action” because it is likely to have an annual effect on the economy of \$100 million or more. Accordingly, EPA submitted this action to OMB for review under EO 12,866 and states that any changes made in response to OMB recommendations have been documented in the docket for this action.

#### Executive Order No. 13,132 (Federalism)

Under the Order, NHTSA states that it may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or NHTSA consults with state and local officials early in the process of developing the proposed regulation. NHTSA notes that several state agencies provided comments to the proposed standards. Additionally, in his January 26 memorandum, the President requested NHTSA to “consider whether any provisions regarding preemption are consistent with the EISA, the Supreme Court’s decision in *Massachusetts v. EPA* and other relevant provisions of law and the policies underlying them.” NHTSA is deferring consideration of the preemption issue. The agency believes that it is unnecessary to address the issue further at this time because of the consistent and coordinated federal standards that will apply nationally under the National Program.

EPA states that the final rule will not have substantial direct effects on the states, or the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.