(c) *Duty Status.* The required thirteen duty status and additional information items must be recorded as follows:

(1) ''Off duty'' or ''OFF'', or by an identifiable code or character.

(2) ''Sleeper berth'' or ''SB'', or by an identifiable code or character (only if the sleeper berth is used).

(3) ''Driving'' or ''D'', or by an identifiable code or character.

(4) ''On-duty not driving'' or ''ON'', or by an identifiable code or character.

(5) Date.

(6) Total miles driving today.

(7) Truck or tractor and trailer number.

(8) Name of carrier.

(9) Main office address.

(10) 24-hour period starting time (e.g., midnight, 9:00 AM, noon, 3:00 PM).

(11) Name of co-driver.

(12) Total hours.

(13) Shipping document number(s), or name of shipper and commodity.

(d) *Location of duty status change.* For each change of duty status (e.g., the place and time of reporting for work, starting to drive, on-duty not driving, and where released from work), the geographic coordinates must be recorded and automatically converted to city and State locations.

(e) *Reconstruction of records of duty status.* Drivers must immediately note any failure of the GPS technology or complementary safety management computer systems. Upon request of enforcement officials, drivers must contact their motor carriers and request facsimile copies of their ''records of duty status'' for the previous 8 days.

(f) *On-board information.* An information packet containing the following three items must be carried on board the vehicle, and available for review, at all times:

(1) An instruction sheet describing in detail how data is stored and retrieved from the GPS technology.

(2) A supply of blank driver's records of duty status graph-grids sufficient to record the driver's duty status and other related information for the duration of each trip.

(3) A copy of this interpretation, and a letter from the FHWA certifying that the motor carrier's GPS technology and complementary safety management computer systems substantially comply with the provisions of 49 CFR 395.15.

(g) *Driver's verification of records of duty status.*

(1) The driver shall review and verify that all entries provided to him/her by the GPS technology are accurate.

(2) The driver's verification message certifies that all entries made by the driver or generated by GPS technology are true and correct.

(h) *Performance of GPS technology.* Motor carriers that use GPS technology for recording their drivers' records of duty status in lieu of the handwritten record shall ensure the following five requirements are met.

(1) The GPS technology and complementary safety management computer systems are, to the maximum extent practicable, tamper proof and do not permit altering of the information collected concerning the driver's hours of service;

(2) GPS technology must have the capability to display the following six items.

(i) Driver's total hours of driving for the current day.

(ii) Driver's total hours on duty for the current day.

(iii) Driver's miles driving for the current day.

(iv) Driver's hours on duty for the prior 7 consecutive days, including the current day.

(v) Driver's total hours on duty for the prior 8 consecutive days, including the current day.

(vi) The sequential changes in the driver's duty status and the times the changes occurred for each driver using the device.

(3) The GPS technology and complementary safety management computer systems are capable of recording separately each driver's duty status when there is a multiple-driver operation;

(4) The motor carrier's drivers are adequately trained regarding the proper operation of the GPS technology.

(5) The motor carrier must maintain a second (back-up) copy of the electronic hours-of-service records, by month, in a different physical location than where the original data is stored.

(i) *Rescission of authority.* Consistent with 49 CFR 395.15(j), the FHWA may, after notice and opportunity to reply, order any motor carrier or driver to comply with the requirements of 49 CFR 395.8 if the FHWA has determined any one of the following three events has occurred.

(1) The motor carrier has been issued a conditional or unsatisfactory safety rating by the FHWA.

(2) The motor carrier has required or permitted a driver to establish, or the driver has established, a pattern of exceeding the hours-of-service limitations set forth in 49 CFR 395.3.

(3) The motor carrier or driver has tampered with or otherwise abused the GPS technology and/or the complementary safety management computer systems for purposes contrary to the hours-of-service rules set forth in 49 CFR part 395.

(j) *Termination of Participation.* The motor carrier may terminate its participation upon written notice to the FHWA.

Question: How will the success of the pilot demonstration project be evaluated?

Guidance: The FHWA plans to evaluate the demonstration project in the following four ways:

(a) Level of compliance with the hours-of-service regulations.

(b) Accident involvement.

(c) Paperwork burden reduction.

(d) Improvements in operational efficiency (i.e., costs associated with preparing, reviewing, and retaining hours-of-service data).

As stated previously, the FHWA intends to carefully evaluate results of the pilot demonstration project. Should the results prove to be positive and the safety potential of the involved technologies confirmed, the agency will consider proposing revisions to the FMCRs.

(5 U.S.C. 553(b); 23 U.S.C. 315; 49 U.S.C. 31133, 31136, and 31502; sec. 345, Pub. L. 104–59, 109 Stat. 568, 613; and 49 CFR 1.48)

Issued on: March 25, 1998.

Gloria J. Jeff,

Deputy Federal Highway Administrator.

[FR Doc. 98–8882 Filed 4–3–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 533

[Docket No. NHTSA–97–3130]

RIN 2127–AG72

Light Truck Average Fuel Economy Standard, Model Year 2000

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This final rule establishes the average fuel economy standard for light trucks manufactured in model year (MY) 2000. The issuance of the standard is required by statute. Pursuant to section 322 of the fiscal year (FY) 1998 DOT Appropriations Act, the light truck standard for MY 2000 is 20.7 mpg.

DATES: The amendment is effective May 6, 1998. The standard applies to the 2000 model year. Petitions for reconsideration must be submitted within 45 days of publication.

ADDRESSES: Petitions for reconsideration should be submitted to: Administrator,

National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Otto G. Matheke, III, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590 (202–366–5263).

SUPPLEMENTARY INFORMATION:

I. Background

In December 1975, during the aftermath of the energy crisis created by the oil embargo of 1973–74, Congress enacted the Energy Policy and Conservation Act. The Act established an automotive fuel economy regulatory program by adding Title V, ''Improving Automotive Efficiency,'' to the Motor Vehicle Information and Cost Saving Act. Title V has been amended and recodified without substantive change as Chapter 329 of Title 49 of the United States Code. Chapter 329 provides for the issuance of average fuel economy standards for passenger automobiles and automobiles that are not passenger automobiles (light trucks).

Section 32902(a) of Chapter 329 states that the Secretary of Transportation shall prescribe by regulation corporate average fuel economy (CAFE) standards for light trucks for each model year. That section also states that ''[e]ach standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year.'' (The Secretary has delegated the authority to implement the automotive fuel economy program to the Administrator of NHTSA. 49 CFR 1.50(f).) Section 32902(f) provides that in determining the maximum feasible average fuel economy level, NHTSA shall consider four criteria: technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy. Pursuant to this authority, the agency has set light truck CAFE standards through MY 1999. See 49 CFR 533.5(a). The standard for MY 1999 is 20.7 mpg.

NHTSA began the process of establishing light truck CAFE standards for model years after MY 1997 by publishing an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register**. 59 FR 16324 (April 6, 1994). The ANPRM outlined the agency's intention to set standards for some or all of model years 1998 to 2006.

On November 15, 1995, the Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 1996 was enacted. Pub. L. 104–50. Section 330 of that Act provides:

> None of the funds in this Act shall be available to prepare, propose, or promulgate any regulations * * * prescribing corporate average fuel economy standards for automobiles * * * in any model year that differs from standards promulgated for such automobiles prior to enactment of this section.

NHTSA thereafter issued a notice of proposed rulemaking.

(NPRM) limited to MY 1998, which proposed to set the light truck CAFE standard for that year at 20.7 mpg, the same standard as had been set for MY 1997. 61 FR 145 (January 3, 1996). This 20.7 mpg standard was adopted by a final rule issued on March 29, 1996. 61 FR 14680 (April 3, 1996).

On September 30, 1996, the Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 1997 was enacted. Pub. L. 104–205. Section 323 of that Act provides:

> None of the funds in this Act shall be available to prepare, propose, or promulgate any regulations * * * prescribing corporate average fuel economy standards for automobiles * * * in any model year that differs from standards promulgated for such automobiles prior to enactment of this section.

On March 31, 1997, NHTSA issued a final rule (62 FR 15859) establishing light truck fuel economy standards for the 1999 model year. This final rule was not preceded by a Notice of Proposed Rulemaking (NPRM). The agency concluded that the restriction contained in Section 323 of the FY 1997 Appropriations Act precluded the issuance of any standards other than those set for the 1998 model year. Because it had no discretion, NHTSA determined that issuing a NPRM was unnecessary and contrary to the public interest.

On October 27, 1997, the Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 1998 was enacted. Pub. L. 105–66. Section 322 of that Act provides:

> Sec. 322. 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.

Because light truck CAFE standards must be set no later than eighteen months before the beginning of the model year in question, the deadline for NHTSA to set the MY 2000 standard is approximately April 1, 1998. However, the agency cannot promulgate such a standard without the expenditure of funds, and it may not spend any funds in violation of the terms of Section 322 of the FY 1998 Appropriations Act.

The agency notes that the language contained in Section 322 of the FY 1998 Appropriations Act is identical to that found in Section 330 of the FY 1996 Appropriations Act and Section 323 of the FY 1997 Appropriations Act. The adoption of identical language in the FY 1998 Act compels the conclusion that Congress considered the agency's prior interpretation of this language to be correct: the limitation precludes NHTSA from setting a light truck standard that differs from one adopted in the previous year.

Examination of the legislative history of the FY 1998 Act further supports this view. The language contained in Section 322 remained unmodified as part of H.R. 2169, which was eventually enacted as the FY 1998 Act. Section 322 was reported by the House Committee on Appropriations as part of H.R. 2169. The Committee print of the House Report to accompany H.R. 2169 stated, at page 100, that the section precluded NHTSA from prescribing CAFE standards that differ from those set for the 1999 model year.

As explained above, Section 322 precludes NHTSA from preparing, proposing, or issuing any CAFE standard that is not identical to those previously established for MYs 1998 and 1999. As was the case with the establishment of the MY 1999 standard, the agency has once again not issued a Notice of Proposed Rulemaking (NPRM) and has therefore not offered an opportunity for notice and comment prior to issuance of the MY 2000 light truck standard. In NHTSA's view, the express directive contained in the FY 1998 Appropriations Act precludes the agency from exercising any discretion in setting CAFE standards for the 2000 model year. As NHTSA cannot expend any funds to set the 2000 standard at any level other than the MY 1999 standard, providing an opportunity for notice and comment would be unnecessary and contrary to the public interest. Accordingly, NHTSA is setting the MY 2000 light truck CAFE standard at the MY 1999 level of 20.7 mpg.

II. Impact Analyses

A. Economic Impacts

The agency has not prepared a final economic assessment because of the restrictions imposed by Section 322 of the FY 1998 DOT Appropriations Act.

All past fuel economy rules, however, have had economic impacts in excess of $100 million per year. The rule was reviewed by the Office of Management and Budget under Executive Order 12866 and is considered significant under the Department's regulatory procedures. Although the agency has no discretion under the statute (as well as with respect to the costs it imposes), NHTSA is treating this rule as ''economically significant'' under Executive Order 12866 and ''major'' under 5 U.S.C. 801.

B. Environmental Impacts

NHTSA has not conducted an evaluation of the impacts of this action under the National Environmental Policy Act. There is no requirement for such an evaluation where Congress has eliminated the agency's discretion by precluding any action other than the one announced in this notice.

C. Impacts on Small Entities

NHTSA has not conducted an evaluation of this action pursuant to the Regulatory Flexibility Act. The agency notes that this final rule, which was not preceded by a Notice of Proposed Rulemaking is not a ''rule'' as defined by the Regulatory Flexibility Act and is, therefore, not subject to its provisions. Furthermore, as Congress has eliminated the agency's discretion by precluding any action other than the one taken in this notice, NHTSA would not be able to take any action in the event such an analysis supported setting the light truck fuel economy at a different level. Past evaluations indicate, however, that few, if any, light truck manufacturers would have been classified as a ''small business'' under the Regulatory Flexibility Act.

The Regulatory Flexibility Act of 1980 (Public Law 96–354) requires each agency to evaluate the potential effects of a final rule on small businesses. Establishment of a fuel economy standard for light trucks affects motor vehicle manufacturers, few of which are small entities. The Small Business Administration (SBA) has set size standards for determining if a business within a specific industrial classification is a small business. The Standard Industrial Classification code used by the SBA for Motor Vehicles and Passenger Car Bodies (3711) defines a small manufacturer as one having 1,000 employees or fewer.

Very few single stage manufacturers of motor vehicles within the United States have 1,000 or fewer employees. Those that do are not likely to have sufficient resources to design, develop, produce and market a light truck. For this reason, NHTSA certifies that this final rule would not have a significant economic impact on a substantial number of small entities.

D. Executive Order 12612 (Federalism)

NHTSA has analyzed this final rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this proposed rule would not have significant federalism implications to warrant the preparation of a Federalism Assessment. As a historical matter, prior light truck standards have not had sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

E. The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually.

The agency notes that Section 322 of the FY 1998 DOT Appropriations Act precludes the agency from the expenditure of any funds to prepare, propose or promulgate any fuel economy standard that differs from those currently in effect. This directive forbids NHTSA from studying any alternative fuel economy standards other than those presently in force. The agency cannot consider any other alternative standards that may result in lower costs, lesser burdens, or more cost-effectiveness for state, local or tribal governments or the private sector. Furthermore, as the agency is precluded from expending any funds to prepare an alternative fuel economy standard, it cannot embark on any studies of such alternatives. NHTSA has therefore not prepared a written assessment of this rule for the purposes of the Unfunded Mandates Act.

F. Paperwork Reduction Act

There are no information collection requirements in this rule.

G. Department of Energy Review

In accordance with section 49 U.S.C. § 32902(j), NHTSA submitted this final rule to the Department of Energy for review. That Department made no unaccommodated comments.

III. Conclusion

Based on the foregoing, the agency is establishing a combined average fuel economy standard for non-passenger automobiles (light trucks) for MY 2000 at 20.7 mpg.

List of Subjects in 49 CFR Part 533

Energy conservation, Fuel economy, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 533 is amended as follows:

PART 533—[AMENDED]

1. The authority citation for part 533 continues to read as follows:

Authority: 49 U.S.C. 32902; delegation of authority at 49 CFR 1.50.

2. § 533.5(a) is amended by revising Table IV to read as follows:

§ 533.5 Requirements.

(a) * * *

TABLE IV

Model year	Standard
1996	20.7
1997	20.7
1998	20.7
1999	20.7
2000	20.7

* * * * *

Issued On: March 30, 1998.

Ricardo Martinez,

Administrator.

[FR Doc. 98–8883 Filed 3–31–98; 5:05 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 230

[I.D. 022398A]

Whaling Provisions; Aboriginal Subsistence Whaling Quotas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of aboriginal subsistence whaling quotas.

SUMMARY: NMFS announces aboriginal subsistence whaling quotas and other limitations deriving from regulations adopted at the 1997 Annual Meeting of the International Whaling Commission (IWC). For 1998, the quotas are 77 bowhead whales struck, and 5 gray whales landed. These quotas and other limitations will govern the harvest of bowhead whales by members of the Alaska Eskimo Whaling Commission (AEWC) and the harvest of gray whales