

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**[Docket No. NHTSA-2009-0059]**

**Notice of Intent to Prepare an Environmental Impact Statement for  
New Corporate Average Fuel Economy Standards**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice of intent; request for scoping comments.

**SUMMARY:** Pursuant to the National Environmental Policy Act (NEPA), NHTSA plans to prepare an Environmental Impact Statement (EIS) to analyze the potential environmental impacts of the agency's Corporate Average Fuel Economy program for passenger automobiles (referred to herein as "passenger cars") and nonpassenger automobiles (referred to herein as "light trucks"). The EIS will consider the potential environmental impacts of new fuel economy standards for model year 2012–2016 passenger cars and light trucks that NHTSA will be proposing pursuant to the Energy Independence and Security Act of 2007.

This notice initiates the NEPA scoping process by inviting comments from Federal, State, and local agencies, Indian tribes, and the public to help identify the environmental issues and reasonable alternatives to be examined in the EIS. This notice also provides guidance for participating in the scoping process and additional information about the alternatives NHTSA expects to consider in its NEPA analysis.

**DATES:** The scoping process will culminate in the preparation and issuance of a Draft EIS, which will be made available for public comment. To ensure that NHTSA has an opportunity to fully consider scoping comments and to facilitate NHTSA's prompt

preparation of the Draft EIS, scoping comments should be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. NHTSA will try to consider comments received after that date to the extent the rulemaking schedule allows.

**ADDRESSES:** You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Mail: Docket Management Facility, M-30, U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery or Courier: U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m. Eastern time, Monday through Friday, except Federal holidays.
- Fax: 202-493-2251.

Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket at 202-366-9324.

Note that all comments received, including any personal information provided, will be posted without change to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For technical issues, contact Carol Hammel-Smith, Fuel Economy Division, Office of International Vehicle, Fuel Economy

and Consumer Standards, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590. Telephone: 202-366-5206. For legal issues, contact Jessica Wilson, Legislation & General Law Division, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590. Telephone: 202-366-1834.

**SUPPLEMENTARY INFORMATION:** In a forthcoming notice of proposed rulemaking (NPRM), NHTSA intends to propose Corporate Average Fuel Economy (CAFE) standards for model year (MY) 2012-2016 passenger cars and light trucks pursuant to the amendments made by the Energy Independence and Security Act of 2007 (EISA) to the Energy Policy and Conservation Act (EPCA).<sup>1</sup> In connection with this action, NHTSA intends to prepare an Environmental Impact Statement (EIS) to analyze the potential environmental impacts of the proposed CAFE standards and reasonable alternative standards pursuant to the National Environmental Policy Act (NEPA) and implementing regulations issued by the Council on Environmental Quality (CEQ) and NHTSA.<sup>2</sup> NEPA instructs Federal agencies to consider the potential environmental impacts of their proposed actions and possible alternatives in their decisionmaking. To inform decisionmakers and the public, the EIS will compare the potential environmental impacts of the agency's preferred alternative and reasonable alternatives, including a "no action" alternative. As required by NEPA, the EIS will consider direct, indirect, and cumulative impacts and discuss impacts in proportion to their significance.

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<sup>1</sup> EISA is Public Law 110-140, 121 Stat. 1492 (December 19, 2007). EPCA is codified at 49 U.S.C. §§ 32901 *et seq.*

<sup>2</sup> NEPA is codified at 42 U.S.C. §§ 4321-4347. CEQ's NEPA implementing regulations are codified at 40 C.F.R. Pts. 1500-1508, and NHTSA's NEPA implementing regulations are codified at 49 C.F.R. Part 520.

Background. EPCA, as amended by EISA, sets forth extensive requirements concerning the establishment of CAFE standards. It requires the Secretary of Transportation<sup>3</sup> to establish average fuel economy standards at least 18 months before the beginning of each model year and to set them at “the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year.” When setting “maximum feasible” fuel economy standards, the Secretary is required to “consider 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.”<sup>4</sup> NHTSA construes the statutory factors as including environmental and safety considerations.<sup>5</sup> NHTSA considers the environmental NEPA analysis when setting CAFE standards.

As amended by EISA in December 2007, EPCA further directs the Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency (EPA), to establish separate average fuel economy standards for passenger cars and for light trucks manufactured in each model year beginning with model year 2011 “to achieve a combined fuel economy average for model year 2020 of at least 35 miles per gallon for the total fleet of passenger and non-passenger automobiles manufactured for sale in the United States for that model year.”<sup>6</sup> In doing so, the Secretary of Transportation is required to “prescribe annual fuel economy

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<sup>3</sup> NHTSA is delegated responsibility for implementing the EPCA fuel economy requirements assigned to the Secretary of Transportation. 49 C.F.R. §§ 1.50, 501.2(a)(8).

<sup>4</sup> 49 U.S.C. §§ 32902(a), 32902(f).

<sup>5</sup> For environmental considerations, see Center for Auto Safety v. NHTSA, 793 F.2d 1322, 1325 n. 12 (D.C.Cir.1986); Public Citizen v. NHTSA, 848 F.2d 256, 262-3 n. 27 (D.C. Cir. 1988)(noting that “NHTSA itself has interpreted the factors it must consider in setting CAFE standards as including environmental effects”); and Center for Biological Diversity v. NHTSA, 508 F.3d 508, 529 (9<sup>th</sup> Cir. 2007); for safety considerations, see, e.g., Competitive Enterprise Inst. v. NHTSA, 956 F.2d 321, 322 (D.C. Cir. 1992) (citing Competitive Enterprise Inst. v. NHTSA, 901 F.2d 107, 120 n.11 (D.C. Cir. 1990)).

<sup>6</sup> 49 U.S.C.A. §§ 32902(b)(1), 32902(b)(2)(A).

increases that increase the applicable average fuel economy standard ratably beginning with model year 2011 and ending with model year 2020.”<sup>7</sup> Additionally, the standards for passenger cars and light trucks must be “based on 1 or more vehicle attributes related to fuel economy” and expressed “in the form of a mathematical function.” In any single final rule, standards may be established for not more than five model years.<sup>8</sup> EPCA also mandates a minimum standard for domestically manufactured passenger cars.<sup>9</sup>

Pursuant to EISA, on April 22, 2008, NHTSA proposed CAFE standards for MY 2011-2015 passenger cars and light trucks in a Notice of Proposed Rulemaking published on May 2, 2008. See 73 Fed. Reg. 24352. In March 2008, NHTSA issued a Notice of Intent to prepare an EIS for the MY 2011-2015 CAFE standards. See 73 Fed. Reg. 16615; 40 CFR § 1501.7. On July 3, 2008, EPA issued its Notice of Availability for the DEIS, triggering the 45-day public comment period. The public was invited to submit written comments on the DEIS until August 18, 2008. NHTSA also held a public hearing on the DEIS in Washington, DC, on August 4, 2008. On October 10, 2008, NHTSA submitted to the EPA its Final Environmental Impact Statement, Corporate Average Fuel Economy Standards, Passenger Cars and Light Trucks, Model Years 2011 – 2015, Docket No. NHTSA-2008-0060-0605 (FEIS). On October 17, 2008, the EPA published a Notice of Availability of the FEIS in the Federal Register. See 73 Fed. Reg. 61859. On January 7, 2009, the Department of Transportation announced that the Bush Administration would not issue the final rule. See Statement from the U.S. Department

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<sup>7</sup> 49 U.S.C.A. § 32902(b)(2)(C).

<sup>8</sup> 49 U.S.C.A. §§ 32902(b)(3)(A), 32902(b)(3)(B).

<sup>9</sup> 49 U.S.C.A. § 32902(b)(4) (“each manufacturer shall also meet the minimum standard for domestically manufactured passenger automobiles, which shall be the greater of (A) 27.5 miles per gallon; or (B) 92 percent of the average fuel economy projected by the Secretary for the combined domestic and non-domestic passenger automobile fleets manufactured for sale in the United States by all manufacturers in the model year . . .”).

of Transportation, available at <http://www.dot.gov/affairs/dot0109.htm> (last accessed Feb. 9, 2009).

On January 26, 2009, President Barack Obama issued a memorandum to the Secretary of Transportation and the Administrator of NHTSA, requesting NHTSA “to publish in the Federal Register by March 30, 2009, a final rule prescribing increased fuel economy for model year 2011.” See 74 Fed. Reg. 4907. President Obama also requested that “before promulgating a final rule concerning model years after model year 2011, [the agency] consider the appropriate legal factors under EISA, the comments filed in response to the [NPRM], the relevant technological and scientific considerations, and to the extent feasible, the forthcoming report by the National Academy of Sciences mandated under section 107 of EISA . . . .” Id.

In accordance with President Obama’s request, on March 30, 2009, NHTSA published a Final Rule promulgating the fuel economy standards for MY 2011 only. The Final Rule also constituted the Record of Decision (ROD) for NHTSA’s MY 2011 CAFE standards, pursuant to NEPA and CEQ’s implementing regulations. See 40 CFR § 1505.2. The agency postponed a decision and the issuance of a final rule and ROD for MY 2012 and beyond, pursuant to the President’s January 26th memorandum. The deferral of action on standards for the later model years provides the agency with an opportunity to review its approach to CAFE standard setting, including its methodologies, economic and technological inputs and decision-making criteria, so as to ensure that it will produce standards that contribute, to the maximum extent feasible within the limits of EPCA/EISA, to meeting the energy and environmental challenges and goals outlined by the President.

NHTSA intends to propose CAFE standards for MY 2012-2016, a five-year period, for various important reasons. As a preliminary matter, a standard for MY 2012 must be issued by the end of March 2010.<sup>10</sup> Moreover, achieving an industry-wide combined fleet average of at least 35 miles per gallon for MY 2020 depends, in substantial part, upon setting standards well in advance so as to provide automobile manufacturers with as much lead time as possible to make the necessary changes to their automobiles. Setting fuel economy standards for the full five-year increment permitted by EISA, would provide manufacturers with the maximum lead time possible under EPCA and EISA and promote regulatory stability and the efficient use of government resources.

This Notice of Intent initiates the scoping process for the EIS under NEPA, 42 U.S.C. §§ 4321–4347, and implementing regulations issued by CEQ, 40 CFR Pt. 1500-1508, and NHTSA, 49 CFR Pt. 520. See 40 CFR §§ 1501.7, 1508.22; 49 CFR § 520.21(g). Specifically, this Notice of Intent requests public input on the scope of NHTSA’s NEPA analysis relating to the CAFE standards for MY 2012–2016 automobiles. As part of the NEPA scoping process, this notice briefly describes the alternatives NHTSA is currently considering for setting MY 2012-2016 CAFE standards.

The Alternatives: NHTSA’s upcoming NPRM will propose separate attribute-based standards for MY 2012–2016 passenger cars and for MY 2012–2016 light trucks. This notice briefly describes a variety of possible alternatives that are currently under consideration by the agency, and seeks input from the public about these alternatives and

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<sup>10</sup> 49 U.S.C. § 32902(a) requires standards to be prescribed at least 18 months before the beginning of each model year; for CAFE purposes, NHTSA and manufacturers have historically considered April 1 of the prior calendar year to mark 18 months before the beginning of a model year.

about whether other alternatives should be considered as we proceed with the rulemaking and the EIS.

As noted above, NHTSA is statutorily required to promulgate attribute-based fuel economy standards. See 49 U.S.C.A. § 32902(b)(3)(A). Under the upcoming proposed standards, each individual vehicle model would have a specific fuel economy target based on the quantitative value of the attribute (for example, footprint) possessed by that vehicle model.<sup>11</sup> Fuel economy targets would reflect, in part, NHTSA's analysis of the technological and economic capabilities of the industry within the rulemaking time frame. A manufacturer's CAFE standard, in turn, would be based on the target levels set for its particular mix of vehicles in that model year. Compliance would be determined by comparing a manufacturer's harmonically averaged fleet fuel economy levels in a model year with a required fuel economy level calculated using the manufacturer's actual production levels and the targets for each vehicle it produces.<sup>12</sup>

In developing alternatives, NHTSA must consider EPCA's requirements for setting CAFE standards. 49 U.S.C. §§ 32902(b)(2)(A) and (C) contain the following three requirements specific to CAFE standards for MYs 2011-2020: (1) the standards must be sufficiently high to result in a combined (passenger car and light truck) fleet fuel economy of at least 35 mpg by MY 2020; (2) the standards must increase annually; and (3) the standards must increase ratably. EPCA also requires the agency to determine what level of CAFE stringency would be the "maximum feasible" for each model year.

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<sup>11</sup> Vehicle models made by different manufacturers would have the same fuel economy target if they both possessed the exact same quantity of the attribute upon which the standards are based.

<sup>12</sup> While manufacturers may use a variety of flexibility mechanisms to comply with CAFE, including credits earned for over-compliance and production of flexible-fuel vehicles, NHTSA is statutorily prohibited from considering manufacturers' ability to use flexibility mechanisms in determining what level of CAFE standards would be maximum feasible. See 49 U.S.C. § 32902(h).

In determining the maximum feasible levels, EPCA directs NHTSA to consider four factors: technological feasibility, economic practicability, the effect of other standards of the Government on fuel economy, and the need of the nation to conserve energy. See 49 U.S.C. § 32902(f). In balancing these four factors, NHTSA also accounts for relevant environmental and safety considerations, as discussed above.

The alternatives that NHTSA currently has under consideration, in order of increasing stringency, are:

(1) A “no action” alternative, which assumes, strictly for purposes of NEPA analysis, that NHTSA would not issue a rule regarding CAFE standards.<sup>13</sup> NEPA requires agencies to consider a “no action” alternative in their NEPA analyses and to compare the effects of not taking action with the effects of the reasonable action alternatives to demonstrate the different environmental effects of the action alternatives. The recent amendments to EPCA direct NHTSA to set new CAFE standards and do not permit the agency to take no action on fuel economy.<sup>14</sup> NHTSA refers to this as the “No Action Alternative” or as a “no increase” or “baseline” alternative.

NHTSA is also proposing to consider five action alternatives, each of which would cause the average fuel economy for the industry-wide combined passenger car and light truck fleet to increase, on average, by a specified percentage for each model year during the rulemaking period. Because the percentage increases in stringency are

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<sup>13</sup> See 40 C.F.R. §§ 1502.2(e), 1502.14(d).

<sup>14</sup> CEQ has explained that “[T]he regulations require the analysis of the no action alternative *even if the agency is under a court order or legislative command to act*. This analysis provides a benchmark, enabling decision makers to compare the magnitude of environmental effects of the action alternatives. It is also an example of a reasonable alternative outside the jurisdiction of the agency which must be analyzed. [See 40 CFR § 1502.14(c).] ... Inclusion of such an analysis in the EIS is necessary to inform Congress, the public, and the President as intended by NEPA. [See 40 CFR § 1500.1(a).]” *Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations*, 46 FR 18026 (1981) (emphasis added).

“average” increases, they may either be constant throughout the period or may vary from year to year, so long as the average yearly increase over that period equals the percentage increase specified in the alternative.

The alternatives below represent the percentage increases in fuel economy that the agency is considering:

(2) A 3% average annual increase, resulting in 31.7 mpg in MY 2016 (and 35.6 mpg in MY 2020, if the increase were continued through that model year). NHTSA refers to this as the “3% Alternative.”

(3) A 4% average annual increase, resulting in 33.2 mpg in MY 2016 (38.9 mpg in MY 2020). NHTSA refers to this as the “4% Alternative.”

(4) A 5% average annual increase, resulting in 34.8 mpg in MY 2016. (42.4 mpg in MY 2020). NHTSA refers to this as the “5% Alternative.”

(5) A 6% average annual increase, resulting in 36.5 mpg in MY 2016 (46.1 mpg in MY 2020). NHTSA refers to this as the “6% Alternative.”

(6) A 7% average annual increase, resulting in 38.3 mpg in MY 2016 (50.2 mpg in MY 2020). NHTSA refers to this as the “7% Alternative.”

Each of the alternatives proposed by NHTSA represents, in part, a different way in which NHTSA conceivably could weigh EPCA’s statutory requirements and account for NEPA’s policies. For example, the 7% Alternative, the most stringent alternative, weighs energy conservation and climate change considerations more heavily and technological feasibility and economic practicability less heavily. In contrast, the 3% Alternative, the least stringent alternative, places more weight on technological feasibility and economic practicability. The “feasibility” of the alternatives also may reflect

differences and uncertainties in the way in which key economic (e.g., the price of fuel and the social cost of carbon) and technological inputs could be assessed and estimated or valued. The agency may select one of the above-identified alternatives as its Preferred Alternative or it may select a level of stringency that falls between the levels of stringency reflected in the alternatives proposed in this Scoping Notice.

Under NEPA, the purpose of and need for an agency's action inform the range of reasonable alternatives to be considered in its NEPA analysis.<sup>15</sup> The above alternatives represent a broad range of approaches under consideration for setting proposed CAFE standards and whose environmental impacts we propose to evaluate under NEPA. These alternatives take into account the comments NHTSA received during the prior rulemaking and EIS process.

As detailed below, NHTSA invites comments to ensure that the agency considers a full range of reasonable alternatives in setting CAFE standards and that the agency identifies the environmental impacts and focuses its analyses on all the potentially significant impacts related to each alternative. Comments may go beyond the approaches and information that NHTSA used in developing the above alternatives and in identifying the potentially significant environmental effects. The agency may modify the proposed alternatives and environmental effects that will be analyzed in depth based upon the comments received during the scoping process and upon further agency analysis.

Scoping and Public Participation: The scoping process initiated by this notice seeks to determine “the range of actions, alternatives, and impacts to be considered” in the EIS and to identify the most important issues for analysis involving the potential

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<sup>15</sup> 40 C.F.R. § 1502.13.

environmental impacts of NHTSA's CAFE standards.<sup>16</sup> NHTSA's NEPA analysis for the MY 2012-2016 CAFE standards will consider the direct, indirect and cumulative environmental impacts of the proposed standards and those of reasonable alternatives.

While the main focus of NHTSA's prior EIS (*i.e.*, EIS for Model Years 2011-2015) was the quantification of impacts to energy, air quality, and climate, and qualitative analysis of cumulative impacts resulting from climate change, it also addressed other potentially affected resources. NHTSA conducted a qualitative review of the related direct, indirect, and cumulative impacts, positive or negative, of the alternatives on other potentially affected resources (water resources, biological resources, land use, hazardous materials, safety, noise, historic and cultural resources, and environmental justice).

For the current EIS, NHTSA intends to focus on the impacts in the same manner as it did in the prior EIS. NHTSA is currently considering analyzing environmental impacts related to fuel and energy use, emissions including GHGs and their effects on temperature and climate change, air quality, natural resources, and the human environment. NHTSA also will consider the cumulative impacts of the proposed standards for MY 2012-2016 automobiles together with estimated impacts of NHTSA's implementation of the CAFE program through MY 2011 and NHTSA's future CAFE rulemakings for MY 2017 and beyond. To that end, NHTSA will project the effects of CAFE standards for MY 2012-2016 and beyond on fuel use and emissions over the lifetimes of the vehicles produced during those model years (or "the vehicles subject to those standards"), as well as on future fuel use and emissions by the entire U.S. automobile and light truck fleets.

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<sup>16</sup> See 40 C.F.R. §§ 1500.5(d), 1501.7, 1508.25.

NHTSA anticipates considerable uncertainty in estimating and comparing the potential environmental impacts related to climate change in particular. For instance, it may be difficult to predict with a reasonable degree of certainty or accuracy the range of potential global temperature changes that may result from changes in fuel and energy consumption and GHG emissions due to new CAFE standards. It also may be difficult to predict and compare the ways in which potential temperature changes attributable to new CAFE standards may affect many aspects of the environment. NHTSA will do its best to gather all relevant and credible information. If, however, the agency discovers incomplete or unavailable information, the agency will acknowledge the uncertainties in its NEPA analysis, and will apply the provisions in the CEQ regulations addressing “[i]ncomplete or unavailable information.”<sup>17</sup>

Currently, NHTSA intends to rely upon the Intergovernmental Panel on Climate Change (IPCC) 2007 Fourth Assessment Report, and subsequent updates, and Reports of the U.S. Climate Change Science Program (CCSP) as sources for recent “summar[ies] of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment.”<sup>18</sup> NHTSA believes that the IPCC Fourth Assessment Report and the CCSP Reports are the most recent, most comprehensive summaries available, but recognizes that subsequent research may provide additional relevant and credible evidence not accounted for in these Reports. NHTSA expects to rely on such subsequent information as well, to the extent that it provides relevant and credible evidence.

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<sup>17</sup> See 40 C.F.R. § 1502.22.

<sup>18</sup> 40 C.F.R. § 1502.22(b)(3); see 40 C.F.R. § 1502.21. The report and the IPCC’s earlier reports are available at <http://www.ipcc.ch/> (last visited March 11, 2008).

NHTSA also expects to rely on the FEIS it published on October 10, 2008,<sup>19</sup> incorporating material by reference “when the effect will be to cut down on bulk without impeding agency and public review of the action.”<sup>20</sup> Therefore, the NHTSA NEPA analysis and documentation will incorporate by reference relevant materials, including portions of the agency’s prior FEIS, where applicable.

In preparing this notice of public scoping to identify the range of actions, alternatives, and impacts to be analyzed in depth in the EIS, NHTSA has consulted with agencies, including CEQ, DOE, EPA, the Office of Management and Budget, and the Office of Energy and Climate Change Policy. Through this notice, NHTSA invites all Federal agencies, Indian Tribes, State and local agencies with jurisdiction by law or special expertise with respect to potential environmental impacts of proposed CAFE standards, and the public to participate in the scoping process.<sup>21</sup>

Specifically, NHTSA invites all stakeholders to participate in the scoping process by submitting written comments concerning the appropriate scope of NHTSA’s NEPA analysis for the proposed CAFE standards to the docket number identified in the heading of this notice, using any of the methods described in the **ADDRESSES** section of this notice. NHTSA does not plan to hold a public scoping meeting, because written comments will be effective in identifying and narrowing the issues for analysis.

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<sup>19</sup> See Final Environmental Impact Statement, Corporate Average Fuel Economy Standards, Passenger Cars and Light Trucks, Model Years 2011 – 2015, Docket No. NHTSA-2008-0060-0605.

<sup>20</sup> 40 C.F.R. § 1502.21.

<sup>21</sup> Consistent with NEPA and implementing regulations, NHTSA is sending this notice directly to: (1) Federal agencies having jurisdiction by law or special expertise with respect to the environmental impacts involved or authorized to develop and enforce environmental standards; (2) the Governors of every State, to share with the appropriate agencies and offices within their administrations and with the local jurisdictions within their States; (3) organizations representing state and local governments and Indian tribes; and (4) other stakeholders that NHTSA reasonably expects to be interested in the NEPA analysis for the MY 2012-2016 CAFE standards. See 42 U.S.C. § 4332(2)(C); 49 C.F.R. § 520.21(g); 40 C.F.R. §§ 1501.7, 1506.6.

NHTSA is especially interested in comments concerning the evaluation of climate change impacts. Specifically, NHTSA requests:

- Peer-reviewed scientific studies that have been issued since the IPCC's Fourth Assessment Report (and are not reflected in the IPCC's work through November 17, 2007) and that address: (a) the impacts of CO<sub>2</sub> and other greenhouse gas emissions on temperature, and specifically, the temperature changes that may be associated with any of the alternatives under consideration; (b) the impacts of changes in temperature on the environment, including water resources and biological resources, and human health and welfare; or (c) the time periods over which such impacts may occur.
- Comments on how NHTSA should estimate the potential changes in temperature that may result from the changes in CO<sub>2</sub> emissions projected from setting MY 2012-2016 CAFE standards, and comments on how NHTSA should estimate the potential impacts of temperature changes on the environment.
- Comments on what time frame NHTSA should use to evaluate the environmental impacts that may result from setting MY 2012-2016 CAFE standards, both incrementally and cumulatively. For example, some commenters during the last CAFE rulemaking suggested using a 50-year time frame to evaluate environmental impacts, while others suggested using a time frame that spanned more than 100 years. *See* FEIS sections 10.2.1, 10.3.1.2.
- Reports analyzing the potential impacts of climate change within the United States or in particular geographic areas of the United States. Such reports could

be prepared by or on behalf of States, local governments, Indian tribes, regional organizations, academic researchers, or other interested parties.

- NHTSA understands that there are a variety of potential alternatives that could be considered that fit within the purpose and need for the proposed rulemaking, as set forth in EPCA, as amended by EISA. NHTSA, therefore, seeks comments on how best to structure a reasonable alternative for purposes of evaluating it under NEPA. Specifically, NHTSA seeks comments on what criteria should be used to structure such alternative, given the attribute-based system that EISA requires, while being consistent with NHTSA's statutory requirement of setting "maximum feasible" fuel economy standards that increase ratably. See 49 U.S.C. § 32902(f). When suggesting a possible alternative, please explain how it would satisfy EPCA's factors (in particular, technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the nation to conserve energy) and requirements (such as achieving a combined fleet average fuel economy of at least 35 miles per gallon for MY 2020) and give effect to NEPA's policies.<sup>22</sup>

In addition, NHTSA requests comments on how the agency should assess cumulative impacts, including those from various emissions source categories and from a range of geographic locations. Also in regard to cumulative impacts, the agency requests comments on how to consider the incremental impacts from foreseeable future actions of other agencies or persons, especially those relating to greenhouse gas regulation or

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<sup>22</sup> Again, NHTSA notes that it is statutorily prohibited from considering flexibility mechanisms in determining what standards would be maximum feasible. 49 U.S.C. § 32902(h).

climate change initiatives and how they might interact with the CAFE program's incremental cumulative impacts.

Two important purposes of scoping are identifying the significant issues that merit in-depth analysis in the EIS and identifying and eliminating from detailed analysis the issues that are not significant and therefore require only a brief discussion in the EIS.<sup>23</sup> In light of these purposes, written comments should include an Internet citation (with a date last visited) to each study or report you cite in your comments if one is available. If a document you cite is not available to the public on-line, you should attach a copy to your comments. Your comments should indicate how each document you cite or attach to your comments is relevant to the NEPA analysis and indicate the specific pages and passages in the attachment that are most informative.

The more specific your comments are, and the more support you can provide by directing the agency to peer-reviewed scientific studies and reports as requested above, the more useful your comments will be to the agency. For example, if you identify an additional area of impact or environmental concern you believe NHTSA should analyze, or an analytical tool or model that you believe NHTSA should use to evaluate these environmental impacts, you should clearly describe it and support your comments with a reference to a specific peer-reviewed scientific study, report, tool or model. Specific, well-supported comments will help the agency prepare an EIS that is focused and relevant, and will serve NEPA's overarching aims of making high quality information available to decisionmakers and the public by "concentrat[ing] on the issues that are truly significant to the action in question, rather than amassing needless detail."<sup>24</sup> By contrast,

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<sup>23</sup> 40 C.F.R. §§ 1500.4(g), 1501.7(a).

<sup>24</sup> 40 C.F.R. § 1500.1(b).

mere assertions that the agency should evaluate broad lists or categories of concerns, without support, will not assist the scoping process for the proposed standards.

Please be sure to reference the docket number identified in the heading of this notice in your comments. NHTSA intends to correspond directly to interested parties by e-mail. Thus, please also provide an email address (or a mailing address if you decline e-mail communications).<sup>25</sup> These steps will help NHTSA to manage a large volume of material during the NEPA process. All comments and materials received, including the names and addresses of the commenters who submit them, will become part of the administrative record and will be posted on the web at <http://www.nhtsa.dot.gov>.

Based on comments received during scoping, NHTSA expects to prepare a draft EIS for public comment later this summer and a final EIS to support a final rule early next year.<sup>26</sup> In regard to NHTSA's decisionmaking schedule, the agency expects to issue a final rule next year.

Separate Federal Register notices will announce the availability of the draft EIS, which will be available for public comment, and the final EIS, which will be available for public inspection. NHTSA also plans to continue to post information about the NEPA process and this CAFE rulemaking on its website (<http://www.nhtsa.dot.gov>).

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<sup>25</sup> If you prefer to receive NHTSA's NEPA correspondence by U.S. mail, NHTSA intends to provide its NEPA publications via a CD readable on a personal computer.

<sup>26</sup> 40 C.F.R. § 1506.10.

Issued: MAR 27 2009



Stephen R. Kratzke  
Associate Administrator  
for Rulemaking

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[Signature page for CAFE MY 2012-2016 EIS Notice of Intent; Request for Scoping Comments]

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