

conduct a National Survey of Speeding Attitudes and Behavior by telephone among a national probability sample of 6,000 drivers, age 16 and older. Participation by respondents would be voluntary. Survey topics would include the extent to which drivers speed, attitudes and perceptions about speeding, reasons and motivations for speeding, and knowledge and attitudes towards countermeasure strategies to deter speeding.

In conducting the proposed survey, the interviewers would use computer-assisted telephone interviewing to reduce interview length and minimize recording errors. A Spanish-language translation and bilingual interviewers would be used to minimize language barriers to participation. Interviews will be conducted with respondents using landline phones and with respondents using cell phones. The proposed survey would be anonymous; the survey would not collect any personal information that would allow anyone to identify respondents.

*Description of the Need for the Information and Proposed Use of the Information*—The National Highway Traffic Safety Administration's (NHTSA) mission is to save lives, prevent injuries, and reduce healthcare and other economic costs associated with motor vehicle crashes. Over thirty percent of all fatal crashes are estimated to be speed-related crashes, defined as racing, exceeding the speed limit, or driving too fast for conditions. Speed-related crashes resulted in 13,040 lives lost in 2007 and an estimated cost of \$40.4 billion in 2000. In order to plan and evaluate programs intended to reduce speed-related crashes, NHTSA periodically conducts telephone surveys to update its knowledge and understanding of the public's attitudes and behaviors with respect to speeding issues.

NHTSA has conducted two previous administrations of the National Survey of Speeding Attitudes and Behavior—once in 1997 and again in 2002. In the 2010 survey, NHTSA intends to examine the extent to which drivers speed, who the speeders are, when and why drivers speed, and what countermeasures are most acceptable and effective in reducing speeding. Furthermore, NHTSA plans to assess whether or not self-reported behaviors, attitudes, and perceptions regarding speeding and associated countermeasure strategies have changed over time, since the administration of the 1997 and 2002 national surveys. The findings from this proposed collection of information will assist NHTSA in designing, targeting, and implementing

programs intended to reduce speed on the roadways and to provide data to States, localities, and law enforcement agencies that will aid in their efforts to reduce speed-related crashes and injuries.

*Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)*—Under this proposed effort, the Contractor would conduct telephone interviews averaging approximately 20 minutes in length with 6,000 randomly selected members of the general driving public, age 16 and older. The respondent sample would be selected from all 50 States and the District of Columbia. Interviews would be conducted with randomly selected persons with residential phones or cell phones. Businesses are ineligible for the sample and would not be interviewed. No more than one respondent would be selected per household. Each member of the sample would complete one interview.

Prior to the administration of the survey, a total of 15 pretest interviews, averaging 20 minutes in length would be administered to test the computer programming of the questionnaire, and to determine if any final adjustments to the questionnaire are needed. Following any revisions carried out as a result of the pretest, the Contractor would begin the main survey administration.

*Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting From the Collection of Information*—NHTSA estimates that respondents will spend an average of 20 minutes each to complete the survey, for a total of 2005 hours for the 15 pretest respondents and 6000 survey respondents. The respondents would not incur any reporting cost from the information collection. The respondents also would not incur any recordkeeping burden or recordkeeping cost from the information collection.

**Authority:** 44 U.S.C. Section 3506(c)(2)(A)

**Jeff Michael,**

*Associate Administrator, Research and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### Corporate Average Fuel Economy Standards; Effect Upon State Laws and Regulations

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

**ACTION:** Notice of intent.

**SUMMARY:** In a notice of proposed rulemaking published on May 2, 2008, proposing Corporate Average Fuel standards for model years 2011–2015, NHTSA set forth its previously stated view regarding preemption under the Energy Policy and Conservation Act of State standards regulating carbon dioxide emissions from motor vehicle tailpipes and proposed to include a summary statement of those views in the Code of Federal Regulations. However, in a January 26, 2009 memorandum requesting that NHTSA complete its rulemaking in two phases, the President further requested the agency to reconsider its views. In accordance with that request, NHTSA will re-examine the issue of preemption in the context of its forthcoming rulemaking to establish Corporate Average Fuel Economy standards for model year 2012 and later years.

#### FOR FURTHER INFORMATION CONTACT:

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**SUPPLEMENTARY INFORMATION:** The Energy Independence and Security Act (EISA) amended the Energy Policy and Conservation Act (EPCA) by mandating that the model year (MY) 2011–2020 Corporate Average Fuel (CAFE) standards be set sufficiently high to ensure that the industry-wide average of all new passenger cars and light trucks, combined, reaches not less than 35 miles per gallon by MY 2020. NHTSA published a notice of proposed rulemaking (NPRM) on May 2, 2008 to begin implementing the EISA mandate by establishing CAFE standards for MYs 2011–2015.<sup>1</sup> In the proposal, NHTSA set forth its previously stated view that State standards regulating carbon dioxide emissions from motor vehicle tailpipes are expressly and impliedly preempted and proposed to include a summary of that conclusion and the

<sup>1</sup> 73 FR 24352.

underlying reasoning in the Code of Federal Regulations.

On January 26, 2009, President Obama issued a memorandum concerning the completion of the rulemaking.<sup>2</sup> In light of the requirement in EPCA to prescribe CAFE standards for 18 months in advance,<sup>3</sup> i.e., by March 30, 2009 for MY 2011, and in order to provide additional time to obtain new information and consider anew the appropriate approach to establishing future CAFE standards, the President requested NHTSA to complete its rulemaking in two phases: (1) standards for MY 2011, and (2) standards for MY 2012 and beyond. The President further requested that NHTSA consider, as part of both phases, 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.

*Massachusetts v. EPA*,<sup>4</sup> was a case involving a 2003 order of the Environmental Protection Agency (EPA) denying a petition for rulemaking to regulate greenhouse gas emissions from motor vehicles under the Clean Air Act.<sup>5</sup> The Court ruled that greenhouse gases are "pollutants" under the Clean Air Act and that the Act therefore authorizes EPA to regulate greenhouse gas emissions from motor vehicles if that agency makes the necessary findings and determinations under section 202 of the Act.

The Court considered EPCA briefly, stating

[T]hat DOT sets mileage standards in no way licenses EPA to shirk its environmental responsibilities. EPA has been charged with protecting the public's "health" and "welfare," 42 U.S.C. § 7521(a)(1), a statutory obligation wholly independent of DOT's mandate to promote energy efficiency. See Energy Policy and Conservation Act, § 2(5), 89 Stat. 874, 42 U.S.C. § 6201(5). The two obligations may overlap, but there is no reason to think the two agencies cannot both administer their obligations and yet avoid inconsistency.

549 U.S. at 537.

In keeping with the President's remarks on January 26 regarding the need for new national policies to address the closely intertwined issues of energy independence, energy security and climate change, and for the initiation of serious and sustained

domestic and international action to address them, NHTSA will develop CAFE standards for MY 2012 and beyond after collecting new information, conducting a careful review of technical and economic inputs and assumptions and standard setting methodology. It is reasonable to anticipate that this process will lead to changes, given the further review and analysis that will be conducted pursuant to the President's request, and given the steady evolution in technical and policy factors potentially relevant to the next CAFE rulemaking. NHTSA may consider numerous factors, including, but not limited to, energy and climate change needs and policy choices regarding goals and approaches to achieving them, developments in domestic legislation and international negotiations regarding those goals and approaches, technologies for reducing fuel consumption, the capacity and condition of the automotive industry, fuel prices, and climate change science and damage valuation.

The goal of the review and re-evaluation will be to ensure that the approach used for MY 2012 and thereafter produces CAFE standards that contribute, to the maximum feasible extent, consistent with the legal requirements of EPCA/EISA, to meeting the energy and environmental challenges and goals outlined by the President. We intend to craft our program with the goal of creating the maximum incentives for innovation, providing reasonable flexibility to the regulated parties, and meeting the goal of making substantial and continuing reductions in the consumption of fuel sufficient to achieve at least 35 mpg not later than model year 2020. To that end, we are committed to ensuring that the CAFE program for beyond MY 2011 is based on the best scientific, technical, and economic information available, and that such information is developed in close coordination with the Environmental Protection Agency, Department of Energy and other federal agencies and our stakeholders, including the public and the vehicle manufacturers.

In response to the President's request that NHTSA consider whether any provisions regarding preemption are consistent with EISA, the Supreme Court's decision in *Massachusetts v. EPA* and other relevant provisions of law and the policies underlying them, NHTSA is reconsidering its views regarding preemption under EPCA of state standards regulating motor vehicle tailpipe emissions of carbon dioxide. Accordingly, the agency will neither include any discussion of preemption in

the preamble to forthcoming final rule establishing CAFE standards for MY 2011 nor include any provisions addressing preemption in the amendments made by that rule to the Code of Federal Regulations. This course of action will permit the agency to address the issue of preemption in a deliberate, comprehensive manner in the context of its forthcoming rulemaking to establish CAFE standards for 2012 and later model years.

Issued on: March 16, 2009.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA-2009-0048]

### Reports, Forms, and Recordkeeping Requirements

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

**ACTION:** Request for public comment on proposed collection of information.

**SUMMARY:** Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

**DATES:** Comments must be received on or before May 19, 2009.

**ADDRESSES:** You may submit comments [identified by DOT Docket No. NHTSA-2009-0048] 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: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between

<sup>2</sup> The memorandum is available at: [http://www.whitehouse.gov/the\\_press\\_office/The\\_Energy\\_Independence\\_and\\_Security\\_Act\\_of\\_2007/](http://www.whitehouse.gov/the_press_office/The_Energy_Independence_and_Security_Act_of_2007/) (last accessed March 12, 2009).

<sup>3</sup> 49 U.S.C. 32902(a).

<sup>4</sup> 549 U.S. 497 (2007).

<sup>5</sup> 68 FR 52922 (September 8, 2003).