

be used to determine opacity from all affected facilities except those that do not vent PM emissions through a stack.

(3) Method 9 of Appendix A-4 of this part, the procedures in § 60.11, and the additional procedures in paragraphs (b)(3)(i) through (iii) of this section shall be used to determine opacity from affected facilities that do not vent PM emissions through a stack.

(i) The minimum distance between the observer and the emission source shall be 5.0 meters (16 feet), and the sun shall be oriented in the 140-degree sector of the back.

(ii) The observer shall select a position that minimizes interference from other emission sources and make observations such that the line of vision is approximately perpendicular to the plume and wind direction.

(iii) Make opacity observations at the point of greatest opacity in that portion of the plume where condensed water vapor is not present. Water vapor is not considered a visible emission.

(c) For each affected facility subject to a particulate matter emission limit in § 60.252 that is constructed, reconstructed, or modified after April 28, 2008 the owner or operator must conduct each performance test according to § 60.8 using the test methods and procedures in paragraphs (c)(1) through (5) of this section.

(1) Method 1 or 1A (40 CFR part 60, appendix A-1) to select sampling port locations and the number of traverse points in each stack or duct. Sampling sites must be located at the outlet of the control device (or at the outlet of the emissions source if no control device is present) prior to any releases to the atmosphere.

(2) Method 2, 2A, 2C, 2D, 2F (40 CFR part 60, appendix A-1), or 2G (40 CFR part 60, appendix A-2) to determine the volumetric flow rate of the stack gas.

(3) Method 3, 3A, or 3B (40 CFR part 60, appendix A-2) to determine the dry molecular weight of the stack gas. You may use ANSI/ASME PTC 19.10-1981, "Flue and Exhaust Gas Analyses" (incorporated by reference—see § 63.14) as an alternative to Method 3B (40 CFR part 60, appendix A-2).

(4) Method 4 (40 CFR part 60, appendix A-3) to determine the moisture content of the stack gas.

(5) Method 5 (40 CFR part 60, appendix A-3) to determine the PM concentration or Method 5D (40 CFR part 60, appendix A-3) for positive pressure fabric filter. A minimum of three valid test runs comprise a particulate matter performance test.

(d) For each affected facility subject to an opacity limit in § 60.252 that is constructed, reconstructed, or modified

after April 28, 2008, the owner or operator must conduct the performance test as follows:

(1) Method 9 of Appendix A-4 of this part and the procedures in § 60.11 shall be used to determine opacity from all affected facilities except those that do not vent PM emissions through a stack.

(2) Method 9 of Appendix A-4 of this part, the procedures in § 60.11, and the additional procedures in paragraphs (d)(2)(i) through (iii) of this section shall be used to determine opacity from affected facilities that do not vent PM emissions through a stack.

(i) The minimum distance between the observer and the emission source shall be 5.0 meters (16 feet), and the sun shall be oriented in the 140-degree sector of the back.

(ii) The observer shall select a position that minimizes interference from other emission sources and make observations such that the line of vision is approximately perpendicular to the plume and wind direction.

(iii) Make opacity observations at the point of greatest opacity in that portion of the plume where condensed water vapor is not present. Water vapor is not considered a visible emission.

#### **§ 60.255 Reporting and recordkeeping.**

(a) An owner or operator of a coal preparation plant that commenced construction, reconstruction, or modification after April 28, 2008 shall maintain in a logbook (written or electronic) on-site and made available upon request. The logbook shall record the following:

(1) The date and time of periodic coal preparation plant facility opacity observations noting those sources with emissions above the action level along with the results of the corresponding opacity performance test.

(2) The amount and type of coal processed each calendar month.

(3) The amount of chemical stabilizer or water purchased for use in the coal preparation plant.

(4) Monthly certification that the dust suppressant systems were operational when any coal was processed and that manufacturer recommendations were followed for all control systems.

(b) [RESERVED]

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## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

#### **49 CFR Parts 523, 531, 533, 534, 536 and 537**

[Docket No. NHTSA-2008-0060]

#### **Supplemental Notice of Public Scoping for an Environmental Impact Statement for New Corporate Average Fuel Economy Standards**

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

**ACTION:** Supplemental notice of public scoping; further request for scoping comments.

**SUMMARY:** On March 28, 2008, NHTSA announced plans to prepare an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA) to address the potential environmental impacts of the agency's Corporate Average Fuel Economy program for passenger automobiles (referred to herein as "passenger cars") and non-passenger automobiles (referred to herein as "light trucks"). Specifically, NHTSA announced its intent to prepare an EIS to consider the potential environmental impacts of new fuel economy standards for model year 2011-2015 passenger cars and light trucks that NHTSA is proposing pursuant to the Energy Independence and Security Act of 2007. At the same time, NHTSA initiated the NEPA scoping process by inviting 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 by providing public comments related to the scope of NHTSA's NEPA analysis. This supplemental notice provides additional guidance for participating in the scoping process and additional information about the proposed standards and 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. Interested persons are requested to submit their scoping comments as soon as possible. To ensure that NHTSA has an opportunity to consider scoping comments and to facilitate NHTSA's prompt preparation of the Draft EIS, scoping comments should be received on or before May 28, 2008, although NHTSA will try to consider comments

received after this date to the extent the NEPA and rulemaking schedules allow.

**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 Kerry E. Rodgers, Vehicle Safety Standards & Harmonization Division, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202-366-9511.

**SUPPLEMENTARY INFORMATION:** In a companion notice of proposed rulemaking (NPRM), NHTSA is proposing Corporate Average Fuel Economy (CAFE) standards for model year (MY) 2011–2015 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 has begun preparing an Environmental Impact Statement (EIS) to address the potential environmental impacts of the proposed standards and reasonable alternative standards in the context of

NHTSA's CAFE program 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 environmental impacts of the agency's proposal and reasonable alternatives, including a "no action" alternative. The EIS will consider direct, indirect, and cumulative impacts and should discuss impacts "in proportion to their significance."

In March 2008, NHTSA issued a notice of intent to prepare an EIS for the MY 2011–2015 CAFE standards and opened the NEPA "scoping" process. In that notice, NHTSA described the statutory requirements for the proposed standards, provided initial information about the NEPA process, and initiated scoping by requesting public input on the scope of NHTSA's NEPA analysis for the proposed standards.<sup>3</sup> NHTSA also stated that it would describe the proposed standards and the possible alternatives NHTSA expects to consider for purposes of its NEPA analysis in its NPRM and in a separate scoping notice that would provide further guidance about the scoping process. This document constitutes that supplemental scoping notice.

**Background.** EPCA sets forth extensive requirements concerning the rulemaking to establish MY 2011–2015 CAFE standards. It requires the Secretary of Transportation<sup>4</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>5</sup> NHTSA construes the statutory factors as including environmental and safety considerations.<sup>6</sup> NHTSA also will consider environmental impacts under NEPA when setting CAFE standards.

As recently amended, EPCA further directs the Secretary, after consultation with the Secretary of Energy (DOE) 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>7</sup> In doing so, the Secretary of Transportation is required to increase average fuel economy standards for MY 2011–2020 vehicles through "annual fuel economy standard increases."<sup>8</sup> The standards for passenger cars and light trucks must be "based on 1 or more vehicle attributes related to fuel economy." In any single rulemaking, standards may be established for not more than five model years.<sup>9</sup> EPCA also mandates a minimum standard for domestically manufactured passenger cars.<sup>10</sup>

Earlier this year, NHTSA initiated the EIS process for MY 2011–2015 CAFE standards, which include light truck standards for one model year previously covered by the 2006 Rule (MY 2011).<sup>11</sup> We did so because a standard for MY 2011 must be issued by the end of March 2009 and 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 the automobile

<sup>5</sup> 49 U.S.C. 32902(a), 32902(f).

<sup>6</sup> 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>7</sup> 49 U.S.C.A. 32902(b)(1), 32902(b)(2)(A).

<sup>8</sup> 49 U.S.C.A. 32902(b)(2)(C).

<sup>9</sup> 49 U.S.C.A. 32902(b)(3)(A), 32902(b)(3)(B).

<sup>10</sup> 49 U.S.C.A. 32902(b)(4).

<sup>11</sup> In preparing an EIS for the MY 2011–2015 CAFE standards, NHTSA intends to consider issues raised in litigation concerning a 2006 final rule, "Average Fuel Economy Standards for Light Trucks, Model Years 2008–2011," 71 FR 17,566, April 6, 2006 (2006 Rule). See *Center for Biological Diversity v. NHTSA*, 508 F.3d 508, 514, 545–58 (9th Cir. 2007) (holding, among other things, that NHTSA did not prepare an adequate environmental assessment under NEPA and ordering the agency to prepare an EIS). The Government is presently seeking rehearing in the Ninth Circuit on the appropriateness of the Court's remedy.

<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 CFR 1500–1508, and NHTSA's NEPA implementing regulations are codified at 49 CFR Part 520.

<sup>3</sup> See Notice of Intent to Prepare an Environmental Impact Statement for New Corporate Average Fuel Economy Standards, 73 FR 16615, March 28, 2008, available at <http://www.nhtsa.dot.gov/portal/site/nhtsa/menuitem.43ac99aef80569eea57529cd8a046a0/> (last visited March 26, 2008).

<sup>4</sup> NHTSA is delegated responsibility for implementing the EPCA fuel economy requirements assigned to the Secretary of Transportation. 49 CFR 1.50, 501.2(a)(8).

manufacturers with as much lead time as possible to make the extensive necessary changes to their automobiles.

*The Proposed Action and Possible Alternatives:* NHTSA's companion NPRM proposes attribute-based (vehicle size) fuel economy standards for passenger cars and light trucks consistent with the "Reformed CAFE" approach NHTSA used to establish standards for MY 2008–2011 light trucks.<sup>12</sup> The NPRM proposes separate standards for MY 2011–2015 passenger cars and separate standards for MY 2011–2015 light trucks. This notice briefly describes the proposed standards and the possible alternatives discussed in the NPRM. For more detailed discussion of those alternatives, please see the NPRM.

Under the proposed standards, each vehicle manufacturer's required level of CAFE would be based on target levels of average fuel economy set for vehicles of different sizes and on the distribution of that manufacturer's vehicles among those sizes. Size would be defined by vehicle footprint.<sup>13</sup> The level of the performance target for each footprint would reflect the technological and economic capabilities of the industry. The target for each footprint would be the same for all manufacturers, regardless of differences in their overall fleet mix. 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 footprint of the vehicles that it produces.

In developing the proposed standards and possible alternatives, NHTSA considered the four EPCA factors underlying maximum feasibility (technological feasibility, economic practicability, the effect of other standards of the Government on fuel economy, and the need of the nation to conserve energy) as well as relevant environmental and safety considerations. NHTSA used a computer model (known as the "Volpe model") that, for any given model year, applies technologies to a manufacturer's fleet until the manufacturer achieves compliance with the standard under consideration. In light of the EPCA

factors, the agency placed monetary values on relevant externalities (both energy security and environmental externalities, including the benefits of reductions in carbon dioxide (CO<sub>2</sub>) emissions). As discussed in the NPRM, NHTSA also consulted with EPA and DOE regarding a wide variety of matters.

After assessing what fuel saving technologies would be available, how effective they are, and how quickly they could be introduced, NHTSA balanced the EPCA factors relevant to standard-setting. The agency used a marginal benefit-cost analysis to set the proposed standards at levels such that, considering the seven largest manufacturers, the cost of the last technology application equaled the benefits of the improvement in fuel economy resulting from that application. That is the level at which net benefits are maximized. Accordingly, NHTSA refers to the proposed standards as "optimized" standards or the "optimized scenario". In considering further action on the proposed standards and reasonable alternatives, NHTSA will consider the NEPA analysis that results from the scoping process described in this notice.

NHTSA projects what the industry-wide average fuel economy level would be for passenger cars and for light trucks if each manufacturer produced its expected mix of automobiles and exactly met its obligations under the proposed "optimized" standards for each model year. For passenger cars, the average fuel economy (in miles per gallon, or mpg) would range from 31.2 mpg in MY 2011 to 35.7 mpg in MY 2015. For light trucks, the average fuel economy would range from 25.0 mpg in MY 2011 to 28.6 mpg in MY 2015. The combined industry-wide average fuel economy for all passenger cars and light trucks would range from 27.8 mpg in MY 2011 to 31.6 mpg in MY 2015, if each manufacturer exactly met its obligations under the standards proposed in the NPRM.<sup>14</sup>

Under the proposed standards, the annual average increase during the five-year period from MY 2011–MY 2015 would be approximately 4.5 percent. The annual percentage increases would be greater in the early years due to the uneven distribution of new model introductions during this period and to the fact that significant technological

changes can be most readily made in conjunction with those introductions.<sup>15</sup> Pursuant to EISA's mandate, domestically manufactured passenger car fleets also must meet an alternative minimum standard for each model year. The alternative minimum standard would range from 28.7 mpg in MY 2011 to 32.9 mpg in MY 2015 under NHTSA's proposal.

In addition to the proposed standards, NHTSA has considered several regulatory alternatives for purposes of Executive Order 12,866.<sup>16</sup> NHTSA anticipates that those alternatives, plus a "no action" alternative as required by NEPA, will form the framework of the agency's alternatives analysis under NEPA. The alternatives, in order of increasing stringency, are:

(1) A "no action" alternative of maintaining CAFE standards at the MY 2010 levels of 27.5 mpg and 23.5 mpg for passenger cars and light trucks, respectively.<sup>17</sup> NEPA requires agencies to consider a "no action" alternative in their NEPA analyses, although 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. (NHTSA also refers to this "no action" alternative as a "no increase" or "baseline" alternative.)

(2) An alternative reflecting standards that fall below the optimized scenario by the same absolute amount by which the "25 percent above optimized alternative" (described below) exceeds the optimized scenario. NHTSA refers to this as the "25 percent below optimized alternative".

(3) An alternative reflecting the "optimized scenario," the proposed standards based on applying technologies until net benefits are maximized.

(4) An alternative reflecting standards that exceed the optimized scenario by 25 percent of the interval between the optimized scenario and an alternative (described below) based on applying technologies until total costs equal total benefits. NHTSA refers to this alternative as the "25 percent above optimized alternative."

(5) An alternative reflecting standards that exceed the optimized scenario by 50 percent of the interval between the

<sup>12</sup> See 71 FR 17,566, 17,587–17,625, April 6, 2006 (describing that approach).

<sup>13</sup> A vehicle's "footprint" is generally defined as "the product of track width [the lateral distance between the centerlines of the base tires at ground, including the camber angle \* \* \* times wheelbase [the longitudinal distance between front and rear wheel centerlines] \* \* \* divided by 144. \* \* \*" 49 CFR 523.2.

<sup>14</sup> NHTSA notes that it cannot set out the precise level of CAFE that each manufacturer would be required to meet for each model year under the proposed standards, because the level for each manufacturer would depend on that manufacturer's final production figures and fleet mix for a particular model year. That information will not be available until the end of each model year.

<sup>15</sup> With the proposed standards, the combined industry-wide average fuel economy would have to increase by an average of 2.1 percent per year from MY 2016–MY 2020 in order to reach EISA's goal of at least 35 mpg by MY 2020. In addition, the NPRM discusses flexibility mechanisms available to manufacturers to meet their obligations.

<sup>16</sup> Exec. Order 12,866, "Regulatory Planning and Review," 58 FR 51,735, October 4, 1993, as amended.

<sup>17</sup> See 40 CFR 1502.2(e), 1502.14(d).

optimized scenario and the alternative based on applying technologies until total costs equal total benefits. This alternative is known as the “50 percent above optimized alternative”.

(6) An alternative reflecting standards based on applying technologies until total costs equal total benefits (zero net benefits). This is known as the “TC=TB alternative”.

(7) A “technology exhaustion alternative” in which NHTSA applied all feasible technologies without regard to cost by determining the stringency at which a reformed CAFE standard would require every manufacturer to apply every technology estimated to be potentially available for its MY 2011–2015 fleet. Accordingly, the penetration rates for particular technologies would vary on an individual manufacturer basis. NHTSA has presented this alternative in order to explore how the stringency of standards would vary based solely on the potential availability of technologies at the individual manufacturer level.

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>18</sup> NHTSA believes that these alternatives represent a reasonable range of stringencies to consider for purposes of evaluating the potential environmental impacts of proposed CAFE standards under NEPA, because these alternatives represent a wide spectrum of potential impacts ranging from the current standards to standards based on the maximum technology expected to be available over the period necessary to meet the statutory goals of EPCA, as amended by EISA.<sup>19</sup> However, as discussed in the NPRM, NHTSA’s provisional analysis of these alternatives suggests that some of them may not satisfy the four EPCA factors that NHTSA must apply in setting “maximum feasible” CAFE standards (*i.e.*, 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). Please see the companion NPRM for further discussion of these alternatives and for background on why NHTSA has identified these alternatives. As indicated below, NHTSA invites comments to ensure that the agency’s NEPA analysis for the proposed standards addresses a full range of reasonable alternatives and identifies all potentially significant impacts related to each. Comments may go beyond the approaches and information that NHTSA used in developing the proposed standards and the above alternatives.

*Scoping and Public Participation:* As NHTSA indicated in its notice of intent and request for scoping comments, NHTSA plans to use the scoping process to determine “the range of actions, alternatives, and impacts to be considered” in the EIS and to identify the most important issues for analysis.<sup>20</sup> NHTSA’s NEPA analysis for the MY 2011–2015 CAFE standards will consider the direct, indirect and cumulative environmental impacts of the proposed standards and those of reasonable alternatives. Among other potential impacts, NHTSA will consider direct and indirect impacts related to fuel and energy use, emissions including CO<sub>2</sub> 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 2011–2015 automobiles together with estimated impacts of NHTSA’s implementation of the CAFE program through MY 2010 and NHTSA’s future CAFE rulemaking for MY 2016–2020, as prescribed by EPCA, as amended by EISA. To this end, NHTSA will project the future effects of the fuel use and emissions of the vehicle fleets analyzed over their lifetimes.

NHTSA anticipates considerable uncertainty in estimating and comparing the potential environmental impacts of the proposed standards and the alternatives relating 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 CO<sub>2</sub> emissions due to new CAFE standards. In turn, for example, it may be difficult to predict and compare the ways in which

potential temperature changes attributable to new CAFE standards may impact many aspects of the environment. Accordingly, NHTSA expects to apply the provisions in the CEQ regulations addressing “[i]ncomplete or unavailable information,” where NHTSA would acknowledge these and other uncertainties in its NEPA analysis for the proposed standards.<sup>21</sup> NHTSA will rely on the 2007 Fourth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) as a recent “summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment.”<sup>22</sup> The NHTSA NEPA analysis and documentation will incorporate material by reference “when the effect will be to cut down on bulk without impeding agency and public review of the action.”<sup>23</sup>

In preparing this supplemental notice of public scoping, NHTSA has consulted with CEQ, EPA, and the Office of Management and Budget. Through this notice, NHTSA again invites other Federal agencies and State, local, and tribal agencies with jurisdiction by law or special expertise with respect to potential environmental impacts of the proposed CAFE standards and the public to participate in the scoping process.<sup>24</sup>

Specifically, NHTSA invites all stakeholders to submit written comments concerning the appropriate scope of NHTSA’s NEPA analysis for the proposed CAFE standards for MY 2011–2015 passenger cars and light trucks 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

<sup>18</sup> 40 CFR 1502.13.

<sup>19</sup> Given EPCA’s mandate that NHTSA consider specific factors in setting CAFE standards and NEPA’s instruction that agencies give effect to NEPA’s policies “to the fullest extent possible,” NHTSA recognizes that a very large number of alternative CAFE levels are potentially conceivable and that the alternatives described above essentially represent several of many points on a continuum of alternatives. Along the continuum, each alternative represents a different way in which NHTSA conceivably could assign weight to each of the four EPCA factors and NEPA’s policies. CEQ guidance instructs that “[w]hen there are potentially a very large number of alternatives, only a reasonable number of examples, covering the full spectrum of alternatives, must be analyzed and compared in the EIS.” CEQ, *Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations*, 46 FR 18026, 18027, March 23, 1981 (emphasis original).

<sup>21</sup> See 40 CFR 1502.22.

<sup>22</sup> 40 CFR 1502.22(b)(3); see 40 CFR 1502.21. The report and the IPCC’s earlier reports are available at <http://www.ipcc.ch/> (last visited March 11, 2008).

<sup>23</sup> 40 CFR 1502.21.

<sup>24</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 2011–2015 CAFE standards. NHTSA also mailed the notice of intent to these stakeholders on April 10 and 11, 2008. See 42 U.S.C. 4332(2)(C); 49 CFR 520.21(g); 40 CFR 1501.7, 1506.6.

<sup>20</sup> See 40 CFR 1500.5(d), 1501.7, 1508.25.

analysis and because the rulemaking schedule necessary to meet the new statutory requirements is tight. However, NHTSA is especially interested in comments that address the potential impacts of NHTSA's proposed CAFE standards and reasonable alternatives relating to climate change. 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 likely to result from the proposed standards or the alternatives; (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 the proposed standards and reasonable alternatives, and comments on how NHTSA should estimate the potential impacts of temperature changes on the environment.

- Reports prepared by or on behalf of States, local governments, Indian tribes, regional organizations, or academic researchers analyzing the potential impacts of climate change in particular geographic areas of the United States.

- Comments on other reasonable alternatives that NHTSA might consider in its NEPA analysis that fit within the purpose and need for the proposed rulemaking, as set forth in EPCA, as amended by EISA. When suggesting a possible alternative, please explain how it would satisfy each of the EPCA factors (namely, 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.

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.

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>25</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 in or attach to your comments is relevant to NHTSA's 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, you should clearly describe it and support your comments with a reference to a specific peer-reviewed scientific study or report. Specific, well-supported comments will facilitate the purposes of scoping identified above and will serve NEPA's overarching aims of making high quality information available to decisionmakers and the public and generating NEPA documents that

"concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail." <sup>26</sup> By contrast, mere assertions that the agency should evaluate broad lists or categories of concerns, without support, will not help NHTSA focus its NEPA analysis for the proposed standards through scoping.

Please be sure to reference the docket number identified in the heading of this notice in your comments. In addition, please provide a mailing address and indicate whether you want to receive notice of the publication of the NEPA documents with a copy of the executive summary and one of the following: (a) A url to access the document on the Internet; (b) a CD readable on a personal computer; or (c) a printed copy of the entire document. 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 spring and a final EIS to support a final rule later this 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 Web site (<http://www.nhtsa.dot.gov>).

Issued: April 23, 2008.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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<sup>25</sup> 40 CFR 1500.4(g), 1501.7(a).

<sup>26</sup> 40 CFR 1500.1(b).