

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

Billing Code: 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Docket No. NHTSA-2017-0069

**Notice of Intent to Prepare an Environmental Impact Statement for Model Year
2022–2025 Corporate Average Fuel Economy Standards**

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

ACTION: Notice of intent to prepare an environmental impact statement; request for scoping comments.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), NHTSA intends to prepare an environmental impact statement (EIS) to analyze the potential environmental impacts of new Corporate Average Fuel Economy (CAFE) standards for model year (MY) 2022–2025 passenger automobiles (referred to herein as “passenger cars”) and non-passenger automobiles (referred to herein as “light trucks”) that NHTSA will be proposing pursuant to the Energy Policy and Conservation Act of 1975 (EPCA), as amended by the Energy Independence and Security Act of 2007 (EISA). This notice initiates the process for determining the scope of considerations to be addressed in the EIS and for identifying any significant environmental matters related to the proposed action. NHTSA invites public comments from Federal, State, and local

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

agencies, Indian tribes, stakeholders, and the public in this scoping process to help identify and focus any matters of environmental significance and reasonable alternatives to be examined in the EIS.

DATES: The scoping process will culminate in the preparation and issuance of a Draft EIS, which will be made available for public comment concurrently with the issuance of a Notice of Proposed Rulemaking (NPRM). To ensure that NHTSA has an opportunity to fully consider scoping comments, scoping comments should be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. NHTSA will 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,

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

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 must include the docket number identified in the heading of this notice. Note that all comments received, including any personal information provided, will be posted without change to <http://www.regulations.gov>. Please see the "Privacy Act" heading below.

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

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or the street address listed above. We will continue to file relevant information in the Docket as it becomes available.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

FOR FURTHER INFORMATION CONTACT: For technical issues, contact Ken Katz, Fuel Economy Division, Office of International Policy, Fuel Economy, and Consumer Programs, telephone: 202-366-4936, e-mail: Ken.Katz@dot.gov; for legal issues, contact Russell Krupen, Legislation & General Law Division, Office of the Chief Counsel, telephone: 202-366-1834, e-mail: Russell.Krupen@dot.gov, at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: In a forthcoming NPRM, NHTSA intends to propose CAFE standards for MY 2022–2025 passenger cars and light trucks pursuant to EPCA (Pub. L. No. 94-163, 89 Stat. 871 (Dec. 22, 1975)), as amended by EISA (Pub. L. No. 110-140, 121 Stat. 1492 (Dec. 19, 2007)).¹ In connection with this action, NHTSA will prepare an EIS to analyze the potential environmental impacts of the proposed CAFE standards and reasonable alternative standards pursuant to NEPA (42 U.S.C. §§ 4321–4347) and implementing regulations (40 CFR Parts 1500–1508) issued by the Council on Environmental Quality (CEQ), DOT Order No. 5610.1C (*Procedures for Considering Environmental Impacts* (1979) (revised 1985), available at <https://www.transportation.gov/office-policy/transportation-policy/procedures-considering-environmental-impacts-dot-order-56101c>), and NHTSA regulations (49 CFR

¹ NHTSA's fuel economy authorities are codified at 49 U.S.C. §§ 32901 *et seq.*

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

part 520). NEPA instructs Federal agencies to consider the potential environmental impacts of their proposed actions and those of possible alternative actions. 42 U.S.C. § 4332(2)(C). To inform decisionmakers and the public, the EIS will analyze the potential environmental impacts of NHTSA's preferred alternative, which will correspond to the proposed rule, and a spectrum of reasonable alternatives, including a "no action" alternative. 40 CFR §§ 1502.1, 1502.14. The EIS will consider direct, indirect, and cumulative impacts of the proposed action and alternatives and will discuss impacts in proportion to their significance. *Id.* §§ 1502.2(b), 1508.25(b)–(c).

Background. EPCA requires that the Secretary of Transportation² establish and implement a regulatory program for motor vehicle fuel economy as part of a comprehensive approach to Federal energy policy. As codified in Chapter 329 of Title 49 of the U.S. Code, and as amended by EISA, EPCA set forth specific requirements concerning the establishment of CAFE standards for passenger cars and light trucks.

The Secretary must prescribe average fuel economy standards by regulation 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 manufacturers can achieve in that model year." 49 U.S.C. § 32902(a). The standards apply to each manufacturer's

² The Secretary has delegated responsibility for implementing fuel economy requirements under EPCA and EISA to NHTSA. 49 CFR § 1.95(a) and (j).

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

fleet average, not to the manufacturer's individual vehicles. The Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency (EPA), must establish average fuel economy standards separately for passenger cars and for light trucks manufactured in each model year. *Id.* § 32902(b)(1)–(2). In doing so, for the model years to be addressed in the NPRM, the Secretary of Transportation must set each passenger car and light truck standard at the “maximum feasible” average fuel economy standard for each model year. *Id.* § 32902(b)(2)(B), (f). When setting “maximum feasible” average fuel economy standards, the Secretary must “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.” *Id.* § 32902(f). NHTSA construes the aforementioned statutory factors as including environmental and safety considerations.³

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,” and they may be established for not more than five model years at a time. 49 U.S.C. § 32902(b)(3)(A)–(B). In addition, each manufacturer must meet the minimum

³ 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”); *Center for Biological Diversity v. NHTSA*, 538 F.3d 1172, 1196 (9th Cir. 2008); 40 CFR § 1500.6. 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)).

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

standard for domestically manufactured passenger cars, which is 92 percent of the projected average fuel economy for the combined domestic and non-domestic passenger car fleet for each model year, calculated at the time the final rule establishing the passenger car standards for those model years is promulgated. *Id.* § 32902(b)(4).

Regulatory History. NHTSA set the first fuel economy standards in 1977, applying to passenger cars beginning in MY 1978 and light trucks beginning in MY 1979. The stringency of the standards increased through MY 1985, and then changed little until MY 2005 for light trucks, when NHTSA reformed the light truck fuel economy program by introducing attribute-based standards, and MY 2011 for passenger cars, when NHTSA introduced attribute-based standards for passenger cars using new authority provided by EISA. CAFE standards have increased progressively for light trucks since MY 2005 and for passenger cars since MY 2011.

More recently, NHTSA has conducted its fuel economy rulemaking jointly with EPA's rulemaking to establish greenhouse gas (GHG) emission standards. In April 2010, NHTSA and EPA issued a joint final rule establishing fuel economy standards and GHG emissions standards⁴ for MY 2012–2016 passenger cars and light trucks. *Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule*, 75 FR 25323 (May 7, 2010). The CAFE standards were

⁴ EPA issued GHG emissions standards pursuant to the Clean Air Act. *See* 42 U.S.C. § 7521(a).

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

estimated to require a combined average fleet-wide fuel economy of 34.1 miles per gallon (mpg) by MY 2016.⁵ Subsequently, on August 28, 2012, NHTSA and EPA issued a final rule setting CAFE and GHG emissions standards for passenger cars and light trucks for model years 2017 and beyond. *2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards*, 77 FR 62623 (Oct. 15, 2012). Consistent with its statutory authority, NHTSA developed two phases of passenger car and light truck standards. The first phase, covering MYs 2017–2021, included final standards that were projected to require, on an average industry fleet wide basis, a range from 40.3–41.0 mpg in MY 2021. The second phase of the CAFE program, covering MYs 2022–2025, included standards that were not final, due to the statutory requirement that NHTSA set average fuel economy standards not more than five model years at a time. Rather, NHTSA wrote that those standards were “augural,” meaning that they represented its best estimate, based on the information available at that time, of what levels of stringency might be maximum feasible in those model years. NHTSA projected that those standards could require, on an average industry fleet wide basis, a range from 48.7–49.7 mpg in model year 2025.

⁵ The EPA GHG standards were estimated to require a combined average fleet-wide level of 250 grams/mile CO₂-equivalent for MY 2016, which is equivalent to 35.5 mpg if all of the technologies used to reduce GHG emissions were tailpipe CO₂ reducing technologies. The 250 g/mi CO₂ equivalent level assumed the use of credits for air conditioning improvements worth 15 g/mi in MY 2016.

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

As part of the final rulemaking, EPA committed to conducting a Mid-Term Evaluation of its GHG standards established for MYs 2022–2025. As NHTSA did not issue final CAFE standards for MYs 2022–2025 in its 2012 final rule, it does not have any standards for those MYs to be evaluated. Instead, NHTSA is obligated to conduct a *de novo* rulemaking, with fresh inputs and a fresh consideration and balancing of all relevant factors, to establish final CAFE standards for those MYs. Meanwhile, EPA's regulations require it to determine whether the GHG standards for MYs 2022–2025 are appropriate under section 202(a) of the Clean Air Act, in light of the record then before the Administrator. 40 CFR § 86.1818-12(h).

In July 2016, NHTSA, EPA, and the California Air Resources Board released for public comment a jointly prepared Draft Technical Assessment Report (TAR), which examined a range of matters relevant to CAFE and GHG emissions standards for MYs 2022–2025. *Notice of Availability of Midterm Evaluation Draft Technical Assessment Report for Model Year 2022-2025 Light Duty Vehicle GHG Emissions and CAFE Standards*, 81 FR 49217 (July 27, 2016). In November 2016, EPA issued a proposed determination for the Mid-Term Evaluation. *Proposed Determination on the Appropriateness of the Model Year 2022-2025 Light-Duty Vehicle Greenhouse Gas Emissions Standards Under the Midterm Evaluation*, 81 FR 87927 (Dec. 6, 2016). On January 12, 2017, the EPA Administrator signed the Final Determination of the Mid-

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

Term Evaluation of light-duty GHG emissions standards for MYs 2022–2025.

Subsequently, EPA Administrator Scott Pruitt and Transportation Secretary Elaine L.

Chao issued a joint notice announcing EPA's conclusion that it would reconsider its Final Determination in order to allow additional consultation and coordination with NHTSA in support of a national harmonized program. *Notice of Intention to Reconsider the Final Determination of the Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light Duty Vehicles*, 82 FR 14671 (Mar. 22, 2017). As a result, EPA intends to make a new Final Determination regarding the appropriateness of the MY 2022–2025 GHG standards no later than April 1, 2018. NHTSA is statutorily required to issue a final rule for MY 2022 CAFE standards no later than April 1, 2020. *See* 49 U.S.C. § 32902(a).

Analysis of Alternatives. Pursuant to NEPA, NHTSA will prepare an EIS to evaluate the potential environmental impacts of its proposed action. Although NHTSA evaluated the impacts of the augural standards in its EIS accompanying the MY 2017–2025 rulemaking (NHTSA, *Final Environmental Impact Statement, Corporate Average Fuel Economy Standards, Passenger Cars and Light Trucks, Model Years 2017–2025*, Docket No. NHTSA-2011-0056 (July 2012)), NHTSA will prepare a new Draft EIS and Final EIS as part of this *de novo* rulemaking in order to provide for fresh consideration of all available information.

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

In an upcoming NPRM, NHTSA intends to propose separate attribute-based standards for passenger cars and light trucks for each of MYs 2022–2025. As in the previous CAFE rulemaking, NHTSA plans to propose vehicle footprint⁶ as the attribute. The standards are expected to be defined as footprint “curves” for passenger cars and light trucks in each model year, where vehicles of different footprints have specific fuel economy “targets,” with larger vehicles (and light trucks) generally having lower fuel economy targets than smaller vehicles (and passenger cars), reflecting their fuel economy capabilities.⁷ The shape and stringency of the curves would reflect, in part, NHTSA’s analysis of the technological and economic capabilities of the industry within the rulemaking timeframe. A manufacturer’s individual CAFE standards for cars and trucks, in turn, would be based on the target levels set for the footprints of its particular mix of cars and trucks manufactured in that model year. A manufacturer with a relatively high percentage of smaller vehicles would have a higher standard than a manufacturer with a relatively low percentage of smaller vehicles. Compliance would be determined by comparing a manufacturer’s harmonically averaged fleet fuel economy level in a model year with a required fuel economy level calculated using the manufacturer’s actual

⁶ Footprint, which is a measure of vehicle size, is calculated by multiplying a vehicle’s wheelbase by its track width.

⁷ Vehicle models of the same fleet but made by different manufacturers would have the same fuel economy target if they had the same vehicle footprint (i.e., the quantity of the attribute upon which the standards would be based).

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

production levels and the targets for each vehicle it produces.⁸ As part of this rulemaking, NHTSA may evaluate the MY 2021 standards it finalized in 2012 to ensure they remain “maximum feasible.” As with any CAFE rulemaking, NHTSA will also consider other programmatic aspects other than stringency (e.g., flexibilities and vehicle classification) that may affect model years prior to and including those for which NHTSA would set fuel economy standards.

The purpose of and need for an agency's action inform the reasonable range of alternatives to be considered in its NEPA analysis. 40 CFR § 1502.13. NHTSA sets CAFE standards as part of a comprehensive energy policy established by EPCA (and amended by EISA) with the purposes of conserving petroleum and of addressing energy independence and security by reducing U.S. reliance on foreign oil.

In developing alternatives for analysis in the EIS, NHTSA must consider EPCA's requirements for setting CAFE standards. As discussed above, EPCA requires NHTSA to determine what level of CAFE stringency would be the “maximum feasible” for each model year, a determination made based on the consideration of four statutory factors: technological feasibility, economic practicability, the effect of other standards of the Government on fuel economy, and the need of the United States to conserve energy. 49

⁸ While manufacturers may use a variety of flexibility mechanisms to comply with CAFE, including credits earned for over-compliance, NHTSA is statutorily prohibited from considering manufacturers' ability to use statutorily-provided flexibility mechanisms in determining what level of CAFE standards would be maximum feasible. *See* 49 U.S.C. § 32902(h).

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

U.S.C. § 32902(f). In addition, EISA required fuel economy standards for MY 2011–2020 passenger cars and light trucks 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.”

Id. § 32902(b)(2)(A). NHTSA was required to “prescribe annual fuel economy standard increases that increase the applicable average fuel economy standard ratably beginning with model year 2011 and ending with model year 2020.” *Id.* § 32902(b)(2)(C). For MY 2021-2030 passenger cars and light trucks, EISA does not set a target fuel economy or require that standards “increase...ratably” over the ten-year period. *See id.*

§ 32902(b)(2)(B).

NHTSA is considering the following alternatives for analysis in the Draft EIS:

- A “no action” alternative (also referred to as the “baseline”), which assumes, for purposes of NEPA analysis, that NHTSA would issue a rule that would continue the current CAFE standards for MY 2021 indefinitely. 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 reasonable action alternatives in order to demonstrate the different environmental effects of the action alternatives. *See* 40 CFR § 1502.14(d). Given that NHTSA must set new CAFE standards and may

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office’s FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

not strictly take no action on fuel economy,⁹ the agency has determined that, for this rulemaking, the closest analogue to a true “no action” alternative would be to continue the already existing and enforceable standards indefinitely without further change.¹⁰

- “Action” alternatives represented by calculating a lower bound and upper bound of a range of reasonable annual fuel economy standards, from MY 2022 forward.¹¹ The calculations and the related evaluation of impacts would be performed separately for passenger cars and light trucks at each of these points so as to demonstrate their effects independently, since car and truck standards could change at different rates from one another and at

⁹ See 49 U.S.C. § 32902(a). 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 decisionmakers to compare the magnitude of environmental effects of the action alternatives. . . . Inclusion of such an analysis in the EIS is necessary to inform the 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).

¹⁰ Although NHTSA included “augural” standards for MYs 2022–2025 in its previous CAFE rulemaking, those standards are not final. In the absence of additional rulemaking activity, those standards would not be enforceable. However, assuming that no standard would exist after MY 2021 for purposes of the “no action” alternative would not be a reasonable assumption (in light of NHTSA’s statutory responsibility to promulgate standards and the continuous forty-year history of the program), nor would it provide meaningful information to the decisionmaker for purposes of evaluating the impacts of the action alternatives. At this time, NHTSA believes that the continuation of the status quo ante, particularly that the final MY 2021 standards would continue indefinitely, is the most appropriate baseline against which to compare the proposed regulatory alternatives.

¹¹ CEQ guidance provides that agencies may use representative examples covering the “full spectrum” of reasonable alternatives for purposes of presenting the “range of alternatives” in an EIS. *Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations*, 46 FR 18026 (Mar. 23, 1981).

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

different rates in different years. These alternatives would bracket the range of actions NHTSA may select. In sum, in its final rule, NHTSA would be able to select an action alternative from any stringency level within that range. NHTSA seeks public comments on the stringency levels at which to define the lower and upper bounds of this range of reasonable alternatives.

- The preferred alternative, reflecting annual fuel economy standards for both passenger cars and light trucks that fall at or between the upper and lower bounds identified above. NHTSA has not yet identified its preferred alternative. NHTSA seeks comments on how it should define and balance the statutory criteria to choose the preferred alternative, given the statutory requirement of setting “maximum feasible” fuel economy standards. 49 U.S.C. § 32902(f). When suggesting an approach, please explain the recommended way to balance EPCA’s factors (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).¹²

¹² Note that NHTSA is statutorily prohibited from considering statutorily-provided flexibility mechanisms in determining what standards would be maximum feasible. 49 U.S.C. § 32902(h).

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

Thus, NHTSA plans to analyze the impacts of eight different standards in the Draft EIS: two points bracketing the possible action alternatives for passenger cars, two points bracketing the possible alternatives for light trucks, a No Action Alternative and a preferred alternative for passenger cars, and a No Action Alternative and a preferred alternative for light trucks. We note that the NPRM and Regulatory Impact Analysis (RIA) may analyze additional alternatives within the brackets described in the Draft EIS in order to explore different approaches to balancing the statutory factors.

NHTSA will analyze the lower bound and upper bound of a range of average annual fuel economy standards that would satisfy EPCA's requirement that the standards be "maximum feasible" for each model year, based on the different ways NHTSA could weigh EPCA's four statutory factors. Generally speaking, more stringent average annual fuel economy standards might weigh energy conservation and environmental considerations more heavily and technological feasibility and economic practicability concerns less heavily. In contrast, less stringent average annual fuel economy standards might weigh technological feasibility and economic practicability concerns more heavily and energy conservation and environmental considerations less heavily.

The range of alternatives will reflect differences in the degree of technology adoption across the fleet, in costs to manufacturers and consumers, and in conservation of oil and related impacts to the environment. For example, the most stringent average

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

annual fuel economy standard NHTSA will evaluate would require greater adoption of fuel-saving technology across the fleet, including more advanced technology, than the least stringent average annual fuel economy standard NHTSA will evaluate. As a result, the most stringent alternative would impose greater costs and achieve greater energy conservation.

The changes in stringency considered in the lower and upper bounds may be defined as "average" changes in stringency; the preferred alternative and actual standards may either be constant throughout the period or may vary from year to year. However, analysis of the average yearly change over that period would provide sufficient environmental analysis to bracket the range of environmental impacts of reasonable alternatives and allow for a reasoned choice among the alternatives presented.

NHTSA may select the lower or upper bound levels of stringency for passenger cars and for light trucks as its preferred alternative, or it may select levels of stringency that fall between those bounds. Within the range identified above, NHTSA may consider setting more stringent standards for the earlier years of the rule than for the later years, or, alternatively, setting less stringent standards for the earlier years of the rule than for the later years, depending on our assessment of what would be "maximum feasible" for those time periods for each fleet. In addition, NHTSA may consider setting standards for passenger cars and light trucks that change at different rates between the low and high

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

levels it is considering, depending on a determination of the maximum feasible level for each fleet over time. NHTSA also may select "maximum feasible" fuel economy standards for some or all model years that decrease or remain the same as compared to the immediately prior model year(s).

In selecting a preferred alternative, NHTSA is also mindful of its responsibility under Executive Order 13783, signed by President Donald J. Trump on March 28, 2017, to ensure that "necessary and appropriate environmental regulations comply with the law, are of greater benefit than cost, when permissible, achieve environmental improvements for the American people, and are developed through transparent processes that employ the best available peer-reviewed science and economics."¹³ E.O. 13783, *Promoting Energy independence and Economic Growth* (Mar. 28, 2017).

Planned Analysis. While the main focus of NHTSA's prior CAFE EISs for light duty vehicles (*i.e.*, the EIS for MYs 2012-2016 and MYs 2017-2025) was the quantification of impacts to energy, air quality, and climate, and qualitative analysis of life-cycle impacts and cumulative impacts, it also addressed other potentially affected resources. NHTSA conducted a qualitative review of impacts on resources such as water

¹³ The CAFE program is not strictly an environmental one, as it was created under EPCA as part of a national energy policy to reduce U.S. reliance on foreign oil. However, fuel economy standards do have environmental impacts, and as noted above, NHTSA construes the statutory factors in EPCA as including environmental considerations. The environmental impacts will be analyzed in the EIS, and NHTSA is mindful of its obligations under E.O. 13783.

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

resources, biological resources, land use, hazardous materials, safety, noise, historic and cultural resources, and environmental justice.

Similar to past EIS practice, NHTSA plans to analyze environmental impacts related to fuel and energy use, emissions and their effects on climate change and the environment,¹⁴ air quality,¹⁵ natural resources, and the human environment. NHTSA will address life-cycle impacts consistent with its past EISs, by focusing on reviewing and summarizing findings from existing, credible scientific information evaluating the most significant environmental impacts from some of the fuels, materials, and technologies that may be used to comply with the Proposed Action and alternatives. NHTSA also will consider the cumulative impacts of the proposed standards for MY 2022–2025 passenger cars and light trucks together with any past, present, and reasonably foreseeable future actions.

NHTSA anticipates uncertainty in estimating the potential environmental impacts related to climate change. To account for this uncertainty, NHTSA plans to evaluate a range of potential global temperature changes that may result from changes in fuel and

¹⁴ NHTSA is planning to include in this EIS a quantitative analysis to estimate the impact of the alternatives on ocean acidification based on changes in atmospheric CO₂ concentrations.

¹⁵ Consistent with past practice, in addition to the air quality analysis presented in the Draft and Final EIS, NHTSA will conduct a national-scale photochemical air quality modeling and health risks assessment that will be included in the Final EIS, but not the Draft EIS, due to the substantial time required to complete the analysis. In addition, because of the lead time required for this analysis, it will be based on the alternatives presented in the Draft EIS, but not the alternatives as they may be revised for the Final EIS. Still, NHTSA believes the analysis will provide meaningful information for the decisionmaker and the public.

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

energy consumption and GHG emissions attributable to new CAFE standards. It is difficult to quantify how the specific impacts due to the potential temperature changes attributable to new CAFE standards may affect many aspects of the environment. NHTSA will endeavor to gather the key relevant and credible information using a transparent process that employs the best available peer-reviewed science and economics. NHTSA invites public comments on the scope of its analysis on climate change impacts, including citations to peer-reviewed scientific articles to frame and analyze the relevant issues.

In order to streamline its documentation and eliminate redundancy, NHTSA plans not to include analyses of either monetized health benefits in its air quality analysis or monetized climate change benefits in its climate change analysis in the EIS, as both of those analyses will be included in its RIA (consistent with past practice), which is subject to public notice and comment concurrently with the EIS. NHTSA will incorporate the analyses in the RIA by reference in the EIS consistent with the requirements of the CEQ implementing regulations. 40 CFR § 1502.21. The EIS will continue to present analyses on air quality emissions (including non-monetized health impacts), GHG emissions, and climate change impacts (including impacts on CO₂ concentrations, temperature, sea-level rise, and precipitation).

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

NHTSA expects to rely on previously published EISs, incorporating material by reference "when the effect will be to cut down on bulk without impeding agency and public review of the action." *Id.* Therefore, the NHTSA NEPA analysis and documentation will incorporate by reference relevant materials, including portions of the agency's prior NEPA documents, where appropriate.

Scoping and Public Participation. NHTSA's NEPA analysis for the MY 2022–2025 CAFE standards will consider the direct, indirect, and cumulative environmental impacts of proposed standards and those of reasonable alternatives. The scoping process initiated by this notice seeks public comment on the range of alternatives under consideration, on the impacts to be considered, and on the most important matters for in-depth analysis in the EIS. *See* 40 CFR §§ 1500.5(d), 1501.7, 1508.25. All comments relevant to the scoping process are welcome.

NHTSA invites the public to participate in the scoping process¹⁶ by submitting written comments concerning the appropriate scope of the NEPA analysis for the proposed CAFE standards to the docket number identified in the heading of this notice,

¹⁶ 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 2022–2025 CAFE standards. *See* 42 U.S.C. § 4332(2)(C); 49 CFR § 520.21(g); 40 CFR §§ 1501.7, 1506.6.

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

using any of the methods described in the **ADDRESSES** section of this notice. NHTSA does not plan to hold a public scoping meeting because, based on prior experience, written comments will be effective in identifying and narrowing the considerations for analysis.

NHTSA is interested in comments on its bracketing approach to presenting a reasonable range of alternatives. Subject to the statutory requirements of EPCA/EISA, a variety of potential alternatives could be considered that meet the purpose and need for the agency's action, each falling along a theoretically infinite continuum of potential standards. As described above, NHTSA plans to address this by identifying alternatives at the upper and lower bounds of a range within which we believe the statutory requirement for "maximum feasible" would be satisfied, as well as identifying and analyzing the impacts of a preferred alternative. In this way, NHTSA expects to bracket the potential environmental impacts of the standards it may select.¹⁷

Two important purposes of scoping are identifying the significant considerations that merit in-depth analysis in the EIS and identifying and eliminating from detailed analysis the matters that are not significant and therefore require only a brief discussion in the EIS. 40 CFR §§ 1500.4(g), 1501.7(a). In light of these purposes, written

¹⁷ Should NHTSA ultimately choose to set standards at levels other than the preferred alternative identified in the NPRM and Draft EIS, we believe that this bracketing will properly inform the decisionmaker, so long as the standards are set within its parameters.

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

comments should include an internet citation (with a date last visited) to each study or report cited in the comments, if one is available. If a document cited is not available to the public online, the commenter should either provide sufficient bibliographical information to allow NHTSA to locate and obtain a copy of the study or attach a copy to the comments.¹⁸ Commenters should indicate how each document cited or attached to their comments is relevant to the NEPA analysis and indicate the specific pages and passages in the attachment that are most informative.

The more specific the comments are, and the more support they provide in identifying peer-reviewed scientific studies and reports, the more useful the comments will be to the NEPA process. For example, if a comment identifies an additional area of impact or environmental concern that NHTSA should analyze, or an analytical tool or model that NHTSA should use to evaluate these environmental impacts, the comment should clearly describe it and provide a reference to a specific peer-reviewed scientific study, report, tool, or model, if possible. 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

¹⁸ Please be mindful of copyright restrictions when attaching documents to any comments, as they will be made publicly available in the agency's docket.

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

than amassing needless detail.” 40 CFR § 1500.1(b). By contrast, 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 any submitted comments. 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.regulations.gov>.

Separate *Federal Register* notices published by EPA will announce the availability of the Draft EIS, which will be available for public comment, and the Final EIS. NHTSA will issue the Draft EIS concurrently with its NPRM. In addition, NHTSA will simultaneously issue a Final EIS and Record of Decision (Final Rule), pursuant to 49 U.S.C. 304a, unless it is determined that statutory criteria or practicability considerations preclude concurrent issuance. NHTSA also plans to continue to post information about the NEPA process and this CAFE rulemaking on its website (<http://www.nhtsa.gov>).

The Chief of the Fuel Economy Division of the National Highway Traffic Safety Administration, James Tamm, signed the following notice on July 21, 2017, and we are submitting it for publication in the Federal Register. While we have taken steps to ensure the accuracy of this Internet version of the notice, it is not the official version. Please refer to the official version in a forthcoming Federal Register publication, which will appear on the Government Printing Office's FDSys website (www.gpo.gov/fdsys/search/home.action). Once the official version of this document is published in the Federal Register, this version will be removed from the Internet and replaced with a link to the official version.

Issued in Washington, D.C. on _____

under authority delegated in 49 CFR parts 1.81 and 1.95.

James Tamm
Chief, Fuel Economy Division

(signature page for Notice of Intent to Prepare an Environmental Impact Statement for Model Year 2022–2025 Corporate Average Fuel Economy Standards)