§ 4.416 Appeals of wildfire management decisions.

The Interior Board of Land Appeals must decide appeals from BLM decisions under § 4190.1 and § 5003.1(b) of this title within 60 days after all pleadings have been filed.

5. In § 4.422, revise paragraph (c)(2) to read as follows:

§ 4.422 Documents.

* * * * *

(c) * * *

(2) A party or its representative must sign a written statement at the conclusion of any document that the party must serve under the regulations in this part certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service.

* * * * *

6. In § 4.450–5, revise the introductory paragraph to read as follows:

§ 4.450–5 Service.

The complaint must be served upon every contestee in the manner provided in § 4.422(c)(1). Proof of service must be made in the manner provided in § 4.422(c)(2). In certain circumstances, service may be made by publication as provided in paragraph (b)(1) of this section. When the contest is against the heirs of a deceased entryman, the notice must be served on each heir. If the person to be personally served is an infant or a person who has been legally adjudged of unsound mind, service of notice must be made by delivering a copy of the notice to the legal guardian or committee, if there is one, of such infant or person of unsound mind. If there is no guardian or committee, then service must be by delivering a copy of the notice to the person having the infant or person of unsound mind in charge.

* * * * *

43 CFR Chapter II—Bureau of Land Management, Department of the Interior

PART 4100—GRAZING ADMINISTRATION—EXCLUSIVE OF ALASKA

7. The authority citation for part 4100 continues to read:

Authority: 43 U.S.C. 315, 315a-315r, 1181d, 1740.

8. Add subpart 4190, consisting of §4190.1, to read as follows:

Subpart 4190—Effect of wildfire management decisions

§ 4190.1 Effect of wildfire management decisions.

(a) Notwithstanding the provisions of 43 CFR 4.21, BLM rangeland wildfire management decisions are in immediate full force and effect. Wildfire management includes but is not limited to:

(1) Fuel reduction or fuel treatment such as prescribed burns and mechanical, chemical, and biological thinning methods; and

(2) Projects to stabilize and rehabilitate lands affected by wildfire.

(b) The Interior Board of Land Appeals will issue a decision on the merits of an appeal of a wildfire management decision under paragraph (a) of this section within the time limits prescribed in 43 CFR 4.416.

PART 5000—ADMINISTRATION OF FOREST MANAGEMENT DECISIONS

9. The authority citation for part 5000 continues to read as follows:

Authority: 43 U.S.C. 1181(a); 43 U.S.C. 1701; 30 U.S.C. 601 *et seq;*

Subpart 5003–Administrative Remedies

10. Revise § 5003.1 to read as follows:

§ 5003.1 Effect of decisions.

(a) Filing a notice of appeal under part 4 of this title does not automatically suspend the effect of a decision governing or relating to forest management as described under §§ 5003.2 and 5003.3.

(b) Notwithstanding the provisions of 43 CFR 4.21, BLM wildfire management decisions made under this part and parts 5400 through 5510 of this chapter are in immediate full force and effect. Wildfire management includes but is not limited to:

(1) Fuel reduction or fuel treatment such as prescribed burns and mechanical, chemical, and biological thinning methods; and

(2) Projects to stabilize and rehabilitate lands affected by wildfire.

(c) The Interior Board of Land Appeals will issue a decision on the merits of an appeal of a wildfire management decision under paragraph (b) of this section within the time limits prescribed in 43 CFR 4.416.

[FR Doc. 02–31575 Filed 12–11–02; 3:00 pm]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration (NHTSA)

49 CFR Part 533

[Docket No. 2002–11419; Notice 2]

RIN 2127–AI70

Light Truck Average Fuel Economy Standards Model Years 2005–07

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes the establishment of corporate average fuel economy standards for light trucks, pursuant to 49 U.S.C. chapter 329, manufactured in model years (MY) 2005 through 2007. The agency is proposing to set the standard for light trucks at 21.0 mpg for MY 2005, 21.6 mpg for MY 2006 and 22.2 mpg for MY 2007.

DATES: Comments must be received on or before February 14, 2003.

ADDRESSES: You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments may also be submitted to the docket electronically by logging onto the Dockets Management System Web site at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

You may call Docket Management at 202–366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For technical issues, call Ken Katz, Lead Engineer, Fuel Economy Division, Office of Planning and Consumer Standards, at (202) 366–0846, facsimile (202) 493–2290, electronic mail *kkatz@nhtsa.dot.gov.*

Table of Contents

I. Background
II. Agency Proposal
III. Manufacturer Projections for Model Years 2005–2007
A. General Motors
B. Ford
C. DaimlerChrysler
D. Other Manufacturers
IV. Maximum Feasible Average Fuel Economy Considerations
V. Technological Feasibility
A. General Motors
B. Ford
C. DaimlerChrysler
VI. Economic Practicability

A. Costs to the Manufacturers
B. Benefits to Society from this Proposal
C. Comparison of Estimated Industry Costs to Estimated Societal Benefits
VII. The Effect Of Other Government Regulations On Fuel Economy
A. Federal Motor Vehicle Safety Standards
i. FMVSS 138, tire pressure monitoring systems
ii. FMVSS 139, tire upgrade
iii. FMVSS 201, occupant protection in interior impact
iv. FMVSS 202, head restraints
v. FMVSS 208, occupant crash protection
vi. FMVSS 225, child restraint anchorage systems
vii. FMVSS 301, fuel system integrity
B. Federal Motor Vehicle Emissions Standards
i. Tier 2 Requirements
ii. Onboard Refueling Vapor Recovery
iii. Supplemental Federal Test Procedure
iv. California Air Resources Board LEV II and Section 177 States
VIII. The Need of The Nation To Conserve Energy
IX. Rulemaking Analyses and Notices
X. Comments

I. Background

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

Section 32902(a) of chapter 329 states that the Secretary of Transportation shall prescribe by regulation corporate average fuel economy (CAFE) standards for light trucks for each model year. That section also states that ''[e]ach standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year.'' The Secretary has delegated the authority to implement the automotive fuel economy program to the NHTSA Administrator. 49 CFR 1.50(f).

The first light truck fuel economy standards were established for MY 1979 and applied to light trucks with Gross Vehicle Weight Ratings (GVWR) up to 6000 pounds. Beginning with MY 1980, NHTSA raised this GVWR ceiling to 8500 pounds. For MYs 1979–1981, NHTSA established separate standards for two-wheel drive (2WD) and four-wheel drive (4WD) light trucks, without a ''combined'' standard blending the two together. Beginning with MY 1982, NHTSA established a combined standard, plus optional 2WD and 4WD standards. After MY 1991, NHTSA dropped the optional 2WD and 4WD standards. During MYs 1980–1995, NHTSA also required U.S. light truck manufacturers' ''captive imports'' to be separated from their other truck models in determining compliance with CAFE standards. The following table lists the ''combined'' standards established since MY 1982:

Model year	CAFE standard (mpg)
MY 1982	17.5
MY 1983	19.0
MY 1984	20.0
MY 1985	19.5
MY 1986	20.0
MY 1987	20.5
MY 1988	20.5
MY 1989	20.5
MY 1990	20.0
MY 1991	20.2
MY 1992	20.2
MY 1993	20.4
MY 1994	20.5
MY 1995	20.6
MY 1996–2004	20.7

In 1994, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** outlining NHTSA's intention to set standards for some, or all, of the model years from 1998 to 2006. 59 FR 16324 (April 6, 1994).

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

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

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

On September 30, 1996, the Department of Transportation and Related Agencies Appropriations Act for FY 1997 was enacted. Public. Law. 104–205. Section 323 of that Act included the same language on CAFE standards as that of Section 330 of the FY 1996 Appropriations Act. The agency followed the same process as the prior year and established a MY 1999 light truck CAFE standard of 20.7 mpg, the same standard that had been set for MYs 1997 and 1998.

Because the same limitation on the setting for CAFE standards was included in the Appropriations Acts for each of FYs 1998–2001, the agency followed that same procedure during those fiscal years and did not issue any NPRMs in the series of rulemakings we conducted to establish the light truck fuel economy standards for MYs 2000–2003. The agency concluded in those rulemakings, as it had when setting the MY 1999 standard, that the restrictions contained in the Appropriations acts prevented the issuance of any standards other than the standard set for the prior model year. The agency also determined that issuing an NPRM was unnecessary and contrary to the public interest because there was no other course of action available to it.

The Department of Transportation and Related Agencies Appropriations Act for FY 2001 was enacted on October 23, 2000. Public Law 106–346. This law provided appropriations for the Department of Transportation for FY 2001, and is the law under which we issued the light truck CAFE standard for MY 2003. While Section 320 of that Act contained a restriction on CAFE rulemaking identical to that contained in prior appropriation acts, the conference committee report for that act directed that NHTSA fund a study by National Academy of Sciences (NAS) to evaluate the effectiveness and impacts of CAFE standards (H.R. Conf. Rep. No. 106–940, at 117–118).

The NAS submitted its report to the Department of Transportation on July 30, 2001. The final report was released in January 2002. The report concludes that technologies exist that could significantly increase passenger car and light truck fuel economy within 15 years. However, their development cycles—as well as future economic, regulatory, safety and consumer preferences—will influence the extent to which these technologies appear in the U.S. market.

All but two members of the NAS committee noted: ''the downweighting and downsizing that occurred in the late 1970s and early 1980s, some of which was due to CAFE standards, probably resulted in an additional 1300 to 2600 traffic fatalities in 1993.'' (NAS, pp. 3 and 111.) Specifically, ''to the extent that the size and weight of the fleet have been constrained by CAFE requirements * * * those requirements have caused more injuries and fatalities on the road than would otherwise have occurred.'' (NAS, p. 29).

The NAS found that to minimize financial impacts on manufacturers, their suppliers, their employees and consumers, sufficient lead-time (consistent with normal product life cycles) should be given when considering increases in CAFE standards. The report stated that there are advanced technologies that could be employed, without negatively affecting the automobile industry, if sufficient lead-time were provided to the manufacturers. In the NAS' view, the selection of future fuel economy standards will require uncertain and difficult trade-offs among environmental benefits, vehicle safety, cost, energy independence, and consumer preferences. It also suggests that changing the CAFE regulatory program to one based on vehicle attributes, such as weight, and allowing ''credit trading'' could eliminate the current CAFE program's encouragement of downweighting or the production and sale of more small cars, and also would reduce costs. (NAS, pp. 5, 113) Recognizing the many trade-offs that must be considered in setting fuel economy standards, the committee took no position on what the appropriate CAFE standards should be for future years. In February 2002, Secretary Mineta asked Congress ''to provide the Department of Transportation with the necessary authority to reform the CAFE program, guided by the NAS report's suggestions.''

In a letter dated July 10, 2001, Secretary of Transportation Mineta asked the House and Senate Appropriations Committees to lift the restriction on the agency spending funds for the purposes of improving CAFE standards. The Department of Transportation and Related Agencies Appropriations Act for FY 2002 (Pub. L. 107–87) was enacted on December 18, 2001, and does not contain a provision restricting the Secretary's authority to prescribe fuel economy standards.

To prepare any fuel economy standard, the agency must collect information relating to prospective CAFE levels, analyze and weigh the information in light of the statutory criteria for determining the ''maximum feasible'' average fuel economy level, and incorporate this information and analysis into a rulemaking action to set the standard, with opportunity for notice and comment. As NHTSA was unable to spend any funds by virtue of Section 320 of the FY 2001 Appropriations Act and the predecessor restrictions in earlier Appropriations Acts, it was not able to prepare the factual or analytical foundation necessary for rulemaking to establish new CAFE levels from September 1995 to December 2001.

When issuing our January 2002 proposal to establish the MY 2004 standard at 20.7 mpg (67 FR 3470), we noted that the availability of funds did not translate into an immediate ability to conduct the level of analysis needed to set fuel economy standards. Although a number of commenters reacted to this proposal by advocating a higher MY 2004 standard, the agency determined, on the basis of the limited information available and the proximity to the model year, to set the MY 2004 Standard at 20.7 mpg (67 FR 16052, April 4, 2002).

On February 7, 2002, we issued a Request for Comments (67 FR 5767) seeking data on which we could base our analysis of appropriate CAFE standards for light trucks for upcoming model years. We also sought comments on possible reforms to the CAFE program, as it applies to both passenger cars and light trucks, to protect passenger safety, advance fuel-efficient technologies, and obtain the benefits of market-based approaches.

II. Agency Proposal

This notice proposes to establish an average fuel economy standard for light trucks for each of MYs 2005–07. The agency is proposing to set the corporate average fuel economy standard for light trucks at 21.0 mpg for MY 2005, 21.6 mpg for MY 2006 and 22.2 mpg for MY 2007.

After receiving comments and reviewing any additionally provided data, we may decide to set the standards at different levels than those proposed. Factual uncertainties that could result in lower standards include the possibility that planned technological actions may not achieve anticipated fuel economy benefits or may prove to be infeasible. Similarly, factual uncertainties that could result in higher standards include the possibility that manufacturers may be able to improve fuel economy in their fleets by further technological advances beyond those currently planned.

We believe that the advent of advanced vehicle technologies, such as hybrid propulsion systems and advanced diesel engines, will allow for the development of advanced fuel economy should they permeate the motor vehicle market. Fuel cell technology has the capacity over the long term to reframe the basic transportation system. While we are limited today in setting fuel economy standards for the relative short term and within the constraints of the current CAFE statute, we will continue to support and encourage the development of advanced vehicle technologies capable of substantial fuel economy improvements and a market structure to support them through efforts like FreedomCAR, continued targeted research dollars and consumer tax incentives. Consistent with the recommendations of the NAS report, we intend to study programmatic CAFE alternatives and to implement those reforms consistent with our statutory authority to allow for greater improvements in fuel economy safely in the years beyond those addressed in this proposal.

The proposal is a significant step toward accomplishing the target in the conference energy bill to save at least 5 billion gallons of gasoline from MYs 2006 through MY 2012. The proposed increases for MYs 2006–2007 alone will generate more than 3 billion gallons of gasoline savings compared to what would be used by those vehicles if they only achieved the current fuel economy standard of 20.7 mpg. Even if the standard remained at 22.2 mpg for MYs 2008 through 2012, approximately 8 billion gallons of gasoline would be saved during MYs 2006 through 2012.

III. Manufacturer Projections for Model Years 2005–2007

In evaluating manufacturers' fuel economy capabilities for MY 2005-07, we have analyzed manufacturers' current projections and underlying product plans and considered what, if any, additional actions the manufacturers could take to improve their fuel economy. We note that although manufacturers may receive credit towards their CAFE compliance by placing alternative fuel vehicles into the market, the statute prohibits us from taking such benefits into consideration in determining the maximum feasible fuel economy standard.

A. General Motors

General Motors' (GM) current share of the light truck market is 25.5%. In its May 2002 submission, General Motors projected that its light truck fleet would achieve a CAFE level of between 18.7 and 20.0 mpg for 2005 MY, between 18.8 and 20.1 mpg for MY 2006 and between 19.1 and 20.8 mpg for MY 2007. Its projections include sales of GMC, Chevrolet, Pontiac, Buick, Cadillac and Saturn vehicles.

B. Ford

Ford Motor Company controls approximately 27.5% of the light truck market in the United States. In its May 2002 submission, Ford provided data from which the agency projects its light

truck fleet would achieve a CAFE level of 20.9 mpg for MY 2005, 21.6 for MY 2006 mpg and 22.0 mpg for MY 2007. Its data include sales of Ford branded vehicles, as well as Lincoln, Mercury, Mazda, Land Rover and Volvo branded vehicles. Ford indicated that its estimates of fuel economy improvements are typically 40 to 60 percent higher than the corresponding improvements of actual production vehicles, thus it is possible that Ford's current product plan for MY 2005–2007 could result in a CAFE level for its light truck fleet of up to 0.5 mpg less per model year.

C. DaimlerChrysler

DaimlerChrysler controls approximately 24.6 percent of the light truck market. In its May 2002 submission, DaimlerChrysler provided data from which the agency projects that its light truck fleet would achieve a CAFE level of 21.3 mpg for MY 2005, 21.6 mpg for MY 2006 and 22.2 mpg for MY 2007. Its data includes sales of Chrysler, Jeep, Dodge, Mercedes and Mitsubishi brand vehicles. DaimlerChrysler indicated that its fuel economy estimates include risks that their CAFE projections won't be met due to technology issues, product offerings, consumer acceptance, future safety regulations and the economic climate. These risks could cause the CAFE level for DaimlerChrysler light truck fleet to be approximately 0.4 to 0.7 mpg less per model year.

In response to the agency's Request for Comments, DaimlerChrysler, Ford and General Motors clarified their public commitments relating to fuel economy improvements in their vehicles. Ford clarified its July 27, 2000, announcement that it planned to increase the fuel economy of its sport utility vehicle fleet by 25 percent by the 2005 calendar year. Ford stated that its plan calls for a significant fuel economy improvement in its existing fleet combined with the introduction of new SUVs with higher fuel economy capabilities. Ford also clarified that its commitment uses MY 2000 as the base year and that the increase will become effective with the introduction of the MY 2006 vehicles during the latter half of 2005.

General Motors stated that its public announcement did not refer to its average fuel economy levels, but rather to its leadership in light truck fuel economy and its intent to remain the leader over the next five years. GM also made clear that its leadership relates to the manufacture and sale of more fuel-efficient light trucks as measured through model-to-model comparisons of comparable vehicles.

DaimlerChrysler stated that it is committed to improving the fuel efficiency of all of its vehicles and that its fleet will match or exceed those of other full-line manufacturers.

D. Other Manufacturers

Honda, Toyota and Nissan each provided responses to all or many of the questions posed in the Request for Comments. All three of these manufacturers provided information regarding a variety of technologies for improving fuel efficiency that they plan on incorporating into their light trucks by the 2005 model year. For the technologies discussed, they provided the estimated fuel economy benefit, when the technology would be available for use, its potential applications, where it is currently being employed on their light trucks, and the estimated costs associated with employing the technology. None, however, provided detailed projections regarding their MY 2005–2010 product plans or information regarding vehicle specifications or estimated fuel economy values for those model years.

A number of foreign-based manufacturers participating in the U.S. market did not submit any response to our Request for Comments. Of these companies, which include BMW, Isuzu, Volkswagen, Hyundai, Kia, Suzuki, and others, only Isuzu sold more than 100,000 light trucks in the 2001 model year. The projected MY 2001 CAFE values and production for all light truck manufacturers other than GM, Ford and DaimlerChrysler are shown in following table:

Manufacturer	MY 2001 CAFE, mpg	MY 2001 production, units	MY 2001 market share, percentage
Toyota	22.1	647,416	8.9
Nissan	20.7	377,338	5.2
Honda	24.9	252,430	3.5
Isuzu	21.1	131,400	1.82
Kia	22.9	58,000	0.80
BMW	19.2	52,957	0.73
Hyundai	25.2	47,000	0.652
Suzuki	22.0	45,958	0.63
Volkswagen	20.5	10,183	0.14

IV. Maximum Feasible Average Fuel Economy Considerations

The CAFE statute sets forth the parameters within which the agency is required to establish corporate average fuel economy standards. Section 32902(a) directs the Secretary of Transportation (who has delegated this authority to the NHTSA Administrator) to prescribe by regulation average fuel economy standards for light trucks at least 18 months before the beginning of each model year, and provides that ''each standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year.'' The agency is required to consider the factors in 49 U.S.C. 32902(f) when determining the ''maximum feasible'' average fuel economy standards for any given model year. Although the EPCA does not include motor vehicle safety as an express statutory criterion, NHTSA may consider safety in accordance with the Administration's emphasis on safety in setting CAFE standards. Motor vehicle safety has long been recognized as an integral part of the agency's consideration of economic practicability, and this rulemaking includes consideration of the safety implications of the proposed new standards for light trucks.

As discussed in many past fuel economy notices, it is clear from the legislative history that Congress intended NHTSA to take industry-wide considerations into account in determining the maximum feasible average fuel economy levels, and not to limit its analysis to any particular company's ability to meet the standard. Consistent with the mandate that the agency consider economic practicability, the agency has determined maximum feasible CAFE

standards with regard to the projected capabilities of those manufacturers whose vehicles constitute a substantial share of the market.

This does not necessarily mean that CAFE standards will be set at the level asserted by the ''least capable manufacturer'' with a substantial share of the market (Ford, GM and DaimlerChrysler). Instead, it means that we must consider the statutory factors with regard to these manufacturers, weighing their asserted capabilities, product plans and economic conditions against their projected capabilities, the need for the nation to conserve energy and the effect of other regulations (including motor vehicle safety and emissions regulations) and other public policy objectives.

This approach is consistent with the Conference Report on the legislation enacting the CAFE statute:

> Such determination [of maximum feasible average fuel economy level] should take industry-wide considerations into account. For example, a determination of maximum feasible average fuel economy should not be keyed to the single manufacturer that might have the most difficulty achieving a given level of average fuel economy. Rather, the Secretary must weigh the benefits to the nation of a higher average fuel economy standard against the difficulties of individual manufacturers. Such difficulties, however, should be given appropriate weight in setting the standard in light of the small number of domestic manufacturers that currently exist and the possible implications for the national economy and for reduced competition association [sic] with a severe strain on any manufacturer. * * *

S. Rep. No. 94–516, 94th Congress, 1st Sess. 154–155 (1975).

The agency has historically included consideration of numerous public policy concerns, whether considered as part of the enumerated factors or in addition to them. For example, the agency always has considered the impact of the average fuel economy standard on motor vehicle and passenger safety. As the United States Court of Appeals pointed out in upholding NHTSA's exercise of judgment in setting the 1987–1989 passenger car standards, ''NHTSA has always examined the safety consequences of the CAFE standards in its overall consideration of relevant factors since its earliest rulemaking under the CAFE program.'' *See, Competitive Enterprise Institute* v. *NHTSA (CEI I),* 901 F.2d 107, 121 at n.11 (DC Cir. 1990).

The courts have routinely affirmed the agency's authority to balance all of these considerations in applying the statutory factors and have consistently upheld NHTSA's conclusions. *See, e.g., Center for Auto Safety* v. *NHTSA,* 793 F.2d 1322 (*CAS II*)(D.C. Cir. 1986) (administrator's consideration of market demand as component of economic practicability found to be reasonable); *Public Citizen* v. *NHTSA,* 848 F.2d 256 (D.C. Cir.1988)(Congress established broad guidelines in the fuel economy statutes; agency's decision to set lower standard a reasonable accommodation of conflicting policies); *CEI I*, 901 F.2d 107 (D.C. Cir.1990)(agency setting of fuel economy standards and considerations of safety impacts upheld).

We have tentatively concluded that this proposal is within the technological feasibility and economic practicability of the primary contributors to the light truck market, is capable of being met without substantial product restrictions, vehicle weight reduction or adverse effects on air quality, and will enhance the ability of the nation to conserve fuel consumption and reduce its dependence on foreign oil.

We anticipate that hybrid vehicles and advanced diesel engines will begin to permeate the motor vehicle market and enhance the overall fuel efficiency of the vehicle fleet. We seek comments on the availability of advanced technology vehicles both during the 2005–2007 MY time frame and beyond, and on CAFE-related mechanisms, available under current statutory authority or through reformed CAFE standards that may require new statutory authority, through which the government can encourage and augment the incorporation of these vehicles into the fleet.

V. Technological Feasibility

Using the data submitted in response to our Request for Comments, we believe that some manufacturers may be able to achieve CAFE performance better than they currently project. The agency's analysis of CAFE capability involves technological improvement and the potential to limit growth in horsepower/weight ratios.[1] Although the agency's analysis includes the possibility that manufacturers may limit growth in horsepower/weight ratios, we believe that manufacturers will meet the proposed CAFE levels without any meaningful deviation from the planned performance and weight of their vehicles. Additionally, we do not expect any manufacturers to engage in any meaningful type of mix shifting to meet these standards, other than those already being planned. The agency's analysis assumes manufacturers will not reduce vehicle weight in order to comply with the proposed new standard. Under this approach, our CAFE standards will not adversely affect motor vehicle safety. However, we invite comments on this approach. Commenters are asked to provide data and analysis on the possibility or likelihood that manufacturers will comply with these new standards by reducing vehicle weight and, if so, the safety consequence of weight reduction.

The Preliminary Economic Assessment (PEA) discusses in detail fuel efficiency enhancing technologies expected to be available during the MY 2005–2007 time period. Some of the technologies discussed in the PEA have been used for over a decade (*e.g.*, overhead camshafts, engine friction reduction, and low friction lubricants). Some have only recently been incorporated into passenger cars, (*e.g.*, 5-speed and 6-speed automatic transmissions and variable valve timing). Some have been under development for a number of years but have not been produced in quantity for an extended period (*e.g.*, cylinder deactivation, variable valve lift and timing, continuously variable transmission (CVT), integrated starter/generator, advanced diesels and hybrid drive-trains).

The agency has analyzed potential technological improvements to the product offerings for each manufacturer with a significant share of the light truck market. As indicated above, Ford, General Motors and DaimlerChrysler are the dominant manufacturers in the light truck segment. In comparison, Toyota, Honda or Nissan do not manufacture a substantial share of the light trucks sold in the U.S. We also note that unlike the domestic manufacturers, none of the foreign manufacturers of trucks provided detailed responses to our prior request for comments.

Because Ford, General Motors and DaimlerChrysler each have a substantial share of the light truck market, we focused our analysis on their capabilities. Historically, the agency has premised its analysis of economic practicability on what level each manufacturer with a substantial share of the market could achieve without needing to engage in product restriction (with a potentially adverse effect on jobs and consumer choice) or weight

[1] This analysis is based on the information provided in response to our Request for Comments. A more detailed discussion of these issues is contained in the agency's Preliminary Economic Assessment (PEA), which has been placed in the docket for this notice. Some of the information included in the PEA, including the details of manufacturers' future product plans, has been determined by the Agency to be confidential business information the release of which could cause competitive harm. The public version of the PEA omits the confidential information.

reductions (with a potentially adverse effect on safety). The limit of economic practicability has been considered to be that of the least capable manufacturer with a substantial share of the relevant market because the CAFE program seeks to find the maximum level of fuel economy achievable without impeding American jobs or motor vehicle safety.

To define the maximum CAFE level that will not lead to adverse consequences, we reviewed in detail the confidential product plans provided by the major contributors to the market and assessed their technological capabilities. By doing so, we are able tentatively to determine the extent to which each can enhance their fuel economy performance using available technology.

In examining the potential for improvements in light truck fuel economy, we considered potential technological improvements using a three-stage analysis in which different improvements in efficiency are applied to the light truck fleet at different times. Technologies that were reported by a particular manufacturer to be available for use in MY 2005 or earlier—but were not necessarily being applied by that manufacturer—are regarded in NHTSA's analysis as ''Stage 1'' technologies. Other technologies, including potential transmission and engine improvements, that some manufacturers indicated were part of planned production programs were designated as ''Stage 2'' improvements. Finally, improvements in efficiency garnered by replacing planned sales of vehicles equipped with 6.0L or larger engines to almost identical models equipped with 5.3L or larger engines was designated as ''Stage 3.'' To repeat, none of the efficiency improvements envisioned in our analysis involved significant changes in vehicle mass or size.

Our analysis does not incorporate a rigid methodology to achieve the proposed levels of fuel economy. For instance, we estimate that replacing an overhead valve engine with a multi-valve overhead camshaft engine of the same displacement and replacing a 4-speed automatic transmission with a 5- or 6-speed automatic transmission offer about the same potential level of improvement. One of them may be more attractive to a particular manufacturer because of its cost, ease of manufacturing, or the model lines to which it would apply. Nor does this analysis include the many minor types of improvements in electronic controls and engine valving that could provide further fuel economy gains. These are omitted because it is difficult to definitively determine which of these technologies will be included in the models that manufacturers plan to produce in MY 2005–2007.

A. General Motors

In its submission, General Motors described a variety of technologies that could be used to improve fuel economy. For each such technology, GM included its estimated fuel economy benefit, the basis for that estimate, whether the benefit was direct or interactive, a description of how the technology works and how it increases fuel economy, when the technology would be available for use, its potential applications, where it is currently employed in GM's light truck fleets, where the technology could potentially be used, risks in employing the technology, and potential impacts on noise, vibration and harshness (NVH), safety, emissions, cargo and towing capacity.

The agency relied on these descriptions in determining which Stage 1 technologies GM could employ in MYs 2005–2007 to enhance its fuel economy performance. Our analysis indicates that GM could employ five technologies by MY 2005 in certain parts of its light truck fleet with an additional three technologies employed in certain parts of its light truck fleet by MY 2006. The five technologies would carry over to MY 2006–2007, while the additional three technologies would carry over to MY 2007. All of these technologies would, in NHTSA's view, continue to be used in future model years. We also used the numbers provided by GM for percentage increase in fuel economy in calculating the possible fuel economy increase attributable to each of these technologies.

To determine which Stage 2 technologies GM could employ, on which vehicles and/or engines they could be employed, and when they could be employed, NHTSA relied on its own engineering judgment and the submissions from other manufacturers. In looking at these submissions, together with what GM provided, NHTSA has analyzed which Stage 2 technologies could be applied to GM's light truck fleet for MYs 2005–2007. Our analysis indicates that GM could employ two technologies by model year 2005, and an additional technology by model year 2006. One of the technologies introduced in MY 2005 would only carry over into MY 2006, because the vehicles that could use this technology are being redesigned in MY 2007, and indications are that this specific technology application is included in the vehicle redesign. The other technologies would carry over in MY 2007 and would continue to be employed in future model years. To determine the possible fuel economy increase attributable to each of these technologies, NHTSA examined manufacturer-provided estimates for the percentage increases in fuel economy for each technology. If a manufacturer had already introduced a specific technology or was introducing it by MY 2005, we placed more credence on that value, especially if it was in the NAS range and if at least one other manufacturer estimated a similar value for the fuel economy potential of that technology.

The Stage 3 analysis includes projections of the potential CAFE increase that could result from moving the sales of vehicles equipped with 6.0L or larger engines to almost identical models equipped with 5.3L or larger engines. The agency reviewed GM's publicly available data and believes, based on that review, that the bulk of GM models equipped with the 6.0 L engines could be replaced with 5.3 L engines without notably degrading the cargo and towing capacity of these vehicles. If this were the only change made to GM's light truck fleet, it would increase GM's projected CAFE by 0.1 mpg for MYs 2005–2007.

The potential improvements to the GM light truck CAFE are summarized in the following table. Due to rounding, the individual improvements may not equal the potential CAFE for GM.

POTENTIAL GM CAFE IMPROVEMENTS, MPG

Model year	Stage 1 improvements	Stage 2 improvements	Stage 3 improvements	Total	Potential CAFE, mpg.
2005	.439	.466	.1065	1.012	20.97
2006	.936	.502	.0616	1.500	21.63
2007	.921	.496	.0825	1.499	22.29

Although General Motors also included a discussion of uncertainties and penalties that could adversely affect its fuel economy levels, we did not make further adjustments to account for these reservations. We believe that the increasing popularity of crossover vehicles may limit the future sales of full size Sport Utility Vehicles, and that the increasing use of traction control and limited slip differentials could replace 4WD in many applications at both lower cost and weight.

B. Ford Motor Company

Ford's submission included information similar to that provided by General Motors. The agency engaged in the same type of analysis in assessing Ford's potential fuel economy capabilities as it did in assessing GM's potential capabilities.

Our Stage 1 analysis showed that Ford could employ one technology on certain models by MY 2005, with an additional technology employed on certain models by MY 2007. The agency used the numbers provided by Ford for percentage increase in fuel economy in calculating the possible fuel economy increase attributable to each of these technologies. We did not carry over the benefits for the MY 2005 technology to further years because Ford is redesigning many of these vehicles in MY 2006–2007 and appears to have included this technology in calculating its fuel economy estimates. Starting with MY 2007, Ford could use another technology on some vehicles.

Our Stage 2 analysis showed that by MY 2007, Ford could offer two technologies two years earlier, one of which requires the use of an additional complimentary technology, with all carrying over into future model years.

The Stage 3 analysis projects potential CAFE improvements resulting from moving the sales of vehicles equipped with 6.0L or larger engines to almost identical models equipped with slightly smaller engines. Ford does not project the production of any vehicles with a 6.0L engine or larger engine, thus there are no potential CAFE increases resulting from Stage 3.

Based on these assessments, the agency has estimated modest adjustments to the projections based on Ford's data. We estimate that Ford can achieve an additional .08 mpg in CAFE performance through Stage 1 improvements in MY 2005 and an additional .02 mpg in Stage 1 and .17 mpg in Stage 2 improvements in MY 2007. These CAFE adjustments result in CAFE capability of 21.0 mpg for MY 2005, 21.6 mpg for MY 2006 and 22.2 mpg for MY 2007. Ford also described a number of risks and opportunities in its submission. Ford stated that its initial estimates of fuel economy improvements are typically higher than what actual production vehicles achieve. NHTSA didn't downwardly adjust Ford's estimates because the agency believes that its estimates of the effectiveness of fuel economy technologies—which are based on confidential data, the NAS study, publicly available information, and engineering judgment—are reasonable.

C. DaimlerChrysler

DaimlerChrysler's plans include comparatively more fuel-efficient technologies in MYs 2005–2007, including the use of Stage 2 technology. Although Honda may be incorporating slightly more advanced technology than DaimlerChrysler, the level of detail Honda provided is insufficient to allow us to conclude that DaimlerChrysler could enhance its fuel economy performance through the use of technologies similar to those employed by Honda. Therefore, the agency has not adjusted DaimlerChrysler's numbers to incorporate additional Stage 1 or Stage 2 technologies.

The Stage 3 analysis includes projections of the potential CAFE increase that could result from moving the sales of vehicles equipped with 6.0L or larger engines to almost identical models equipped with 5.3L or larger engines. The potential Stage 3 improvements to the DaimlerChrysler light truck CAFE result in a .02 mpg improvement in Stage 3 adjustment in MY 2006 and a .01 mpg Stage 3 adjustment in MY 2007. Accordingly, we estimate DaimlerChrysler's light truck CAFE capability to be 21.3 mpg for MY 2005, 21.6 mpg for MY 2006 and 22.2 mpg for MY 2007.

DaimlerChrysler indicated that its fuel economy estimates include risks that their CAFE projections won't be met due to technology issues, product offerings, consumer acceptance, future safety regulations and the economic climate. NHTSA didn't downwardly adjust DaimlerChrysler's estimates because the agency believes that its estimates of the effectiveness of fuel economy technologies—which are based on confidential data, the NAS study, publicly available information, and engineering judgment—are reasonable.

VI. Economic Practicability

The agency has historically reviewed whether a CAFE standard is economically practicable in terms of whether the standard is one ''within the financial capability of the industry, but not so stringent as to threaten substantial economic hardship for the industry.'' *See, e.g., Public Citizen* v. *National Highway Traffic Safety Administration,* 848 F.2d 256, 264 (D.C. Cir. 1988). In essence, the agency reviews what is technologically feasible for manufacturers to achieve without leading to adverse economic consequences, such as a significant loss of jobs or the unreasonable elimination of consumer choice. The CAFE statute does not compel that fuel savings be gained at the expense of American jobs or competition within the motor vehicle market.

At the same time, the law does not preclude a CAFE standard that poses reasonable, even if considerable, challenges to any individual manufacturer. The Conference Report makes clear, and the case law affirms, that ''a determination of maximum feasible average fuel economy should not be keyed to the single manufacturer which might have the most difficulty achieving a given level of average fuel economy.'' *CEI–I*, 793 F.2d 1322, 1352 (D.C. Cir. 1986). Instead, the agency is compelled ''to weigh the benefits to the nation of a higher fuel economy standard against the difficulties of individual automobile manufacturers.'' *Id.* The statute permits the imposition of reasonable, ''technology forcing'' challenges on any individual manufacturer, but does not contemplate standards that will result in ''severe'' economic hardship by forcing reductions in employment or impeding competition.

In the past, the agency has set CAFE standards above its estimate of the capabilities of a manufacturer with less than a substantial, but more than a de minimus, share of the market. See, *e.g., Center for Auto Safety* v. *National Highway Traffic Safety Administration,* 793 F.2d 1322, 1326 (D.C. Cir. 1986) (noting that the agency set the MY 1982 light truck standard at a level that might be above the capabilities of Chrysler, based on the conclusion that the energy benefits associated with the higher standard would outweigh the harm to Chrysler, and further noting that Chrysler had 10–15% market share while Ford had 35% market share). On another occasion the agency has reduced the CAFE standard to address unanticipated market conditions that rendered the established CAFE standard unreasonable and likely to lead to severe economic consequences. 49 FR 41250, 50 FR 40528, 53 FR 39275, *Public Citizen* v. *National Highway Traffic Safety Administration,* 848 F.2d 256, 264 (D.C. Cir. 1988).

The agency has estimated not only the anticipated costs imposed on GM, Ford and DaimlerChrysler to comply with the proposed standards, but also the significance of the societal benefits anticipated to be achieved through direct and indirect fuel savings. We have tentatively concluded that these proposals need not result in significant reductions in employment or competition, and that—while challenging—they are achievable within the framework described above, and that they will benefit society considerably. For the sake of this analysis, we have translated the societal benefits into dollar values and compared those values to our estimated costs to the manufacturers for this proposal.

A. Costs to the Manufacturers

In order to estimate the costs of complying with the proposed standards, the agency developed cost estimates for the various technologies NHTSA expects manufacturers to employ to improve fuel efficiency. Our cost estimates were based on two principal considerations. We first assumed that manufacturers would apply technologies in keeping with our analysis of feasible Stage 1, Stage 2 and Stage 3 technologies. Second, we also assumed that manufacturers would apply less costly technologies before those that are more costly (ranked on a cost per mpg investment basis).

Within the range of values anticipated for each technology, we selected the ''expected'' cost impacts and fuel consumption impacts considered most plausible during the model years under consideration for the industry in general. Some manufacturers might achieve more benefit than others using similar technologies or on specific vehicles. However, this analysis assumes an equal impact from specific technologies for all manufacturers and vehicles. The technologies were ranked based on the cost per percentage point improvement in fuel economy and applied where available to each manufacturer's fleet in their order of rank. For example, we estimated that greater use of variable valve timing would yield a 1% improvement in fuel economy at a cost of $89 per vehicle. This measure would therefore be applied after engine friction reduction technologies, which we estimated would produce a 1.5% improvement in fuel economy at a cost of $35, yielding a cost per percentage point improvement of $23. The complete list of the technologies and the agency's estimates of cost and yield may be found in the PEA.

Using the estimated costs and yields for the different technologies, the agency then examined the projections provided by different manufacturers for their light truck fleet fuel economy for the 2005–2007 model years. Although the details of the projections of individual manufacturers are confidential, present fuel economy performance indicates that some manufacturers would, if their fleets remain unchanged, be able to meet the proposed standards without significant expenditures. Other manufacturers will have to expend significantly more effort to meet the proposed standards.

NHTSA estimates the average incremental cost per vehicle needed to meet the proposed standards to be $14 for MY 2005, $28 for MY 2006, and $47 for MY 2007. The total incremental cost (the cost necessary to bring the corporate average fuel economy for light trucks from 20.7 mpg to the proposed standards) is estimated to be $108 million for MY 2005, $221 million for MY 2006, and $373 million for MY 2007. More detailed specifics on the methodology employed are included in the PEA.

While we have also conducted an analysis of the potential job losses arising should manufacturers choose to restrict products in lieu of incorporating technologies into their product plans, we believe product restrictions and associated employment reductions to be unnecessary to meet the proposed CAFE standards. We acknowledge that we have proposed some changes in engine assignments, but believe that these changes will neither change the basic utility of the trucks in terms of their cargo carrying and towing capacities nor require a substantial shift in product mix that will have economic significance.

The fact that consumers are willing to pay higher prices for the larger engine suggests that they place some value on the additional horsepower. We seek comment on whether consumers are more likely to buy larger trucks, beyond the purview of the CAFE program, to obtain the perceived benefit, or whether they are more likely to purchase trucks of like size with slightly smaller engines.

The agency has long recognized that one way to meet a CAFE standard is to restrict the availability of products that reduce, rather than enhance, a company's fleet wide corporate average fuel economy level. Conversely, the agency also acknowledges that restricting available product can adversely affect fuel economy. Consumers unable to obtain light trucks at or near the maximum weight vehicle within the CAFE limit (currently 8500 pounds GVWR) may choose to purchase vehicles above that weight. Such vehicles may be more readily available since they are outside the purview of the CAFE program. Of course, compliance through product restriction also poses the possibility of limiting consumer choice.

The agency has tentatively concluded that it is unnecessary for any manufacturer to restrict the utility of their products to meet our proposed CAFE standards. Accordingly, we do not believe that any employment restriction should result from this proposal.

B. Benefits to Society From This Proposal

The agency also performed an analysis of the economic and environmental benefits of this proposal by performing estimates of fuel savings over the lifetime of the model year (approximately 25 years). Impacts other than direct fuel savings were translated into dollar values and then factored into our cumulative estimates. Therefore, each impact is measured by the difference between a measure—such as total gallons of fuel consumed by light trucks produced during a single model year over its entire 25-year life span in the fleet—under the manufacturer plans compared to the fuel consumed with a stricter standard in effect. The agency's analysis estimated future impacts in both undiscounted terms and by their present value discounted using a 7 annual percent discount rate.

In estimating the direct benefits of decreased fuel consumption, forecasts of light truck sales for future years were obtained from the Energy Information Administration's (EIA) Annual Energy Outlook 2002 (AEO 2002). Fuel economy performance for each future model year's light trucks under the current CAFE standard and with alternative standards in effect were estimated using the agency's projections for the application of fuel saving technologies. As shown in our PEA, NHTSA estimates that approximately 7,654,000 light trucks will be sold in the 2005 model year. For the 2006 and 2007 model years, the estimates are 7,795,000 and 7,922,000 vehicles respectively.

The economic value of annual fuel savings resulting from higher light truck CAFE standards was then assessed by applying the Energy Information Administration's AEO 2002 forecast of future fuel prices to each year's estimated fuel savings. In turn, future fuel savings were estimated by dividing the total number of miles the surviving population of vehicles of that model

year are estimated to be driven by the average on-road fuel economy level associated with the base standard of 20.7 mpg. NHTSA then assumed that if the same trucks met a higher CAFE standard when sold, their total fuel consumption during each subsequent calendar year is calculated by dividing the increased number of miles they are driven as a result of the higher fuel economy resulting from that standard. The sum of these annual fuel savings over each calendar year that vehicles remain in service represents the cumulative fuel savings resulting from applying a stricter CAFE standard to light trucks produced during that model year.

NHTSA's analysis of the benefits of external factors totaled $0.083 per gallon of gasoline, including $0.048 for ''monopsony'' effect (the effect on the world market price of gasoline from reducing U.S. demand), and $0.035 for reducing the threat of supply disruptions. Incorporating these indirect benefits into the direct benefits of fuel saved as a result of higher CAFE standards produced an incremental benefit to consumers, when reduced to present value, of $29 per vehicle for MY 2005, $66 per vehicle for MY 2006 and $100 per vehicle for MY 2007. The total present value of these direct and indirect benefits is estimated to be $219 million for MY 2005, $512 million for MY 2006 and $792 million for MY 2007.

We have also analyzed the effect of the proposed standard on vehicle emissions. Estimates of the reduced economic value of damages to human health resulting from emissions of regulated air pollutants were obtained from a detailed recent analysis conducted by the Environmental Protection Agency. These estimates were applied to the estimated changes in emissions of each criteria pollutant to determine the resulting change in damage costs caused by that pollutant. Because reliable estimates of damage costs from contributions to potential climate change by emissions of carbon dioxide, other greenhouse gases and airborne toxic pollutants are not yet available, the PEA did not assign a monetary value to changes in these particular emissions. Our analysis indicated that the proposed MY 2005 standard would result in a net reduction of criteria pollutants with a present value of $179,200. For MY 2006, this net reduction would have a present value of $818,500 and for MY 2007 the net reduction of criteria pollutants would have value of $1,644,400.

C. Comparison of Estimated Industry Costs v. Estimated Societal Benefits

In sum, then, the total incremental costs by model year compared to the incremental societal benefits by model year are as follows:

	Total costs (million)	Total societal benefits (million)	Net benefits (million)
MY 2005	$108	$219	$111
MY 2006	221	513	292
MY 2007	373	794	421

In light of these figures, we have tentatively concluded that the proposal serves the overall interests of the American people and is consistent with the balancing Congress has compelled us to do when establishing corporate average fuel economy levels. For all the reasons stated above, we believe the proposal is economically practicable and, independently, that it is a cost beneficial advancement for American society.

In a well-functioning market with fully informed consumers and manufacturers, consumers would take into account the savings to themselves associated with more fuel-efficient vehicles. If the value of cumulative fuel savings exceeded the additional price and associated financing cost of purchasing a more fuel-efficient vehicle, consumers should be inclined to buy these vehicles and producers should be inclined to sell them. The NHTSA estimates find that the direct fuel-savings to consumers account for the majority of the total social benefits, and exceed the estimated costs of adopting more fuel-efficient technologies. Thus, the question arises as to what market conditions could explain this situation and whether fuel saving technologies will be adopted in the absence of increasing CAFE standards.

One possibility is that consumers have not demanded greater fuel efficiency, despite the benefits to be gained, because of the difficulty and time involved in calculating the total savings associated with purchasing a more fuel-efficient vehicle. As a percentage of new vehicle purchase prices, the savings and costs of fuel economy increases are relatively small. Assuming the NHTSA calculations are correct and that light truck markets are reasonably competitive, consumers generally could be made better off if manufacturers were forced to offer more fuel efficiency. A more remote possibility is that the light truck market is not sufficiently competitive and manufacturers can survive without maximizing profits. In that case market forces would not be sufficient to ensure that manufacturers include in their vehicles fuel-saving technologies even though doing so would increase profits. A final possibility is that NHTSA's cost and/or benefit estimates are incomplete. For example, it could be that greater fuel efficiency comes with tradeoffs in power, safety, and design not accounted for in NHTSA's estimated costs, that the engineering costs of implementing new technologies are actually greater than those estimated, or that the actual fuel savings are less than those estimated. The agency invites comments on the ability of consumers to compare capital costs to expected fuel savings, the cost to them of doing so, as well as suggestions for facilitating these calculations. The agency also invites comments on the competitiveness of the light truck market and the technical tradeoffs between fuel efficiency and other characteristics of light trucks that consumers value.

As part of the interagency review process, the Energy Information Agency (EIA) has provided NHTSA with a preliminary analysis of the energy and economic impacts of an increase in light truck fuel economy standards comparable to the proposed rule. Specifically, EIA analyzed standards of 21.2, 21.7, and 22.2 mpg for model years 2005–2007, respectively. Using its National Energy Modeling System (NEMS), EIA's analysis indicates that the actual average fuel economy of new light trucks would increase to 21.7 mpg in model year 2005—well beyond the 21.2 mpg required during that year—but would fall slightly short of the 22.2 mpg standard by model year 2007. The EIA analysis also projects that NHTSA's proposed rule would cause a greater increase in the cost of light trucks than estimated by NHTSA and a slight reduction in the average weight of light

trucks. NHTSA estimated no weight reduction. EIA's estimates of fuel savings resulting from stricter CAFE standards for light trucks also appear to be larger than those calculated in NHTSA's analysis. Finally, EIA's projected effects on employment and real GDP are slightly negative through 2010, but become positive during 2011 to 2020.

The differences in results of the two analyses of the proposed light truck standards stem primarily from differences in the underlying approaches of models. For example, the NEMS model effectively treats all manufacturers identically whereas NHTSA's approach relies heavily on detailed manufacturer-specific data. As a result of these differences, NHTSA's approach has advantages for analyzing the effects of near-term modest increases while the NEMS approach is more useful for analyzing longer-term industry-wide effects of larger increases in the standards. For shorter-term analysis of modest increases in required fuel economy levels, confidential information about the differences in the relative fuel economy capabilities of the individual manufacturers at the model-specific level is essential. This is because the technology application burdens and cost impacts imposed on individual manufacturers by the stricter standards will differ significantly. Where longer-term, industry-wide analysis of significant increases in fuel economy standards is required, current differences in manufacturer capabilities become much less relevant. In addition, NEMS' ability to estimate macroeconomic ''feedbacks'' from stricter CAFE standards is very useful.

EIA's analysis has been included in the public docket for this rulemaking. NHTSA welcomes comment and wants to ensure that the CAFE program and future increases in CAFE standards do not adversely impact vehicle safety or employment. To this end, the agency is examining possible reforms to the CAFE system and may later propose specific reforms if they are superior to the current system in terms of improving fuel economy without negative safety and employment consequences.

VII. The Effect of Other Government Regulations on Fuel Economy

The statute specifically directs us to consider the impact other government regulations have on fuel economy. This statutory factor constitutes an express recognition that fuel economy standards should not be set without due consideration given to other regulatory concerns, such as motor vehicle and passenger safety and motor vehicle emissions. The primary influence of many of these policies is the addition of weight to the vehicle, with the commensurate reduction in fuel economy.

A. Federal Motor Vehicle Safety Standards

The agency has evaluated the impact of the Federal motor vehicle safety standards using MY 2001 vehicles as a baseline. We have issued or are about to issue a number of Federal motor vehicle safety standards that become effective between the MY 2001 baseline and MY 2007. The fuel economy impact, if any, of these new requirements would take the form of increased vehicle weight resulting from the design changes needed to meet new standards.

The average test weight (roughly equal to curb weight plus 300 pounds) of the light truck fleet in MY 2001 was 4,501 pounds. The average test weight for General Motors, Ford, and DaimlerChrysler light trucks subject to the standard for MY 2001 was 4,627 pounds. Our review of new safety requirements that will apply to the MY 2005–2007 light truck fleet indicates that compliance with the following safety standards will have an impact on vehicle weight:

i. FMVSS 138, Tire Pressure Monitoring System

As required by the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, NHTSA is requiring Tire Pressure Monitoring Systems be installed in all passenger cars, multipurpose passenger vehicles, trucks and buses that have a GVWR of 10,000 pounds or less, effective in November 2003. We estimate the weight that would be added consists of electrical parts that would not weigh more than half a pound (0.23 kilograms or less) per vehicle.

ii. FMVSS 139, Tire Upgrade

The TREAD Act mandated rulemaking to revise and update our safety performance requirements for tires. While the agency's Preliminary Economic Assessment of the proposed tire upgrade indicated there would be added cost for the improved tires but no increased weight, it is possible that some vehicles would need larger tires, which would add an undetermined minimal amount of weight to those vehicles.

iii. FMVSS 201, Occupant Protection in Interior Impact

This standard specifies requirements to afford protection for occupants from impacts with interior parts of the vehicle. The new amendment relates to upper pillars, front and rear headers, the side roof rails and other upper interior parts. It applies to passenger cars and to multipurpose vehicles, trucks, and buses with a GVWR of 10,000 pounds (4,536 kilograms) or less. Additional padding could be added or pillars could be redesigned to pass the upgraded standard. We estimate the average weight gain would be 7.5 pounds (3.4 kilograms) per vehicle.

iv. FMVSS 202, Head Restraints

This proposed regulation would improve front seat head restraints in passenger cars, pickups, vans, and utility vehicles and require head restraints in the rear outboard positions. Because many pickup trucks and some vans do not have back seats, the average weight increase for this standard is lower than for automobiles. We estimate the average weight gain across light trucks, vans and SUVs would add 4.3 pounds (1.94 kilograms) per vehicle.

v. FMVSS 208, Occupant Crash Protection

This rule amends our occupant crash protection standard to require that future air bags be designed to create less risk of serious air bag-induced injuries than current air bags, particularly for small women and young children; and provide improved frontal crash protection for all occupants, by means that include advanced air bag technology. Additional weight would come from sensors, switches, indicators, and associated electrical equipment. We estimate the average weight gain would be 3.4 pounds (1.54 kilograms).

vi. FMVSS 225, Child Restraint Anchorage Systems

The Final Economic Assessment (February 1999) for FMVSS 213 and 225 estimates the additional weight for improved anchorages would be less than 1 pound (0.45 kilogram).

vii. FMVSS 301, Fuel System Integrity

This proposed rule would amend the testing standards for rear-end and side crashes and resulting fuel leaks. Although a few models (generally in the middle of their production lives) might require heavy additions such as a polymer guard for the bottom of the fuel tank, most would not. Many vehicles already pass the more stringent standards, and those affected are not likely to be pick-up trucks or vans. It is estimated that weight added will be only lightweight items such as a flexible filler neck. We estimate the average weight gain across this vehicle class

would be 0.24 pounds (0.11 kilograms) per vehicle.

In summary, NHTSA estimates that weight additions required by FMVSS regulations that will be effective between the MY 2001 fleet and MY 2007 fleet will average about 17 pounds per vehicle. As indicated elsewhere, the agency expects that manufacturers will not use weight reduction as one of the technologies available to improve fuel economy. As our analysis of feasible improvements in fuel economy assumes that manufacturer projections of future vehicle weights are valid and does not change these weights, weight increases due to new safety standard requirements, or whatever voluntary safety improvements the manufacturers are planning, will occur without the manufacturers being penalized by having to reduce weight to meet a fuel economy standard.

B. Federal Motor Vehicle Emissions Standards

With input from the United States Environmental Protection Agency (EPA), NHTSA has evaluated the impact of a number of vehicle related emissions standards on fuel economy. In addition, NHTSA's Environmental Assessment examines how the proposed average fuel economy standard impacts air quality (the enhancement of which is at the core of the relevant EPA and state regulations) by affecting emissions of criteria pollutants. Many of these regulations are currently being incorporated into the vehicle fleet through a multi-year phase-in. NHTSA believes there to be no significant fuel economy impact between the baseline MY 2001 and MY 2007 resulting from federal or state emissions regulations.

The state of California has, in recent court filings, asserted that NHTSA has not treated the CAFE statute as preempting state efforts to engage in CAFE related regulation, stating that ''time and time again, NHTSA in setting CAFE standards has commented on the fuel economy effects of California's emissions regulations, and not once has it even suggested that these were preempted.'' *See* Appellants Opening Brief filed on behalf Michael P. Kenny in *Central Valley Chrysler-Plymouth, Inc. et. al.* v. *Michael P. Kenny,* No. 02–16395, at p. 33 (9th Circuit 2002). As a result, the State suggests that it may, consistent with federal law, issue regulations that relate to fuel economy.

The State misses the point. The agency reviews emissions requirements to ensure that we do not establish a standard that is infeasible in light of other public policy considerations, including federal and state efforts to regulate emissions. Thus, we consider potential fuel economy losses due to more stringent emissions requirements when we determine maximum feasible fuel economy levels.

This does not mean that a state may issue a regulation that relates to fuel economy and which addresses the same public policy concern as the CAFE statute. Our statute contains a broad preemption provision making clear the need for a uniform, federal system: ''When an average fuel economy standard prescribed under this chapter is in effect, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to fuel economy standards or average fuel economy standards for automobiles covered by an average fuel economy standard under this chapter.'' 49 U.S.C. 32919(a).

The fact that NHTSA had not expressly addressed this particular aspect of California's requirements should not have been interpreted as tacit acceptance. Indeed, the United States has taken the express position in the *Kenny* case that it has a substantial interest in enforcing the federal fuel economy standards and in ensuring that states adhere to the Congressional directive prohibiting them from adopting or enforcing any law or regulation related to fuel economy or average fuel economy standards.

i. Tier 2 Requirements

On February 10, 2000, EPA published a final rule (65 FR 6698) establishing new federal emissions standards for vehicles classified by EPA as passenger cars, light trucks and medium duty vehicles. These new emissions standards, known as Tier 2 standards, are designed to focus on reducing the emissions most responsible for the ozone and particulate matter (PM) impact from these vehicles. The program also applies the same set of federal standards to all passenger cars, light trucks, and medium-duty passenger vehicles. Under the Tier 2 standards, light trucks include ''light light-duty trucks'' (or LLDTs), rated at less than 6000 pounds GVWR and ''heavy light-duty trucks'' (or HLDTs), rated at more than 6000 pounds GVWR. For new passenger cars and light LDTs, the Tier 2 standards phase-in beginning in MY 2004, and are to be fully phased-in by MY 2007. During the phase-in period of MYs 2004–2007, all passenger cars and light LDTs not certified to the primary Tier 2 standards must meet an interim standard equivalent to the current National Low Emission Vehicle (NLEV) standards for light duty vehicles. In addition to establishing new emissions standards for vehicles, the Tier 2 standards also establish limits for the sulfur content of gasoline.

When issuing the Tier 2 standards, EPA responded to comments regarding the impact of the Tier 2 standard and its impact on the Supplemental Federal Test Procedure by indicating that it believed that the Tier 2 standards would not have an adverse effect on fuel economy.

In setting the MY 2004 light truck CAFE standard, we noted that one of the commenters indicated that the Tier 2 standards would impact on its ability to meet fuel economy standards. DaimlerChrysler, while addressing its strong support for continuation of the dual-fuel incentive program, stated that the Tier 2 standards presented special challenges for ethanol-fueled vehicles. The company did not, however, indicate the nature of these challenges and the degree to which the Tier 2 standards would impact on its ability to meet the CAFE light truck standard. Therefore, we have no basis to suggest the Tier 2 standards will adversely affect fuel economy.

ii. Onboard Refueling Vapor Recovery

On April 6, 1994, EPA published in the **Federal Register** a final rule (59 FR 16262) controlling vehicle-refueling emissions through the use of onboard refueling vapor recovery (ORVR) vehicle-based systems. These requirements applied to light-duty vehicles beginning in the 1998 model year, and were phased-in over three model years. The ORVR requirements also apply to light-duty trucks with a gross vehicle weight rating up to 6000 lbs, beginning in model year 2001 and phasing-in over three model years at the same rate as for light-duty vehicles. For light-duty trucks with a gross vehicle weight rating of 6001–8500 lbs, the ORVR requirements first apply in the 2004 model year and phase-in over three model years at the same rate as light-duty vehicles.

The ORVR requirements impose a weight penalty on vehicles as they necessitate the installation of vapor recovery canisters and associated tubing and hardware. However, the operation of the ORVR system results in fuel vapors being made available to the engine for combustion while the vehicle is being operated. As these vapors provide an additional source of energy that would otherwise be lost to the atmosphere through evaporation, the ORVR requirements do not have a net negative impact on fuel economy.

iii. Supplemental Federal Test Procedure

The Federal Test Procedure (FTP) contains the test conditions and procedures used by the EPA when conducting new vehicle emissions and fuel economy tests. On October 26, 1996, EPA issued a final rule (61 FR 54852) revising the tailpipe emission portions of the Federal Test Procedure (FTP) for light-duty vehicles (LDVs) and light-duty trucks (LDTs). The revision created a Supplemental Federal Test Procedure (SFTP) designed to address shortcomings with the existing FTP in the representation of aggressive (high speed and/or high acceleration) driving behavior, rapid speed fluctuations, driving behavior following startup, and use of air conditioning. The SFTP also contains requirements designed to more accurately reflect real road forces on the test dynamometer. EPA chose to apply the SFTP requirements to trucks through a phase-in. Light-duty trucks with a gross vehicle weight rating (GVWR) up to 6000 lbs were subject to a three-year phase-in ending in the 2002 model year. Heavy light-duty trucks, those with a GVWR greater than 6000 lbs but not greater than 8500 lbs, are subject to a phase-in in which 40 percent of each manufacturer's production must meet the SFTP requirements in the 2002 model year, 80 percent in 2003, and 100 percent in the 2004 model year.

The 2004 model year represents the final phase-in year for light trucks subject to CAFE standards. Although DaimlerChrysler has indicated that the changes to the FTP will have a disproportionately negative impact on light truck fuel economy, EPA has determined that the net effect on fuel economy for the recent test procedure changes is near zero. EPA considered the effects of four test changes: single-roll electric dynamometer with full-speed load simulation, elimination of the 10% air conditioning load factor, elimination of the 5500 maximum test weight for cars, and improved test equipment. While some changes decreased measured fuel economy, others raised it; with the net result of a near zero effect. This determination was based on the total fleet, which is a mix of front wheel drive and rear wheel drive cars and trucks.

Considering trucks alone is not likely to change that determination. Trucks, as a sub-class, have a larger mix of rear wheel drive vehicles than the combined fleet. This would lead to a slightly increased effect of the single roll dynamometer and thereby slightly lower measured fuel economy. However, the truck sub-class also has higher road load horsepower than the combined fleet. This would lead to slightly higher effects due to the elimination of the 10% air conditioning load and thereby slightly higher measured fuel economy. The net effect of the combined test procedure changes on the truck sub-class is still expected to be near zero.

iv. California Air Resources Board LEV II and Section 177 States

The State of California Low Emission Vehicle II regulations (LEV II) will apply to passenger cars and light trucks in the 2004 model year. The LEV II amendments restructure the light-duty truck category so that trucks with a gross vehicle weight rating of 8,500 pounds or lower are subject to the same low-emission vehicle standards as passenger cars. LEV II requirements also include more stringent emission standards for passenger car and light-duty truck LEVs and ultra low emission vehicles (ULEVs), and establish phase-in requirements that begin in 2004. During the initial year of the four-year phase-in, the LEV II standards require that 25 percent of production comply.

Comments submitted by DaimlerChrysler indicated that company's concern that compliance with LEV II requirements may be difficult for dual-fuel vehicles. The company, did not, however, provide any details or data regarding these challenges.

The term ''Section 177 States'' refers to states that voluntarily adopt the more stringent California emissions standards. As of November 2000, Massachusetts, New York and Maine had adopted the California Low Emission Vehicle (LEV) program. NHTSA has not received any data showing any impact on the 2004 light truck fuel economy capabilities as a result of states other than California adopting the California emissions standards.

VII. The Need of the Nation To Conserve Energy

The Energy Policy and Conservation Act (EPCA) arose in response to the energy crises created by the oil embargo of 1973–1974. The Act established an automotive fuel economy regulatory program by adding Title V, ''Improving Automotive Efficiency,'' to the Motor Vehicle Information and Cost Saving Act. The Department is specifically directed by the Act to balance the technological and economic challenges with the nation's need to conserve energy.

While EPCA grew out of the energy crisis of the 1970s, the United States also faces considerable energy challenges today. As made clear in the National Energy Policy, efficient energy use and conservation are important elements of a comprehensive program to address the nation's current energy challenges:

> America's current energy challenges can be met with rapidly improving technology, dedicated leadership, and a comprehensive approach to our energy needs. Our challenge is clear—we must use technology to reduce demand for energy, repair and maintain our energy infrastructure, and increase energy supply. Today, the United States remains the world's undisputed technological leader: but recent events have demonstrated that we have yet to integrate 21st-century technology into an energy plan that is focused on wise energy use, production, efficiency, and conservation.

Conserving energy, especially reducing the nation's dependence on imported petroleum, benefits the nation's efforts to address the energy challenges in several ways. Reducing total petroleum use and reducing petroleum imports decrease our economy's vulnerability to oil price shocks and improves our national security.

We believe that the Administration's support of continued development of advanced technology, such as fuel cell technology, and an infrastructure to support it, may help to achieve significant reductions in foreign oil dependence and stability in the world oil market. The continued infusion of hybrid propulsion and advanced diesel vehicles into the U.S. light truck fleet may also contribute to reduced dependence on petroleum. However, as noted above, these technologies are not likely to substantially infuse into the light truck market in the relative short term.

We have tentatively concluded that the proposed light truck CAFE standards will be important contributors to the comprehensive program of addressing the nation's more immediate energy challenges. The transportation sector consumes the majority of the petroleum used in the United States. Within the transportation sector, passenger cars and light trucks, the vehicles covered by fuel economy standards account for almost 60% of petroleum consumption.

Our analysis suggests that increasing the CAFE standards, as proposed, will contribute to energy conservation. In assessing the impact of the proposal, we accounted for the increased vehicle mileage that accompanies reduced costs to consumers associated with greater fuel efficiency and have tentatively concluded that the proposal will lead to

considerable fuel saving. While increasing fuel economy without increasing the cost of fuel will lead to some additional vehicle travel, the overall impact on fuel conservation remains positive. Increasing fuel economy by 10% will produce an estimated 8–9% reduction in fuel consumption.

We acknowledge that, despite the CAFE program, the United States' dependence on foreign oil and petroleum consumption has increased in recent years. Nonetheless, data suggests that past fuel economy increases have had a major impact on U.S. petroleum use. The National Research Council determined that if the fuel efficiency of the vehicle fleet had not improved since the 1970s, the U.S. gasoline consumption and oil imports would be about 2.8 million barrels per day higher than they are today. Although a nearly complete turnover of the light duty vehicle fleet takes about 15 years, increases in the fuel economy of new vehicles eventually raise the fuel efficiency of all vehicles as older cars and trucks are scrapped.

Nor do we believe that the proposed increases in the light truck CAFE standards applicable to the 2005–2007 MYs will unduly lead to so-called ''energy waste.'' This theory, presented in comments responding to our Request for Comments, rests on the notion that efforts to reduce energy use can result in negative economic effects from losses in product values, profits and worker incomes. As discussed above, the agency has determined that the proposed CAFE standards can be achieved through the use of available technologies and without imposing product restrictions, job losses or adverse safety consequences. Within the bounds of technological feasibility and economic practicability, the proposal will in fact enhance ''energy efficiency'' without adverse ancillary effects.

VIII. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to OMB review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The rulemaking proposed in this Notice of Proposed Rulemaking will be economically significant if adopted. Accordingly, OMB reviewed it under Executive Order 12866. The rule, if adopted, would also be significant within the meaning of the Department of Transportation's Regulatory Policies and Procedures. The agency has estimated that compliance with the average fuel economy standards proposed would cost over $100 million.

Because the proposed rule is major and economically significant, the agency has prepared a Preliminary Economic Assessment and placed it in the docket and on the agency's Web site.

B. National Environmental Policy Act

Consistent with the requirements of the National Environmental Policy Act and the regulations of the Council on Environmental Quality, the agency has prepared a Draft Environmental Assessment of this proposed action, and has placed the analysis in the docket. Based on the Draft Environmental Assessment, the agency does not, at this time, anticipate that the proposed action will have a significant effect on the quality of the human environment. The agency seeks comments on the Draft Environmental Assessment.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this final rule under the Regulatory Flexibility Act and certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The rationale for this certification is that there are no single stage light truck manufacturers within the United States with 1,000 or fewer employees.

D. Executive Order 13132 Federalism

Executive Order 13132 requires NHTSA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' Executive Order 13132 defines the term ''Policies that have federalism implications'' to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, NHTSA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

This Notice of Proposed Rulemaking would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132. The statute under which the CAFE program is administered clearly states that states may not adopt or enforce any law or regulation that relates to fuel economy standards. 49 U.S.C. 32919(a). Thus, the requirements of section 6 of the Executive Order do not apply to this notice.

E. The Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year (adjusted for inflation with base year of 1995). Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows NHTSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted.

This final rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, of more than $100 million annually, but it will result in the expenditure of that magnitude by vehicle manufacturers and/or their suppliers. In promulgating this proposal, NHTSA considered whether average fuel economy standards lower and higher than those proposed would be appropriate. NHTSA has tentatively concluded that the proposed standards are the maximum feasible standards for the light truck fleet for MYs 2005–2007 in light of the statutory considerations.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. There are no new information collection requirements in this proposal.

G. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

H. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the notice clearly stated?
- Does the notice contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the notice easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the notice easier to understand?

If you have any responses to these questions, please forward them to Otto Matheke, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

I. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be economically significant as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This proposed rule does not have a disproportionate effect on children. The primary effect of this proposal is to conserve energy resources by setting fuel economy standards for light trucks.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards [2] in its regulatory activities unless doing so would be inconsistent with applicable law (*e.g.*, the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical. In meeting that requirement, we are required to consult with voluntary, private sector, consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

There are no voluntary consensus standards for U.S. fuel economy. Therefore, setting this future standard does not involve the use of any voluntary standards.

K. Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rule that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. If the regulatory action meets either criterion, we must evaluate the adverse energy effects of the planned rule and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

The proposed rule seeks to establish light truck fuel economy standards that will reduce the consumption of petroleum and will not have any adverse energy effects. Accordingly, this rulemaking action is not designated as a significant energy action.

L. Department of Energy Review

In accordance with 49 U.S.C. 32902(j), we submitted this proposed rule to the Department of Energy for review. That Department did not make any comments that we have not addressed.

IX. Comments

Submission of Comments

How Can I Influence NHTSA's Thinking on This Notice?

In developing this notice, we tried to address the concerns of all our stakeholders. Your comments will help us determine what standards should be set for light truck fuel economy. We invite you to provide different views on questions we ask, new approaches and

[2] Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as ''performance-based or design-specific technical specification and related management systems practices.'' They pertain to ''products and processes, such as size, strength, or technical performance of a product, process or material.''

technologies we did not ask about, new data, how this notice may affect you, or other relevant information. We welcome your views on all aspects of this notice, but request comments on specific issues throughout this notice. We grouped these specific requests near the end of the sections in which we discuss the relevant issues. Your comments will be most effective if you follow the suggestions below:

- Explain your views and reasoning as clearly as possible.
- Provide empirical evidence, wherever possible, to support your views.
- If you estimate potential costs, explain how you arrived at the estimate.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the notice, such as the units or page numbers of the preamble, or the regulatory sections.
- Be sure to include the name, date, and docket number of the proceeding with your comments.

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES.**

Comments may also be submitted to the docket electronically by logging onto the Dockets Management System Web site at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail. Each electronic filer will receive electronic confirmation that his or her submission has been received.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a proposed rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted By Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on ''search.''

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–2002–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

List of Subjects in 49 CFR Part 533

Energy conservation, Motor vehicles.

PART 533—[AMENDED]

In consideration of the foregoing, 49 CFR part 533 would be amended as follows:

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

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

2. Section 533.5(a) would be amended by revising Table IV to read as follows:

§ 533.5 Requirements.

(a) * * *

TABLE IV

Model year	Standard
2001	20.7
2002	20.7
2003	20.7
2004	20.7
2005	21.0
2006	21.6
2007	22.2

* * * * *

Issued: December 10, 2002.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 02–31522 Filed 12–13–02; 8:45 am]

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