

(LNG) Project, Construction and Operation, Proposed Liquefied Natural Gas (LNG) Terminal, Natural Gas Pipeline and Associated Facilities, Washington County, ME, *Comment Period Ends: 07/06/2009, Contact: Patricia Schaub 1-866-208-3372.*

*EIS No. 20090165, Final EIS, AFS, UT, Dixie National Forest Motorized Travel Plan, Implementation, Dixie National and the Teasdale portion of the Fremont River Ranger District on the Fishlake National Forest, Garfield, Iron, Kane, Piute, Washington and Wayne Counties, UT, Wait Period Ends: 06/22/2009, Contact: Andi Falsetto 435-896-9233.*

*EIS No. 20090166, Draft Supplement, COE, LA, Calcasieu River and Pass, Louisiana Dredged Material Management Plan, Implementation, Calcasieu Ship Channel, Port of Lake Charles, Calcasieu and Cameron Parishes, LA, Wait Period Ends: 07/06/2009, Contact: Sandra Stiles 504-862-1583.*

*EIS No. 20090167, Final EIS, FAA, AK, Sitka Rocky Gutierrez Airport Master Plan, Improvements to the Runway Safety Area, Taxiway, Seaplane Pullout, Approach Lighting System, and the Seawall, U.S. Army COE Section 10 and 404 Permits, NPDES Permit, AK, Wait Period Ends: 06/22/2009, Contact: Patricia Sullivan 907-271-5454.*

#### Amended Notices

*EIS No. 20090048, Draft EIS, AFS, MT, Montanore Project, Proposes to Construct a Copper and Silver Underground Mine and Associated Facilities, Including a New Transmission Line, Plan-of-Operation Permit, Kootenai National Forest, Sanders County, MT, Wait Period Ends: 07/27/2009, Contact: Bobbie Lacklen 406-283-7681. Revision to FR Notice Published 02/27/2009: Extending Comment Period from 05/28/2009 to 07/27/2009.*

*EIS No. 20090123, Draft EIS, FHW, MS, Greenville Connector Project, from Relocated U.S. 82 to Proposed I-69 Corridor south of Benoit, City of Greenville, Washington and Bolivar Counties, MS, Wait Period Ends: 07/06/2009, Contact: Andrew Hughes, P.E. 601-965-4217. Revision of FR Notice Published 04/24/2009: Extending Comment Period from 06/08/2009 to 07/06/2009.*

Dated: May 19, 2009.

**Ken Mittelholtz,**

*Environmental Protection Specialist, Office of Federal Activities.*

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**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-8593-7]

#### Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202-564-7146.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 17, 2009 (74 FR 17860).

#### Draft EISs

*EIS No. 20090054, ERP No. D-AFS-K65358-CA, Stanislaus National Forest Motorized Travel Management (17305) Plan, Implementation, Stanislaus National Forest, CA.*

*Summary:* EPA expressed environmental concerns about adverse impacts on water quality, sensitive species and habitat. Additional information is needed on seasonal closures, monitoring, and enforcement commitments. Rating EC2.

*EIS No. 20090062, ERP No. D-FRC-E05104-00, Catawba-Wateree Hydroelectric Project (FERC No. 2232), Application for Hydroelectric License, Catawba and Wateree Rivers in Burke, McDowell, Caldwell, Catawba, Alexander, Iredell, Mecklenburg, Lincoln and Gaston Counties, NC and York, Lancaster, Chester, Fairfield and Kershaw Counties, SC.*

*Summary:* EPA expressed environmental concerns impacts to aquatic species. Rating EC1.

#### Final EISs

*EIS No. 20090110, ERP No. F-USN-C11023-NJ, Laurelwood Housing Area, Access at Naval Weapons Station Earle, Lease Agreement, Monmouth County, NJ.*

*Summary:* No formal comment letter was sent to the preparing agency.

Dated: May 19, 2009.

**Ken Mittelholtz,**

*Environmental Protection Specialist, Office of Federal Activities.*

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#### ENVIRONMENTAL PROTECTION AGENCY

#### DEPARTMENT OF TRANSPORTATION

[FRL-8909-3]

RIN 2060-ZA15

#### Notice of Upcoming Joint Rulemaking To Establish Vehicle GHG Emissions and CAFE Standards

**AGENCIES:** Environmental Protection Agency (EPA) and Department of Transportation (DOT).

**ACTION:** Notice of Intent to conduct a joint rulemaking.

**SUMMARY:** There is a critically important need for our country to address global climate change and to reduce oil consumption. In this context, EPA and DOT currently intend to work in coordination to propose standards for control of emissions of greenhouse gases and for fuel economy, respectively. If proposed and finalized, these standards would apply to passenger cars, light-duty trucks, and medium-duty passenger vehicles (light-duty vehicles) built in model years 2012 through 2016. Together, these vehicle categories, which include passenger cars, sport utility vehicles, minivans, and pickup trucks, are responsible for almost 60 percent of all U.S. transportation-related greenhouse gas emissions. If ultimately adopted, these standards would represent a harmonized and consistent national policy pursuant to the separate statutory frameworks under which EPA and DOT operate. The approach addressed in this Notice, if ultimately adopted, is intended to allow manufacturers to build a single light-duty national fleet that would satisfy all requirements under both programs and would provide significant reductions in both greenhouse gas emissions and oil consumption.

#### FOR FURTHER INFORMATION CONTACT:

EPA: Christopher Lieske, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: 734-214-4584; fax number: 734-214-4816; e-mail address: [lieske.christopher@epa.gov](mailto:lieske.christopher@epa.gov), or Assessment and Standards Division Hotline; telephone number (734) 214-

4636; e-mail address: [asdinfor@epa.gov](mailto:asdinfor@epa.gov). DOT/NHTSA: Julie Abraham, Office of Rulemaking, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: (202) 366-1455.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

This joint Notice announces plans by the Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA), on behalf of the Department of Transportation, to propose a strong and coordinated Federal greenhouse gas and fuel economy program for passenger cars, light-duty trucks, and medium-duty passenger vehicles (hereafter light-duty vehicles), referred to as the National Program.<sup>1</sup> Both agencies seek to propose a coordinated program that can achieve important reductions of greenhouse gas (GHG) emissions and improvements in fuel economy from the light-duty vehicle part of the transportation sector, based on technology that will be commercially available and that can be incorporated at a reasonable cost. The agencies intend to propose a program that will also provide regulatory certainty for the automobile industry, while recognizing the serious current economic situation faced by this industry and many members of the public.

In the near future, EPA and NHTSA intend to initiate a joint rulemaking, with EPA proposing GHG emissions standards under the Clean Air Act (CAA), and NHTSA proposing Corporate Average Fuel Economy (CAFE) standards under EPCA, as amended by the Energy Independence and Security Act of 2007 (EISA). It is intended that this joint rulemaking proposal will reflect a carefully coordinated and harmonized approach to implementing these two statutes and will be in accordance with all substantive and procedural requirements imposed by law.

Since the 1970s, NHTSA has promulgated CAFE standards for light-duty vehicles to address our country's need to reduce oil consumption. In 2008 NHTSA proposed CAFE standards for model years (MY) 2011 through 2015. However, responding to a Presidential Memorandum of January 26, 2009, NHTSA issued CAFE standards limited to MY 2011,<sup>2</sup> and has been comprehensively reviewing how it sets

CAFE standards in the context of preparing to propose CAFE standards for MY 2012 and later model years. At the same time, EPA has been working on appropriate responses that are consistent with the decision of the Supreme Court in *Massachusetts v. EPA*<sup>3</sup> and EPA's recent proposal to find that emissions of GHGs from new motor vehicles and motor vehicle engines cause or contribute to air pollution that may reasonably be anticipated to endanger public health and welfare.<sup>4</sup> In addition, in 2005 California adopted GHG emissions standards for new light-duty vehicles. Thirteen States and the District of Columbia to date, comprising approximately 40 percent of the light-duty vehicle market, have adopted California's GHG emissions standards. In 2008, EPA denied a request by California for a waiver of preemption under the CAA for its GHG emissions standards. However, consistent with another Presidential Memorandum of January 26, 2009, EPA is currently reconsidering the prior denial of California's request.<sup>5</sup> California and the States that have adopted California's standards are planning to enforce these standards if EPA grants California's request for a waiver of preemption.

In sum, one agency is responsible for a standard that focuses on emissions of GHG and the other for a standard that focuses on improving fuel economy, and there are both Federal and State administrative agencies working on standards to address similar issues. Consistent, harmonized, and streamlined requirements hold out the promise of delivering environmental and energy benefits, cost savings, and administrative efficiencies that might not be available under a less coordinated approach. The National Program the agencies intend to propose would seek to deliver on that promise.

Key elements of a harmonized and coordinated National Program the agencies intend to propose are the level and form of the standard, the available compliance mechanisms, and general implementation elements. These elements are outlined in the following sections. The agencies will continue to evaluate all of the issues relevant to developing a proposal, and will provide their evaluations for review and public comment with the upcoming NPRM. This will include analyses on a variety of relevant issues, such as the costs and benefits of the proposal (both quantified and unquantified), as well as the effects the proposal would have on the

economy, manufacturers, and consumers. The notice of proposed rulemaking the agencies intend to issue will discuss both the analyses that will have been done for the proposal as well as any plans for conducting additional analyses.

It is also important to note that GHG standards expected to be issued under section 202(a) of the CAA would become final only if EPA makes a final finding consistent with its recent proposal to find that emissions of greenhouse gases from new motor vehicles and motor vehicle engines cause or contribute to air pollution that may reasonably be anticipated to endanger public health and welfare.

The agencies also anticipate that the kind of harmonized and consistent national policy described in this Notice should be considered in developing standards for model years after 2016, in a future rulemaking.

##### II. Key Elements of the National Program

###### A. Level of the Standards

EPA and NHTSA intend to propose two separate sets of standards, each under their respective statutory authorities. EPA expects to propose a national CO<sub>2</sub> vehicle emissions standard under section 202(a) of the Clean Air Act. EPA currently is considering proposing standards that would, if made final, achieve on average 250 grams/mile of CO<sub>2</sub> in model year 2016. The standards for earlier years would begin with the 2012 model year, with a generally linear phase-in from MY 2012 through to model year 2016. NHTSA expects to propose appropriate related CAFE standards.

In developing the proposals under consideration, EPA and NHTSA have preliminarily evaluated the kinds of technologies that could be utilized by the automobile industry, as well as the associated costs for the industry and fuel savings for the consumer, the magnitude of the GHG and energy consumption reductions that may be achieved, and other factors relevant under their respective statutory authorities.<sup>6</sup> With respect to

<sup>6</sup> The CAA requires EPA to establish "standards applicable to the emission of any air pollutant from new motor vehicles or new motor vehicle engines which, in the Administrator's judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare." As noted above, EPA has proposed to find that GHGs emitted by new motor vehicles and new motor vehicle engines contribute to air pollution that endangers public health and welfare. Section 202(a) of the CAA further provides that standards set pursuant to it "shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite

<sup>1</sup> NHTSA is delegated responsibility for implementing the Energy Policy and Conservation Act (EPCA) fuel economy requirements assigned to the Secretary of Transportation. 49 CFR 1.50, 501.2(a)(8).

<sup>2</sup> 74 FR 14196; March 30, 2009.

<sup>3</sup> 549 U.S. 497 (2007).

<sup>4</sup> 74 FR 18886; April 24, 2009.

<sup>5</sup> 74 FR 7040; February 12, 2009.

technological feasibility, during MYs 2012–2016 manufacturers are expected to go through the normal automotive business cycle of redesigning and upgrading their light-duty vehicle products (and in some cases introducing entirely new vehicles not on the market today). The proposal under consideration is expected to allow manufacturers the time needed to incorporate technology to achieve GHG reductions and improve fuel economy during the vehicle redesign process. This is an important aspect of the proposal under consideration, as it would avoid the much higher costs that would occur if manufacturers needed to add or change technology at times other than these scheduled redesigns. This time period would also provide manufacturers the opportunity to plan for compliance using a multi-year time frame, again in accord with normal business practice. Over these five model years there would be an opportunity for manufacturers to evaluate almost every one of their vehicle model platforms and add technology in a cost effective way to control GHG emissions and improve fuel economy. This includes redesign of the air conditioner systems in ways that will further reduce GHG emissions.

Technical work conducted by each agency over the last several years indicates that there is a wide range of technologies available for manufacturers to consider in upgrading vehicles to reduce GHG emissions and improve fuel economy.<sup>7</sup> These include improvements to the engines such as use of gasoline direct injection and downsized engines that use turbochargers to provide performance similar to that of larger engines, the use of advanced transmissions, increased use of start-stop technology, improvements in tire performance, reductions in vehicle weight, increased use of hybrid and other advanced technologies, and the

technology, giving appropriate consideration to the cost of compliance within such period.”

The EPCA requires that the CAFE standards for each model year be set at the maximum feasible level. In determining that level, NHTSA must consider technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy. NHTSA is prohibited from considering the availability of compliance flexibilities such as the ability to earn credits for exceeding CAFE standards in setting CAFE standards. Further, NHTSA must set the MY 2011–2020 CAFE standards sufficiently high to ensure that the industry-wide average of all new passenger cars and light trucks, combined, is not less than 35 miles per gallon by MY 2020.

<sup>7</sup> The close relationship between emissions of CO<sub>2</sub>—the most prevalent greenhouse gas emitted by motor vehicles—and fuel consumption, means that the technologies to control CO<sub>2</sub> emissions and to improve fuel economy overlap to a great degree.

initial commercialization of electric vehicles and plug-in hybrids. Although many of these technologies are available today, the emissions reductions and fuel economy improvements under consideration for the proposal would be expected to involve more widespread use of these technologies across the fleet.

Initial evaluations by EPA and NHTSA indicate that utilization of this suite of technologies provides a strong technical basis to proceed with consideration of a proposal containing MY 2016 GHG standards that would on average achieve 250 gram/mile CO<sub>2</sub>. If the automotive industry were to achieve this CO<sub>2</sub> level all through fuel economy improvements, this would equate to achieving a fleet average level of 35.5 mpg. However, it is expected that most companies would also apply some air conditioning improvements to reduce GHG emissions. This would not translate into fuel economy improvements, so on average we expect the fuel economy improvements to be somewhat below the 35.5 mpg value.<sup>8</sup>

The proposal under consideration would also include a harmonized CAFE standard for MY 2016. Compatible GHG and CAFE standards for earlier model years would increase from the MY 2011 CAFE standard to the MY 2016 level of the National Program.

In developing their respective proposals, EPA and NHTSA will consider many of the same issues. Given differences in their respective statutory authorities, however, the agencies anticipate there will be some important differences in the development of their proposals. For example, under a GHG standard proposed under CAA section 202(a) EPA would expect manufacturers to take advantage of the option to generate credits by reducing emissions of HFCs and CO<sub>2</sub> through upgrades to their air conditioner systems. EPA plans to take these reductions into account in developing a proposed GHG standard. However, EPCA does not permit NHTSA to consider air conditioning credits in developing a proposed CAFE standard for passenger cars. CO<sub>2</sub> emissions due to air conditioning operation are not measured by the test procedure mandated by statute for use in establishing and enforcing CAFE standards for passenger cars. As a result, improvements in the efficiency of passenger car air conditioners would not be considered as a possible control technology for purposes of CAFE.

<sup>8</sup> As discussed in this section, these mile per gallon equivalents should not be considered levels of potential CAFE standards.

In addition, in developing a proposal EPA would take into consideration all of the compliance flexibilities discussed below, such as averaging, banking, and trading of credits, while NHTSA is prohibited by statute from taking such flexibilities into account in developing proposed CAFE standards. Manufacturer utilization of these flexibilities, however, would be anticipated to provide important savings in cost, promote more cost-effective GHG emissions control and justify proposing more stringent GHG standards. As a result, the agencies do not anticipate a one-to-one correspondence between the level of EPA's proposed GHG standards and NHTSA's proposed CAFE standards. Instead the CAFE standards under consideration for proposal would be somewhat lower than the mile per gallon equivalent of the corresponding GHG standard. This reflects both the specific differences in standard setting criteria, as well as the general attempt by each agency to harmonize its proposed standards in a way that allows them to achieve their respective statutory and regulatory goals. The goal of the proposal under consideration is providing regulatory compatibility that allows auto manufacturers to build a single national light-duty fleet that would comply with both the GHG and the CAFE standards.

Preliminary analysis indicates that the proposal under consideration would result in GHG reductions and oil consumption reductions that are very significant. Preliminary analysis indicates cumulative greenhouse gas reductions of approximately 890 million metric tons (CO<sub>2</sub> equivalent) and fuel savings of approximately 1.8 billion barrels of oil, over the lifetime of the model years covered. Consumers would be expected to see cost savings due to the significant fuel savings. As discussed below, the agencies will conduct additional analyses of these matters.

#### *B. Form of the Standards*

Both EPA and NHTSA currently intend to propose attribute-based standards for passenger cars and light-trucks. NHTSA adopted an attribute standard based on vehicle footprint in its Reformed CAFE program for light-trucks for model years 2008–2011,<sup>9</sup> and recently extended this approach to passenger cars in the CAFE rule for MY 2011.<sup>10</sup> The agencies currently intend to propose vehicle footprint as the attribute for the GHG and CAFE

<sup>9</sup> 71 FR 17566; April 6, 2006.

<sup>10</sup> 74 FR 14196; March 30, 2009.

standards, with footprint defined as a vehicle's wheelbase multiplied by its track width—in other words, the area enclosed by the points at which the wheels meet the ground. EPA and NHTSA believe initially that the footprint attribute is the most appropriate attribute on which to base the standards under consideration, as vehicle footprint correlates reasonably well with CO<sub>2</sub> emissions, fuel economy, and consumer choice. In addition, the final rule issued by NHTSA for MY 2011 also discusses in some detail the relationship between mass, weight, vehicle attributes like footprint, and safety.<sup>11</sup>

Under a footprint-based standard, each manufacturer would have a GHG and CAFE standard unique to its fleet, with a separate standard for passenger cars and light-trucks, depending on the footprints of the vehicle models produced by that manufacturer. Generally, manufacturers of larger vehicles (*i.e.*, vehicles with larger footprints) would face less stringent standards (*i.e.*, higher CO<sub>2</sub> grams/mile standards and lower CAFE standards) than manufacturers of smaller vehicles. While a manufacturer's fleet average standard could be estimated throughout the model year based on projected sales volume of its vehicle fleet, the standard of compliance would be based on the final model year sales figures. A manufacturer's calculation of fleet average emissions at the end of the model year would be based on the sales-weighted average emissions of each model in its fleet.

EPA and NHTSA currently intend to propose separate footprint-based standards, or curves, for passenger cars and light-trucks. In designing the footprint-based standards, EPA and NHTSA intend to work together to build upon the footprint standard curves used in the CAFE rule for MY 2011,<sup>12</sup> and to consider proposing changes to the shape of the curve based on, among other things, concerns about the steepness of the slope. EPA and NHTSA intend to consider, among other things, an approach that would generally flatten the passenger car curve, more in line with the shape of the truck curve for the MY 2011 CAFE standard.

### C. Program Flexibilities for Achieving Compliance

As noted above, EPA and NHTSA expect to propose standards that are intended to provide compliance flexibility to manufacturers, especially in the early years of the program. This

flexibility would be expected to provide sufficient lead time to make necessary technological improvements and additions, and reduce the overall cost of the program without compromising overall environmental and fuel economy objectives. The broad goal of harmonizing the two agencies' standards would include preserving manufacturer flexibilities in meeting the standards. The following section provides an overview of flexibility provisions the agencies are contemplating in developing the program.

#### 1. CO<sub>2</sub>/CAFE Credits Earned Based on Fleet Average Performance

EPA and NHTSA currently intend to propose that the fleet average standards that would apply to a manufacturer's car and truck fleets would be based on the applicable attribute-based curves. At the end of each model year, when sales of the model year are complete, a sales-weighted fleet average would be calculated for each averaging set (cars and trucks). Under this approach, a manufacturer's car and/or truck fleet that achieves a fleet average CO<sub>2</sub>/CAFE level better than the standard would earn credits. Conversely, if the fleet average CO<sub>2</sub>/CAFE level does not meet the standard the fleet would generate debits (also referred to as a deficit or negative credits).

Under the program being considered for proposal, a manufacturer whose fleet generates credits in a given model year would have several options for using those credits, including credit carry-back, credit carry-forward, credit transfers, and credit trading. These provisions exist in the MY 2011 CAFE program per EPCA, and similar provisions are part of EPA's Tier 2 program for light duty vehicles' emissions of criteria pollutants (as well as numerous other standards issued by EPA under section 202 of the CAA). It is expected that, under the proposal being considered, that the manufacturer would be able to carry-back credits to offset any deficit that had accrued in a prior model year and was subsequently carried over to the current model year. EPCA restricts the carry-back of CAFE credits to three years and EPA is currently contemplating proposing the same limitation, in keeping with the goal of harmonizing both sets of proposed standards.

After satisfying any needs to offset pre-existing deficits within a vehicle category, remaining credits could be saved (banked) for use in future years. EPA is contemplating allowing manufacturers to use these banked credits in at least the five years after the

year in which they were generated (*i.e.*, five or more years carry-forward).

Another credit flexibility under consideration would be a manufacturer's ability to transfer credits among its vehicle fleet to achieve compliance with the standards. For example, credits earned by over-compliance with a manufacturer's car fleet average standard could be used to offset debits incurred due to that manufacturer's not meeting the truck fleet average standard in a given year. EPCA provides for this type of credit transfer with CAFE as does EPA within its Tier 2 program. EPA currently intends to propose unlimited credit transfers across a manufacturer's car-truck fleet to meet the GHG standard. EPCA, however, limits the amount of credits that may be transferred, and also prohibits the use of transferred credits to meet the statutory minimum for the domestic car fleet standard. These and other limits in EPCA would continue to apply to the determination of compliance with the CAFE standard.

Finally, proposals under consideration would allow accumulated credits to be traded (sold) to other vehicle manufacturers. These sorts of exchanges are typically allowed under EPA's current emission credit programs, although manufacturers have seldom made such exchanges. EPCA also allows these types of credit trades, although, as with transferred credits, traded credits may not be used to meet the minimum domestic standards.

#### 2. Air Conditioning Credits

Air conditioning systems contribute to GHG emissions through the leakage of hydrofluorocarbon refrigerants which are powerful GHG pollutants, and also by placing an additional load on the engine, which causes the engine to produce additional CO<sub>2</sub> emissions. EPA is considering an approach that would enable manufacturers to earn credits by reducing GHG emissions related to air conditioning systems. Under this approach, EPA would propose a test procedure and method to calculate CO<sub>2</sub> equivalent reductions on a gram/mile basis that could be used as credits in meeting the fleet average CO<sub>2</sub> standards. The approach under consideration could provide manufacturers with a highly cost-effective way to achieve a portion of GHG emissions reductions under the EPA program. EPA is also considering the possibility of allowing early air conditioning credits that could be earned through air conditioning system improvements in the years leading up to the start of the program.

<sup>11</sup> 74 FR 14196; March 30, 2009.

<sup>12</sup> 74 FR 14407–14409; March 30, 2009.

### 3. Flex-Fuel and Alternative Fuel Vehicle Credits

EPCA authorizes an incentive under the CAFE program for production of dual-fueled or flexible-fuel vehicles (FFV) and dedicated alternative fuel vehicles. FFVs are vehicles that can run both on an alternative fuel and conventional fuel. Most FFVs are E-85 vehicles, which can run on a mixture of up to 85 percent ethanol and gasoline. Dedicated alternative fuel vehicles are vehicles that run exclusively on an alternative fuel. EPCA's provisions were amended by the EISA to extend the period of availability of the FFV credits, but to begin phasing them out by annually reducing the amount of FFV credits that can be used to help achieve compliance with the CAFE standards.<sup>13</sup> EPCA does not premise the availability of the FFV credits on actual use of alternative fuel. Under current law, after MY 2019, no FFV credits will be available for CAFE compliance. For dedicated alternative fuel vehicles, there are no limits or phase-out.

For the GHG program, EPA contemplates proposing to allow FFV credits in line with EISA limits only during the period from MYs 2012 to 2015. EPA will also consider allowing FFV credits beyond MY 2015 if manufacturers are able to demonstrate that the alternative fuel is actually being used in the vehicles. EPA is also considering how that demonstration could be made.

### 4. Temporary Lead-Time Allowance Alternative Standards

EPA is considering a temporary lead-time allowance for manufacturers whose sale of vehicles in the U.S. in a specified time period is below a specified cut-off, such as sales of 400,000 vehicles or less during a specified year, such as MY 2009 or 2010. This would limit the number of vehicles to which the flexibility could apply. The manufacturers that satisfy the threshold criteria would be able to treat a limited number of vehicles as a separate averaging fleet, which would be subject to a less stringent GHG standard.<sup>14</sup> EPA is considering a less stringent GHG standard that would be 125 percent of

<sup>13</sup>EPCA provides a statutory incentive for production of FFVs by specifying that their fuel economy is determined using a special calculation procedure that results in those vehicles being assigned a higher fuel economy level than would otherwise occur. This is typically referred to as an FFV credit.

<sup>14</sup>EPCA does not permit such an allowance. Consequently, manufacturers who may be able to take advantage of a lead-time allowance under the CAA would be required to comply with the applicable CAFE standard or be subject to penalties for non-compliance.

the vehicle's otherwise applicable footprint target level. EPA envisions that this allowance would be available only during the MY 2012–2015 phase-in years of the program. Appropriate restrictions on credit use would be expected to apply in the proposal under consideration. These allowance vehicles would be expected to be averaged into the manufacturer's fleet starting no later than MY 2016.

### 5. Additional Potential Credit Opportunities

EPA is considering opportunities for early credits in MYs 2009–2011 through over-compliance with a baseline standard that EPA is considering. The baseline standard would be set to be equivalent, on a national level, to the California standards. Potentially, credits could be generated by over-compliance with this baseline in one of two ways—over-compliance by the fleet of vehicles sold in California and the CAA section 177 States, or over-compliance with the fleet of vehicles sold in the 50 States. EPA is also considering allowing early credits based on over-compliance with CAFE, but under the contemplated proposal only for vehicles sold in States outside of California and the CAA section 177 States, and without use of FFV credits. Were this approach adopted, the program would need to be designed to avoid double counting credits between the two approaches.

EPA is currently considering proposing additional credit opportunities to encourage the commercialization of advanced GHG/fuel economy control technology such as electric vehicles and plug-in hybrid electric vehicles. These “super credits” could take the form of a multiplier that would be applied to the number of vehicles sold such that they would count as more than one vehicle in the manufacturer's fleet average. EPA is also considering allowing such credits to be generated for years prior to MY 2012.

EPA is also considering an option for generation of credits for employing technologies that achieve GHG reductions that are not reflected on current test procedures. Examples of technologies that EPA could consider include technologies such as solar panels on hybrids, adaptive cruise control, and active aerodynamics, among other things.

### D. Compliance

There are ample precedents established in previous EPA and NHTSA regulations on which to develop an effective compliance program which would achieve the energy and environmental benefits from

CAFE and motor vehicle GHG standards. EPA and NHTSA currently intend to propose a program that recognizes and replicates as closely as possible the compliance protocols associated with the existing CAA Tier 2 vehicle emission standards, and with CAFE standards. The certification, testing, reporting, and associated compliance activities could closely track current practice and thus be familiar to manufacturers. EPA already oversees testing, collects and processes test data, and performs calculations to determine compliance with both CAFE and CAA standards. In a coordinated approach, compliance mechanisms for both programs could be consistent and non-duplicative.

The general approach under consideration would allow manufacturers to satisfy the new program requirements in the same way they comply with existing CAA and CAFE requirements. Manufacturers would demonstrate compliance on a fleet-average basis at the end of each model year, allowing model-level testing to continue throughout the year as is the current practice for CAFE determinations. Although statutory authorities and flexibilities available to EPA and NHTSA differ, such a compliance program design could establish a single set of manufacturer reporting requirements and rely on a single set of underlying data, yet allow each agency to assess compliance with its respective program.

Using currently available analyses, EPA and NHTSA do not anticipate any significant noncompliance under the program being considered. However, failure to meet the standards after credit opportunities are exhausted would ultimately result in the potential for penalties under EPCA, and under the CAA as well. The CAA allows considerable discretion in assessment of penalties. Penalties under the CAA are typically determined on a vehicle-specific basis by determining the number of a manufacturer's highest emitting vehicles that caused the fleet average standard violation. This is the same mechanism used for EPA's National LEV and Tier 2 corporate average standards, and to date there have been no instances of noncompliance. EPCA penalties are specified by statute and would be assessed for the entire noncomplying fleet at a rate of \$5.50 times the number of vehicles in the fleet times the number of tenths of mpg by which the fleet average falls below the standard. In the event of a compliance action arising out of the same facts and circumstances, EPA could consider CAFE penalties

when determining appropriate remedies for the EPA case.

**III. Conclusion**

There is a critically important need for our country to address global climate change and to reduce oil consumption. In this context, EPA and NHTSA currently intend to work in coordination to propose standards for control of emissions of greenhouse gases and for fuel economy, respectively. The EPA and the NHTSA plan to propose a strong and coordinated Federal greenhouse gas and fuel economy program for MY 2012 through 2016 passenger cars, light-duty trucks, and medium-duty passenger vehicles, as described above. Both agencies seek to propose a coordinated program that can achieve important reductions of greenhouse gas GHG emissions and improvements in fuel economy from the light-duty vehicle part of the transportation sector, based on technology that will be commercially available and that can be incorporated at a reasonable cost.

The agencies anticipate issuing a joint proposal in the near future, and welcome robust public participation in the rulemaking process.

Dated: May 18, 2009.

**Lisa P. Jackson,**

*Administrator, Environmental Protection Agency.*

Dated: May 18, 2009.

**Ray LaHood,**

*Secretary, Department of Transportation.*

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

[Document Identifier: OS-0990-New; 30-Day Notice]

**Agency Information Collection Request; 30-Day Public Comment Request**

**AGENCY:** Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to [Sherrette.funncoleman@hhs.gov](mailto:Sherrette.funncoleman@hhs.gov), or call the Reports Clearance Office on (202) 690-5683. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the OS OMB Desk Officer; faxed to OMB at 202-395-6974.

*Proposed Project:* Facts for Consumers about Health IT Service Providers—OMB No. 0990-NEW—OS/Office of the National Coordinator for Health Information Technology (ONC).

*Abstract:* A new health information technology, the personal health record (PHR), seeks to provide consumers with the capability to directly manage their own health information. Although PHRs can exist in different formats or media (i.e., paper or electronic), the term usually refers to an online record containing an individual's personal health information. PHRs typically

include information such as health history, vaccinations, allergies, test results, and prescription information. Given the newness of the electronic PHR concept, the different ways to establish PHRs, and the sensitivity of personal health information, ONC is taking steps to establish that useful facts about PHRs and PHR privacy policy information be made available to consumers so they can make informed decisions about selecting and using PHRs. Toward this end, ONC has a project to develop an online model for PHR providers. The model will be developed to:

- Allow presentation of important PHR facts and policies to consumers,
- Allow consumers to understand and consistently compare PHR service provider policies with others, and
- Focus on the key information that may influence decisions and choices of PHR service provider.

The project includes iterative rounds of in-depth consumer testing during April–October 2009 to assess and analyze consumer understanding and input about the model. The model will be iteratively revised to design a final template that will allow PHR vendors to convey useful and understandable facts to consumers about their privacy, security, and information management policies. Testing will be conducted in six locations that cover the four geographic census regions and will include 90-minute, one-on-one, cognitive usability interviews with six to seven participants at each of six sites, for a total not to exceed 42 interviews. In addition, each participant will have been recruited through a 15-minute screening interview. The participants will be recruited according to U.S. census statistics for race/ethnicity, age, marital status, gender, and income. Also, the sample will include participants both familiar and unfamiliar with PHRs and participants who manage chronic health issues or a disease for themselves or others.

**ESTIMATED ANNUALIZED BURDEN TABLE**

Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Individuals screened .....	84	1	15/60	21
Participants selected .....	42	1	90/60	63
<b>Total .....</b>				<b>84</b>