

include some of the larger SUVs that have entered the market in recent years. During this time, a small number of vehicles classified as SUVs have been of sufficient GVWR to be beyond the reach of the CAFE program. These very large SUVs account for approximately 10% of the total number (approximately 500,000) of vehicles with a GVWR between 8,500 and 10,000 pounds, and less than 1% of all SUVs. Sales of these very large SUVs have remained stable over the last several years. Including additional vehicles within the CAFE program requires a finding that doing so is feasible and that it would significantly enhance energy conservation.

This document presents two potential options under which vehicles with a GVWR of up to 10,000 lbs. could be included under the CAFE program. One option would be adopting the definition established by EPA for medium duty passenger vehicles (65 FR 6698, 6749–50, 6851–6852) for use in the CAFE program. The definition applies to a heavy-duty vehicle with a gross vehicle weight rating of 8,501 to 10,000 pounds that is designed primarily for the transportation of persons. However, medium duty passenger vehicles (MDPV's) do not include vehicles that:

1. Are "incomplete trucks"; or
2. Have a seating capacity of more than 12 persons; or
3. Are designed for more than 9 persons seated rearward of the driver's seat; or
4. Are equipped with an open cargo area of 72 inches in interior length or more, or a covered box not readily accessible from the passenger compartment that is 72 inches or more in interior length.

This definition would essentially make SUVs between 8,500 and 10,000 lbs. GVWR subject to CAFE, while continuing to exclude most medium- and heavy-duty pickups and most medium- and heavy-duty cargo vans that are primarily used for agricultural and commercial purposes. The inclusion of these larger SUVs in CAFE could help reduce petroleum consumption. In addition, public policy directed towards reducing the weight of these vehicles may help address vehicle incompatibility and thus improve safety.

A second option would be to make all vehicles between 8,500 and 10,000 lbs GVWR subject to CAFE standards. Since the majority of trucks in this weight class are pickup trucks, the agency is concerned about the impacts this might have on farmers and small businesses, and in particular, the potential adverse impacts on the cost and utility of these

vehicles. The agency nonetheless invites comments on this reform alternative, as well as the option to cover a more limited set of vehicles with a GVWR between 8,500 and 10,000 lbs.

### VIII. Conclusion

The current structure of the CAFE program was created in the 1970s. It reflects efforts made to distinguish between vehicles prevalent at the time and bearing little resemblance to today's motor vehicle market or the current and emerging vehicle fleet. The Congressional "freeze" imposed during much of the 1990s prohibited the agency from reviewing the efficacy of the regulations defining passenger cars and light trucks, or the manner in which the CAFE program is structured. The current structure of the CAFE program encourages the development of vehicles that are larger and heavier, and which may have higher centers of gravity. Thus, the CAFE program may contribute to the two principal vehicle safety problems on the road today: vehicle compatibility and rollover.

Through this document, the agency intends to begin a public discussion on potential ways, within current statutory authority, to modernize the CAFE program and to make it more consistent with our public policy objectives. The agency has set forth a number of possible concepts and measures, and invites the public to present additional concepts not presented here. This discussion is not intended to address the stringency of proposed CAFE standards in the future, but rather the basic structure of the CAFE program. The agency is interested in any suggestions towards revamping the CAFE program in such a way as to enhance overall fuel economy while protecting occupant safety and the economic vitality of the auto market.

### IX. Public Participation

Interested persons are invited to comment on this advance notice of proposed rulemaking. It is requested, but not required, that two copies be submitted to the Office of Docket Management, Room PL-401, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

All comments must be limited to 15 pages in length. Necessary attachments may be appended to those submissions without regard to the 15-page limit (49 CFR 553.21). This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

Written comments to the public docket must be received by April 27, 2004.

All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the above address before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date.

NHTSA will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons who wish to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all comments will be placed in the Docket for this advance notice of proposed rulemaking in the Office of Docket Management, Room PL-401, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

### X. Regulatory Analyses and Notices

#### *Executive Order 12866 and DOT Regulatory Policies and Procedures*

NHTSA has considered the potential impacts of this advance notice of proposed rulemaking under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. The Office of Management and Budget reviewed this document under E.O. 12866, "Regulatory Planning and Review." This document has been determined to be significant under the Department's regulatory policies and procedures.

This document seeks comment on potential changes to the agency's regulations relating to Corporate Average Fuel Economy, including potential changes to vehicle classification and to the fuel economy standards applicable to those vehicles. The agency could take a variety of regulatory actions regarding these issues. Further, this agency has not identified any regulatory actions sufficiently likely to warrant calculation of possible benefits and costs. If NHTSA were to initiate rulemaking and develop a rulemaking proposal, the agency would calculate the costs and benefits associated with the specific proposal and place its analysis in the docket for that proposal. The agency would also conduct the various other rulemaking analyses required by applicable statutes and Executive Orders.