

STAFF REPORT

SUBJECT: Safer Affordable Fuel-Efficient (SAFE)
Vehicles Rule Adoption

RECOMMENDED ACTION: Discussion

SUMMARY:

On August 24, 2018, the Environmental Protection Agency (EPA) and the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) jointly published in the *Federal Register* a notice of proposed rulemaking entitled, "The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks." In this notice of proposed rulemaking, the agencies proposed new and amended greenhouse gas (GHG) and Corporate Average Fuel Economy (CAFE) standards for model year 2021 to 2026 light duty vehicles. EPA also proposed to withdraw the waiver it had previously provided to California for that State's GHG and ZEV programs under section 209 of the Clean Air Act. NHTSA also proposed regulatory text implementing its statutory authority to set nationally applicable fuel economy standards that made explicit that those State programs would also be preempted under NHTSA's authorities.

On September 19, 2019, the agencies finalize the two actions related to the waiver and preemption. Accordingly:

- (1) EPA announces its decision to withdraw the waiver; and
- (2) NHTSA finalizes regulatory text related to preemption. The agencies anticipate issuing a final rule on standards proposed in the NPRM in the near future.

This joint action is effective 60 days from the date of publication in the *Federal Register*.

RECOMMENDATION:

Discussion.

FISCAL IMPACT:

Fiscal impact has yet to be determined.

BACKGROUND:

Under the Clean Air Act, EPA establishes national fuel economy and emissions standards for cars and light trucks. While the Clean Air Act generally preempts State regulation of motor vehicles,

California is specially empowered with a waiver from this preemption, allowing California to establish its own fuel economy and emissions standards.

On August 1st, 2018, the EPA and the National Highway Traffic Safety Administration (NHTSA) signed a notice of proposed rulemaking for the “Safer Affordable Fuel-Efficient Vehicles Rule for Model Years 2021-2026 [for] Passenger Cars and Light Trucks.” This rule proposes to set revised carbon dioxide standards, revised Corporate Average Fuel Economy standards for cars and light trucks, and to withdraw California’s waiver for the preemption of the State’s regulation of tailpipe standards.

Waiver withdrawal makes achieving GHG reduction goals more difficult.

SJCOG is charged with reducing GHG per capita via its Regional Transportation Plan / Sustainable Communities Strategy (RTP/SCS). Withdrawal of the waiver will result in increased GHG levels in the region, reducing the overall impact of the strategies and projects outlined in the RTP/SCS. Given that GHG targets for the 2022 RTP/SCS will be 60% higher than those set for the 2018 RTP/SCS, SJCOG staff is concerned about being able to meet the future GHG reduction targets. Failure to meet GHG reduction targets results in the region being unable to adopt its SCS. Without an adopted SCS, the region would become ineligible to pursue competitive funding under SB-1, and ineligible to receive its formula share of “Local Partnership Program” funds under SB-1.

Waiver withdrawal interferes with our ability to meet State Implementation Plan Requirements.

A State Implementation Plan (SIP) is a federally enforceable plan which identifies how that state will attain and maintain a federal air quality standard. SIPs must identify both the magnitude of reductions needed and the actions necessary to achieve those reductions. SIPs also include a demonstration that: the area will make reasonable further progress toward attainment and is implementing reasonably available control technology on all major sources.

The requirements of a SIP are met through the implementation of multiple strategies, including efforts led by the San Joaquin Valley Air Pollution Control District, project and policy commitments made by SJCOG, and through strong Corporate Average Fuel Economy standards set for vehicles sold in California. Waiver withdrawal for California will result in increased emissions as Corporate Average Fuel Economy standards are relaxed, making it significantly more difficult for standards established in applicable SIPs to be met.

Waiver withdrawal invalidates emissions models used to demonstrate compliance with the Clean Air Act.

In order to demonstrate that the region conforms to air quality standards established by EPA, SJCOG models travel behavior and computes emission levels. With a significant adjustment to the anticipated fuel economy of the vehicle fleet, the emission model software will need to be recalibrated by the California Air Resources Board (CARB). CARB staff indicate that this update may take upwards of two years to complete. Furthermore, all SIPs would need to be updated, as they are based on results from CARB’s emissions model. These updates could take one to two years as well.

SIP Failure / Conformity Failure stops the flow of federal funds.

Failure to meet SIP requirements results in a conformity failure for the region. A Conformity determination is prepared to demonstrate that the region’s program of projects, in combination with land use and transportation strategies that reduce emissions, would allow the region to meet established standards in applicable SIPs. Thus, SJCOG’s program of regionally significant

projects listed in the Regional Transportation Plan is dependent on passing air quality conformity to proceed. Should this happen, SJCOG would enter a conformity freeze, and the flow of federal funding for regionally significant projects would stop for any project that needs any modification to the RTP (e.g., cost, scope, or schedule changes).

Additional Points

While the intent of waiver withdrawal would be to align California with nationwide standards, it is important to understand that waiver withdrawal does not change the requirements of the Clean Air Act. The requirements for conformity remain the same, and the region's GHG reduction targets remain the same. Waiver withdrawal means one of the tools we use to meet these standards goes away. Meeting GHG reduction targets will be more difficult, and the region will be at risk for failing conformity, which can freeze money for regionally-significant projects.

ATTACHMENTS:

None.

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