



**U.S. DEPARTMENT OF TRANSPORTATION
U.S. ENVIRONMENTAL PROTECTION AGENCY**



One National Program Rule on Federal Preemption of State Fuel Economy Standards

ACTION

- On September 19, 2019, the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) and the U.S. Environmental Protection Agency (EPA) issued a final action entitled the "One National Program Rule" to enable the federal government to provide nationwide uniform fuel economy and greenhouse gas emission standards for automobile and light duty trucks.
 - This action finalizes critical parts of the Safer, Affordable, Fuel-Efficient (SAFE) Vehicles Rule that was first proposed in August 2018.
- This action makes clear that federal law preempts state and local tailpipe greenhouse gas (GHG) emissions standards as well as zero emission vehicle (ZEV) mandates.
- In this action NHTSA is affirming that its statutory authority to set nationally applicable fuel economy standards under the express preemption provisions of the Energy Policy and Conservation Act dictates that such state and local programs are preempted.
- EPA is withdrawing the Clean Air Act preemption waiver it granted to the State of California in January 2013 as it relates to California's GHG and ZEV programs.
 - California's ability to enforce its Low Emission Vehicle program and other clean air standards to address harmful ozone-forming vehicle emissions is not affected by this action.
- The agencies continue work to finalize the remaining portions of the SAFE Vehicles Rule, to address proposed revisions to the federal fuel economy and GHG vehicle emissions standards.

Background

- In August 2018, the Environmental Protection Agency (EPA) and the Department of Transportation's National Highway Transportation and Safety Administration (NHTSA) jointly proposed the rulemaking entitled "The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks."
- In this proposal, 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.

- This included a “preferred alternative” to lock-in the model year (MY) 2020 greenhouse gas (GHG)/Corporate Average Fuel Economy (CAFE) standards for model years 2021-2026.
- The proposal also took comment on a wide range of options, including an option to retain the existing ramp-rate (i.e., the stringency of the standards year-over-year).
- In SAFE, NHTSA proposed to determine that the Energy Policy and Conservation Act’s (EPCA) preemption of state regulation related to fuel economy has the effect of preempting state programs to regulate tailpipe GHG emissions, as well as state zero-emission vehicle programs (ZEV).
 - 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.
- Also, in SAFE, EPA proposed to determine that it has authority to reconsider past grants of waivers from Clean Air Act (CAA) preemption, and to withdraw the January 2013 EPA waiver of CAA preemption previously provided for California’s Advanced Clean Car (ACC) program with respect to that program’s GHG and ZEV elements.

Final Rule Summary

- Today, the agencies finalize joint action to bring clarity to the proper and improper scope and use of the CAA preemption waiver:
 - (1) NHTSA finalizes regulatory text related to preemption; and
 - (2) EPA announces its decision to withdraw the waiver;
- The agencies anticipate issuing a final rule on standards proposed in the NPRM in the near future.

Preemption Under the Energy Policy and Conservation Act

In today’s action, NHTSA is finalizing its proposal concerning preemption of State and local laws and regulations related to fuel economy standards.

- NHTSA affirms in today’s final rule that a State or local requirement limiting tailpipe carbon dioxide emissions from automobiles has the direct and substantial effect of regulating fuel consumption and, thus, is “related to” fuel economy standards.
- NHTSA is also finalizing its conclusion that EPCA does not preempt all potential State or local regulation of greenhouse gas emissions from vehicles.

- NHTSA and EPA are confirming their determination, in this final rule, that a Clean Air Act waiver does not waive EPCA preemption
 - Section 209 of the Clean Air Act explicitly states that a waiver of preemption pursuant to that provision of the Clean Air Act only relieves “application of this section.”
 - NHTSA also confirms its view that a Clean Air Act waiver does not “federalize” State or local requirements preempted by EPCA.
- To ensure uniform national fuel economy standards, Congress determined that it was appropriate to preempt States and local governments from adopting or enforcing laws or regulations related to the Federal standards.
- In enacting EPCA’s preemption provision, Congress explicitly recognized the need to avoid a patchwork of requirements related to fuel economy standards, and gave NHTSA the exclusive authority to set and enforce fuel economy standards with discrete and limited exceptions

EPA’s Withdrawal of Aspects of the January 2013 Waiver of CAA section 209(b) Preemption of the State of California’s Advanced Clean Car Program

In this action, EPA finalizes its proposed determination that it has the authority to withdraw a waiver in appropriate circumstances, and is withdrawing its January 2013 waiver for California’s ACC program with respect to that program’s GHG and ZEV elements.

The legal basis for withdrawing the California Waiver is that under CAA section 209(b)(1)(B), which covers compelling and extraordinary conditions. EPA finds that California does not need its GHG and ZEV standards to meet compelling and extraordinary conditions because:

- Those standards address environmental problems that are not particular or unique to California;
- That are not caused by emissions or other factors particular or unique to California; and
- For which the standards will not provide any remedy particular or unique to California
- The California waiver authority exists because California has uniquely difficult problems with ozone-forming pollutants.
- The California waiver authority does not exist to allow California to address national and global issues such as climate change.

Effective Date

Today’s action will become effective 60 days after publication in the Federal Register.