

Vehicle Emissions Battle: An Update



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Due to a deal struck with the Obama administration, in 2012 the California Air Resources Board (CARB) voted that auto manufacturers in compliance with federal greenhouse gas emissions standards were “deemed to comply” with requirements under California’s LEV III greenhouse gas regulations. This meant that so long as a manufacturer’s car and light-duty truck fleets were compliant with federal emission standards, those vehicles were also considered to be California-compliant.

However, immediately upon the change in presidential administrations in 2017, the Trump Administration made it clear that they wished to enforce a 50-state solutions to emissions rules and remove California’s ability to set different and stricter standards than the federal government. In August 2018, the Trump Administration’s Environmental Protection Agency (EPA) and National Highway Traffic Safety Administration (NHTSA) released their Safer,

Affordable, Fuel-Efficient (SAFE) Vehicles Rule that aims to freeze emission standards for MY 2021-2026 vehicles at 2020 levels. The agencies also proposed to find that CARB’s greenhouse gas and ZEV standards are preempted by federal law, and to withdraw the waiver of federal preemption that the EPA granted to California in 2013 for the greenhouse gas and ZEV requirements of its Advanced Clean Cars program.

The 2020 levels were to be set at: 37 mpg, and 2026 levels: 54.5 mpg.

In response, in late 2018 CARB voted to approve amendments to the LEV III greenhouse gas emissions regulation to clarify that the “deemed to comply” option is available only for the federal greenhouse gas regulations adopted by the Obama administration. This means that, in CARB’s view, manufacturers must comply with California’s more stringent regulations if they want to continue being able to sell cars in the state. Negotiations between the federal government and CARB have been discontinued.

In September 2019, the EPA and NHTSA issued a follow-up 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 aims to finalize critical parts of the SAFE Vehicles Rule that was first proposed in August 2018 and attempts to make it clear that federal law preempts state and local tailpipe greenhouse gas emissions standards as well as zero-emission vehicle mandates. The federal action also attempts to affirm federal preemption of state law in this area and withdraws the Clean Air Act preemption waiver it last granted to California in January 2013 as it relates to California’s GHG and ZEV programs.

EPA and NHTSA claim that the rule, which the agencies are still in the process of finalizing, will result in increased vehicle affordability and reduced regulatory costs on manufacturers, claims that the EPA’s Science Advisory Board and CARB Chair Mary Nichols have called into question.