

These questions and answers do not necessarily reflect the views or opinions of either the California Department of Transportation (Caltrans), or any of its districts, offices, management, or personnel; the California Air Resources Board; or the California State Transportation Agency. They simply represent a general summary of United States Environmental Protection Agency (EPA) Conformity Regulations (40 CFR 93 Subpart A) that individuals or entities have raised to Caltrans staff.

FREQUENTLY ASKED QUESTIONS (FAQs) SAFE VEHICLES RULE EFFECTS ON REGIONAL TRANSPORTATION PLANS, PROGRAMS, AND PROJECT DELIVERY

September 14, 2020

The United States Environmental Protection Agency (U.S. EPA) and the National Highway Traffic Safety Administration (NHTSA) published the "Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program" (84 Federal Register 51,310), revokes California's authority to set its own greenhouse gas emissions standards and zero-emission vehicle mandates and the Final SAFE Vehicles Rule (sometimes referred to as Part Two) (85 Federal Register 24,173), will increase the federal greenhouse gas emissions and fuel economy standards. This results in increased emissions that make it harder for California to attain federal ambient air quality standards and achieve California's climate goals. These emissions impacts may also have implications for the conformity of transportation plans, programs, and projects. This FAQ responds to common questions received regarding the emissions impacts of the SAFE Rules and the potential implications for transportation conformity. This document may be updated as appropriate.

Frequently Asked Questions Table of Contents

1. [How is California responding to the SAFE Rule?](#)
2. [How have federal agencies responded to the impacts of the SAFE Rule on EMFAC and transportation conformity in California?](#)
3. [What actions require FHWA and/or FTA to issue a transportation conformity determination?](#)
4. [How will SAFE Rule Part Two impact transportation conformity?](#)
5. [What further action will take place?](#)

How is California responding to the SAFE Rules?

- California and twenty-two other states, the District of Columbia, and several cities, including New York, Los Angeles, and San Francisco, filed suits challenging the SAFE Rules in the U.S. Court of Appeals for the District of Columbia Circuit. Additional challenges were filed by other interested parties. The various challenges to Part One and the Final Rule have been separately consolidated and are proceeding. The California Air Resources Board (CARB), California State Transportation Agency (CalSTA), and Caltrans are working with regional transportation agencies and local governments to solve potential problems caused by the SAFE Rules while the litigation continues.

These questions and answers do not necessarily reflect the views or opinions of either the California Department of Transportation (Caltrans), or any of its districts, offices, management, or personnel; the California Air Resources Board; or the California State Transportation Agency. They simply represent a general summary of United States Environmental Protection Agency (EPA) Conformity Regulations (40 CFR 93 Subpart A) that individuals or entities have raised to Caltrans staff.

How have federal agencies responded to the impacts of the SAFE Part One Rule on EMFAC and transportation conformity in California?

- NHTSA and U.S. EPA have not taken a formal position on whether California projects and plans have any transportation conformity issues.
- The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) have not published guidance describing how an agency will administer procedural changes triggered by the SAFE Vehicles Rules.
- EPA sent a letter on March 12, 2020, to CARB, concurring that the EMFAC2014 and EMFAC2017 off-model adjustment factors for the SAFE Part One Rule can be used for transportation conformity determination in California. These adjustments provided in the form of multipliers can be applied to emissions outputs from the EMFAC model to account for the impact of the SAFE Part One Rule. These off-model adjustment can be found at: [EMFAC Adjustment Factors](#).
- EPA responded to a joint letter submitted on March 2, 2020, by Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) stating that as of March 12, 2020, these adjustment factors could be used in transportation conformity determination and state implementation plan development.

What actions require FHWA and/or FTA to issue a transportation conformity determination?

- Adoption of a new RTP in an MPO region if the area is non-attainment/maintenance for any criteria pollutants.
- Adoption of a new FTIP/FSTIP. Next statewide FSTIP update draft due February 2021. Under state law, the FSTIP must be updated every two years. Federal law requires the FSTIP be updated every four years.
- Adding NEW regionally significant or non-exempt projects in a current approved RTP/FTIP or changing the design or scope of currently approved projects that has changed significantly from what was analyzed in the regional emissions analysis.
- Completion of Environmental Assessment (EA) or Environmental Impact Statement (EIS) as part of the National Environmental Policy Act (NEPA) for projects not listed in the Code of Federal Regulations (CFR).
- Transportation conformity reevaluations which require a project-level conformity determination from FHWA as required under NEPA Assignment under 23 U.S.C. section 327 for projects not listed in 40 CFR section 93.126.

These questions and answers do not necessarily reflect the views or opinions of either the California Department of Transportation (Caltrans), or any of its districts, offices, management, or personnel; the California Air Resources Board; or the California State Transportation Agency. They simply represent a general summary of United States Environmental Protection Agency (EPA) Conformity Regulations (40 CFR 93 Subpart A) that individuals or entities have raised to Caltrans staff.

How will SAFE Rule Part Two impact transportation conformity?

- EPA Region 9 and FHWA California Division concurred with CARB that no further action would be needed. In addition, FHWA confirmed that this verbal agreement was sufficient for transportation conformity purposes.
- On June 26, 2020, CARB released a memorandum "[EMFAC Off-Model Adjustment Factors for Carbon Dioxide \(CO2\) Emissions to Account for the SAFE Vehicles Rule Part One and the Final SAFE Rule](#)," which states, "these adjustment factors were only for criteria pollutants, and U.S. EPA considered them to be acceptable for use in transportation conformity determinations in California."
- Transportation conformity determination approval processes can continue to move forward with the use of the current adjustment factors for both EMFAC2014 and EMFAC17 based on the above information and reassurance from EPA Region 9 and the FHWA California Division.

What further action will take place?

- California will continue to (1) protect its authority, (2) promote ZEVs, (3) improve and maintain transportation safety, access, and mobility for Californians and (4) promote public health and clean, sustainable transportation.
- CalSTA, Caltrans, and CARB will continue coordinating and partnering with MPOs and stakeholders to identify near-term and long-term solutions. The agencies will continue to coordinate with US EPA and FHWA to obtain approvals for transportation projects.
- The litigation against the SAFE Rules could restore California's authority and appropriate federal emission standards.