Summary of Issues and Potential Risks of

Anticipated Final Federal Action on Safer Affordable Fuel-Efficient (SAFE) Vehicle Rule

April 15, 2019

Issues

- On August 24, 2018, U.S. Environmental Protection Agency (EPA) proposed to withdraw the Clean Air Act Preemption Waiver granted to California in 2013 for its "Advanced Clean Car" regulations as part of the Proposed SAFE Rule.
- If EPA finalizes the rule including the Waiver withdrawal as anticipated, the "Advanced Clean Car" regulations would be invalided.
- Because the "Advanced Clean Car" regulations were integrated into EMFAC2014, the official emission factors model approved and required by EPA for transportation conformity analysis in California, the action could invalid EMFAC2014.
- If EMFAC2014 would be invalided,
  1) MPOs in California would not be able to make any new transportation conformity determination for their RTPs, FTIPs, and their amendments.
  2) EPA could disapprove California's State Implementation Plans (SIPs) currently under its review.
  3) EPA could also ask FHWA/FTA to invalid the current transportation conformity determinations because those determinations were based on EMFAC2014.

Potential Risks

- Due to many uncertainties that would shape the course upon EPA's final action, it is very difficult, if not impossible, to figure out what will actually happen and when. Nonetheless, there are four potential consequences.
  1) If an applicable conformity deadline would be missed because of the anticipated EPA action, a 12-month transportation conformity grace period would be triggered after the missed deadline.
  2) If a SIP would be disapproved without a protective finding by EPA because of the anticipated EPA action, a transportation conformity freeze would be triggered upon effective date of the SIP disapproval.
  3) If a SIP disapproval would not be resolved after two years because of the anticipated EPA action, highway sanctions would be triggered.
  4) If an RTP/FTIP conformity determination would expire or not be made for more than one year or a SIP would be disapproved for more than two years because of the anticipated EPA action, a transportation conformity lapse would be triggered.
- Under a conformity grace period or a conformity freeze, no new RTP/FTIP or RTP/FTIP amendment.
- Under highway sanctions, federal funding would be restricted on many highway projects.
- Under a conformity lapse, non-exempt and TCM projects could not receive federal funding, federal approval, or be amended into RTP/FTIP.
- It is important to note: 1) The SAFE Vehicle Rule including the Waiver Withdrawal is intended to roll back vehicle GHG emission standards, not to create transportation conformity failure or highway sanctions; and 2) All SIP and conformity actions by EPA, FHWA/FTA, or ARB require a public process.