

to regulate greenhouse gas emissions from light-duty motor vehicles. Specifically, NHTSA issued for the first time a set of “preemption” regulations, stating that statutory language in the Energy Policy and Conservation Act barring state laws and regulations “related to fuel economy standards,” 49 U.S.C. § 32919(a), preempts state and local tailpipe greenhouse gas emission standards and zero emission vehicle sales mandates for light-duty vehicles.

3. The One National Program Action also included EPA’s determination to withdraw those portions of the 2013 waiver issued pursuant to Clean Air Act Section 209, 42 U.S.C. § 7543(b), that had allowed California to adopt such greenhouse gas emission standards and zero emission vehicle sales mandates. EPA’s portion of the One National Program Action also put forward an interpretation of Clean Air Act Section 177, 42 U.S.C. § 7507, stating that this provision should be read to allow other states to adopt California’s vehicle standards for criteria pollutants, but not its vehicle standards for greenhouse gases. *See generally* 84 Fed. Reg. 51,310.

4. On February 8, 2021, the Court granted the Federal Agencies’ motion to hold these cases in abeyance pending the Federal Agencies’ implementation of an Executive Order directing the Federal Agencies to immediately review and potentially rescind or revise the One National Program Action.

5. On April 22, 2021, NHTSA's Acting Administrator signed a Notice of Proposed Rulemaking. In NHTSA's Notice, NHTSA proposed to repeal NHTSA's portions of the One National Program Action in which NHTSA codified regulatory text and made additional pronouncements regarding the preemption of state and local laws related to fuel economy standards. *See* 86 Fed. Reg. 25,980 (May 12, 2021). The period for public comments on NHTSA's proposal closed on June 11, 2021.

6. On April 28, 2021, EPA published in the Federal Register a Notice of Opportunity for Public Hearing and Comment. 86 Fed. Reg. 22,421 (Apr. 28, 2021). In EPA's Notice, EPA announced that it is reconsidering the portions of the One National Program Action in which EPA withdrew a waiver of preemption for California's zero emission vehicle mandate and greenhouse gas emission standards within California's Advanced Clean Car program. *Id.* at 22,421/1-2. The Advanced Clean Car program waiver, as it pertains to the greenhouse gas emission standards and zero emission vehicle mandates, will become effective should EPA rescind its portions of the One National Program Action. *Id.* at 22,421/2. EPA also announced that it is taking comment on its interpretation of Clean Air Act Section 177. *Id.* at 22,428/3. The period for public comments on EPA's Notice closed on July 6, 2021.

7. NHTSA and EPA are currently reviewing public comments in consideration of forthcoming final actions. The Agencies consider a continued abeyance in the above-captioned cases appropriate in light of these circumstances and their continuing progress on the actions.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2021, a copy of the foregoing Status Report was served electronically through the Court's CM/ECF system on all counsel of record.

/s/ Chloe H. Kolman

CHLOE H. KOLMAN