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FUEL ECONOMY

Enviros, lawmakers try to head off regulatory rollbacks

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Environmental groups, lawmakers and national security advocates are trying to pre-empt any administration move to soften fuel economy standards by warning that such action would be caught up in lengthy litigation and create uncertainty for automakers.

As early as this week, U.S. EPA and the Transportation Department will begin reconsidering whether to loosen vehicle emissions standards by restarting a review that the Obama administration finalized in its final days.

The Trump administration is also considering revoking California's waiver to set its own, stronger vehicle emission rules, according to several media reports.

California, plus 12 states that have followed its lead, are ready to engage in a lengthy court battle to protect the status quo, environmental advocates warned.

There is no precedent or clause in the Clean Air Act for revoking a waiver that has already been granted. California leaders, including state Senate President Pro Tem Kevin de León (D), have vowed a fierce fight.

"California and other states would have a very strong legal counterattack, which also illustrates why this whole change in course is so counterproductive," said Ken Kimmell, president of the Union of Concerned Scientists.

"All it's going to do is tie everything up in litigation and put automakers in a worse place, which is having uncertainty on whether they need to meet these 2025 standards," he said.

'Swerving off a cliff'

It's unlikely that restarting the so-called midterm review — which would open the possibility for EPA to loosen existing 2025 targets for vehicle emissions — could itself be subject to legal challenge.

Still, the Obama administration's decision to close the review in an attempt to lock in 2025 rules turned the process into a lightning rod.

Twelve Democratic senators warned EPA Administrator Scott Pruitt in a [letter](#) today that reopening the review would "weaken our energy security, harm consumers, and increase global warming pollution."

They also said the move would "create needless uncertainty for the auto industry and hinder the industry's ongoing process."

Sen. Ed Markey (D-Mass.), who co-authored the 2007 legislation to increase fuel economy, told reporters during a conference call that "Auto companies want the standards to ease, but by jumping in a speeding car with the Trump administration, they're putting themselves in danger of swerving off a cliff."

Neither automakers nor the administration have signaled what outcome they want from the review, other than putting it back on schedule for completion by April 2018.

Car companies have long wanted to eliminate slight differences between the standards put forward by EPA, the National Highway Traffic Safety Administration and the California Air Resources Board to avoid any uncertainty.

Environmental advocates decried any possibility that the targets would ultimately be loosened, which would require a new rule. Greens said they would expect opposition to extend beyond the normal rulemaking process.

"If the Trump administration does want to weaken the standards, you can count on the fact that states would want to keep them and would join in a lawsuit to maintain them," said Kimmell.

The administration would have to put forward significant new data to back a conclusion different from the one by the Obama administration to overcome legal challenges, he said.

'Snapback'?

EPA, in a massive technical report last summer, found that automakers could continue to meet and exceed the standards with available and impending technologies at little extra cost, echoing a similar finding by the National Academies of Sciences, Engineering and Medicine.

Automakers say those findings do not take changing consumer preferences for big trucks over small, fuel-efficient cars enough into account.

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Securing America's Future Energy CEO Robbie Diamond, who advocates for fuel economy standards as a way of boosting national security and reducing dependence on foreign oil, warned that "just fighting court cases" might get in the way of reducing greenhouse gas emissions.

"California and the government should be fighting [OPEC] together," he said. "If we fight each one of these battles — who should regulate, and why should they regulate, or how many years should it be — each of these battles takes time, and we will ultimately lose the war."

Diamond said he has advised administration officials to use the new review to look at regulating transportation as a whole rather than just on a vehicle-by-vehicle basis.

The goal would be to better take into account the environmental and fuel-use benefits of autonomous vehicles and ride-sharing networks. The plan includes some relief for automakers and early planning for rules beyond 2025.

"Going back to the normal schedule is not the end of the world, but it can be used as an opportunity to bring new technologies to the table to be folded into the standards," said Diamond.

<http://www.eenews.net/greenwire/2017/03/07/stories/1060051074>