Automakers Weigh How Far to Push Revisions to Fuel-Economy Standards

Eliminating the standards would send shockwaves that even industry may not want.

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As the Trump administration takes aim at President Obama's climate regulations, automakers are looking for a way to chip away at landmark standards requiring cars to become more fuel efficient.

Two major automotive-lobbying groups have asked the Environmental Protection Agency to review a January decision that locked in existing standards through 2025. A letter from the Auto Alliance, which represents 13 companies, called EPA's decision "the product of egregious procedural and substantive defects" and said the agency should withdraw it, as did a letter from Global Automakers, which represents foreign carmakers.

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Opening up that decision could mean a range of outcomes, from minor tweaks to a wholesale elimination of the standards that would seem in line with the administration's antiregulatory zeal. But the agreement that generated the standards means the process is fraught with potential land mines.

"There are ways of doing this thoughtfully, without repealing the whole action," said Margo Oge, who directed EPA's office of transportation and air quality from 1994 through 2012. "I found the Alliance letter pretty insulting. ... This can be done in a much more adult way than what the Alliance said."

The standards finalized in 2012 doubled fuel-economy standards through 2025, with a final target of 54.5 miles per gallon (those standards are set through the National Highway Traffic Safety Administration, while EPA set concurrent greenhouse-gas standards).

Part of the deal was a midterm review period to wrap up in 2018, a must-have for automakers concerned that consumer demand or technological problems render impossible in 2017 what seemed achievable five years earlier. Low gas prices in recent years did blunt the sales of smaller vehicles, raising companies' concerns about the feasibility of the standards.

Environmentalists feared that the midterm review could function as an "exit ramp" for automakers to lower the requirements, and Trump's election shook up the discussions. The Obama administration, however, quickly wrapped up the review before leaving office, saying a months-long, multimillion-dollar technical review indicated the standards should stay in place.

That's triggered a new flurry of action around the standards. The Auto Alliance in December hired two former House Transportation and Infrastructure Committee staffers—Elizabeth Spivey and Christopher Bertram—to lobby on fuel-economy issues, according to a registration filing.

The administration has not announced any plans, although EPA administrator Scott Pruitt said in his confirmation hearing that he would look at the midterm review process alongside the Transportation Department.

Automakers say because the previous decision was an adjudication, not a rulemaking, EPA can simply open up the docket again to consider evidence they say was omitted from the initial analysis. For example, Gloria Bergquist, vice president of the Auto Alliance, said EPA had not considered sales data from 2016 or consumer-trends studies that had not been completed.

Because NHTSA is working under a different statute, it also has to go through a rulemaking to finalize standards for 2021-2025 in a few years, a process that could offer an opportunity for revisions.

Industry sources emphasized that their main objection was with the process, not necessarily the substance of the standards; one industry official said they were concerned some of the Auto Alliance language came off as "hyperbolic" when the request was more reasonable. But a new midterm review period could offer a chance to weaken the standards, although that would be a lengthy rulemaking sure to spur lawsuits from environmentalists.

That would also create an issue regarding California, which has the right under the Clean Air Act to impose stricter regulations than the federal government but agreed to go along with the 2025 standards.

If California split, automakers would essentially have to sell to two marketplaces (several states have agreed to defer to California's standards), blunting most desire to axe the standards. Still, such a provision was included in a budget blueprint from the Heritage Foundation that's seen as an influence for the administration. Rep. Joe Barton of Texas also said at a September hearing that "you could make a good intellectual case to repeal CAFE [the Corporate Average Fuel Economy]," adding, "if Mr. Trump is president, we'll be back" to that discussion.

More realistically, automakers see opportunities to work around the margins of the program. The lobbying groups in June submitted a petition for EPA and NHTSA to better coordinate their programs. Automakers can get compliance credit for technology not counted in traditional test cycles, such as stop-start ignition or heat-saving technology, but automakers say they are counted differently between the two agencies. Automakers also asked that EPA amend multiplier credits meant to give more weight to companies producing electric vehicles.

An industry lobbyist suggested that EPA could keep the final standards stable, but offer more technology credits or make the program more flexible for carmakers to comply, a move the lobbyist said could help the industry without shaking up the agreement with California.

Dan Becker, director of the Safe Climate Campaign, said that strategy "sounds like we're taking a little here and a little there, but the reality is it's a major weakening of the oil savings and a hit to consumers at the gas pump."

Oge said that ultimately, automakers had little incentive to try to shake up the program, which offers regulatory certainty for a decade.

"If I was a car company, would I want to wait around for California or other lawsuits?" she said. "The fact that we put this together with all the players, with two agencies, with the state of California—that tells you if there's goodwill it can come together. There are ways of fixing this as adults."

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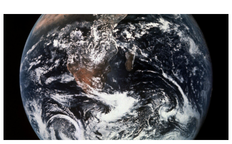

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