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EPA Locks in Fuel Economy Rules So Trump Can’t Rip Them Up

Cars pollute. Even the most devoted gearhead acknowledges that particular cost of doing business. And over the course of the Obama administration, the Environmental Protection Agency has tried to give that cost a number—and regulate it.

But with a new president inbound, one who seems to take the stance that the only good regulation is a dead regulation, it’d make sense to suspect that car companies and a new EPA head might try to overturn the regulations on greenhouse gas emissions from tailpipes.

So with the clock winding down, the current EPA has shored up the regulatory infrastructure. A “midterm review” of its existing standards, more than a year ahead of schedule, has concluded that yup, those regs are great! And they’ll stay in place through 2025.

“The development and deployment of advanced technology conventional gasoline engines has happened consistent with a robust vehicle market, more rapidly than we predicted, and at costs that are comparable or slightly lower than we predicted,” EPA administrator Gina McCarthy said in a letter announcing the decisions, noting the auto industry’s recent record sales.

Here's what's going on: In 2012, the Obama administration issued standards for the first serious upgrade of fuel efficiency since the government last cared about the problem in the 1970s. By 2025, cars would have to nearly double their average fuel efficiency (a kind of measure of emissions) and deliver, on average, more than 50 miles per gallon (which, for arcane reasons, equates to a real world figure of 36 mpg). The auto industry caved and agreed, with the caveat that by April 2018, the EPA and National Highway Traffic Safety Administration do a thorough review of the rules, and adjust them if they proved unduly expensive or just plain unworkable.

By completing that midterm review more than a year before the deadline, this EPA just melted down the best weapon for attacking the standards—disarming its future self, expected to be run by fervent climate change denier Scott Pruitt. If Pruitt's EPA were to have run the review next year? "This would have been the easiest pathway to weakening the rules," says Dan Becker, director of the Safe Climate Campaign.

Let's say President Trump and Administrator Pruitt decide to engage in hand-to-hand combat anyway. Could they roll back the tough standards? Yes, but it'd be difficult. One route would be fresh legislation, like amending the Clean Air Act, under which the EPA makes these rules. That kind of thing could be held up by a filibuster in the Senate.

Another angle would be to have the EPA review the standards again, from scratch. A full repeat of the process the agency just wrapped up would include a technical assessment report, a period of public comment, a proposed determination, and a final determination, plus all the research those were based on. It'd take years.

And at the end, Becker says, there would almost certainly be a lawsuit waiting, filed by any of the many parties eager to see the current standards enforced. The EPA stuffed its report with technical data backing up the claim that the standards will benefit public health without unduly hurting the auto industry. "Any new rule would need to overwhelm that data," Becker says. "Or the court is gonna say 'nuh-uh.'"

Now, the EPA's decision only affects greenhouse gas emission standards, not the actual miles per gallon figures automakers must deliver. Those fall under the Corporate Average Fuel Economy standards, and CAFE is the province of a different agency entirely, the National Highway Traffic Safety Administration. It has finalized standards through 2021, and should produce its final thoughts on 2022-2025 within the next year or so.

Confusing? Of course. That's part of the reason why, in 2012, when the Obama Administration was pushing to reduce pollution and increase fuel efficiency, it harmonized the goals set by the EPA and NHTSA. The latter even issued "augural" benchmarks through 2025, its way of saying, "We don't have the legal authority to make real rules that far in advance, but here's what you should expect."

And that makes for a potential vulnerability. Gutting NHTSA's efficiency requirements would be easier than messing with the EPA, since the rulemaking process has to happen anyway. But

for NHTSA to rule against those “augural” standards, the agency would have to account for the July 2016 technical report it co-authored with the EPA. And the EPA just used those 1,217 pages to argue that these goals are achievable and cost-effective.

Plus, nobody wants EPA and NHTSA working with different requirements. “Everyone involved thinks it’s important to maintain to the maximum degree possible this harmonized program,” says Therese Langer, transportation program director at the American Council for an Energy-Efficient Economy. Different standards just make things hard for regulators and the corporations they regulate.

In a fight against these rules, the Trump administration might find a friend in the Alliance of Automobile Manufacturers, a trade group representing Ford, GM, VW, Toyota, and other major automakers, which criticized the EPA’s last-minute rush to reaffirm the rules. “Our fundamental priority remains striking the right balance to continue fuel economy gains and carbon reduction without compromising consumer affordability and vital auto-sector jobs,” spokesperson Wade Newton said in a statement. “This crucial balance requires a midterm review that proceeds on the original EPA and NHTSA timetable, culminating not now but by April 2018.”

But for a global industry that plans products years in advance, a sudden relaxation of standards may not be so helpful. “You have to really wonder whether many of the big manufacturers just want to see a program like this go away,” Langer says. “They have made huge investments in recent years,” into advanced technologies that improve fuel efficiency: electric powertrains, turbochargers, lightweight materials, and more. They need those to compete in Europe and Asia, which have their own requirements. So even if Trump’s America pulls back, the rest of the world will keep pushing forward.

<https://www.wired.com/2017/01/epa-locks-fuel-economy-rules-trump-cant-rip/>