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## **Rollback of auto rule seen as Wheeler's 'first big test'**

**By: Maxine Joselow**

When acting EPA Administrator Andrew Wheeler announces a weakening of Obama-era clean car standards next week, it will be the first major rule rollback proposed on his watch.

EPA and the National Highway Traffic Safety Administration plan to formally propose weakening the greenhouse gas and fuel economy standards next week, according to an EPA official (E&E News PM, July 19).

The move stands to ratchet up emissions from transportation, which recently surpassed the power sector as the country's largest source of carbon dioxide. It could also lead to a split national auto market and a protracted legal battle with California.

When Wheeler took the helm of EPA on July 9, he inherited several proposed rollbacks from former EPA boss Scott Pruitt, including the high-profile actions to redo the Clean Water Rule and Clean Power Plan.

But the agency launched those with a notice of proposed rulemaking (NPRM) during Pruitt's time at the agency. This will be a first time an NPRM bears Wheeler's signature.

To critics, it's more evidence that while Wheeler has signaled an increase in press access and engagement with career staff, his policy agenda remains the same as Pruitt's at the end of the day.

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Paul Cort, staff attorney with Earthjustice, called the clean car rules "Wheeler's first big test."

"I think it will be telling if his first decision as head of the Environmental Protection Agency is to roll back environmental protections," Cort said.

### **Opportunity to reverse course**

The tailpipe rulemaking launched in April, when Pruitt announced the Obama-era tailpipe standards were "inappropriate" and should be revised (Greenwire, April 3). Over the next several months, EPA and NHTSA hammered out a detailed proposal for the revised rules.

Wheeler became acting EPA chief toward the end of that process, while the proposal was pending at the White House Office of Management and Budget. That meant there was still time to meet with advocates and potentially reverse course.

Stuart Shapiro, who served as assistant branch chief of OMB from 1998 to 2003, said Wheeler "could have made any type of changes" to the proposal while it was under review.

"Essentially, we would refer to the document that was sent to OMB as a draft proposal," said Shapiro, who now teaches at the Edward J. Bloustein School of Planning and Public Policy at Rutgers University.

"All sorts of changes, whether they come from OMB or the agency itself, can be made during that process. The proposal is not a final proposal until it's sent to the Federal Register."

Susan Dudley, who served as administrator of OMB's Office of Information and Regulatory Affairs during the George W. Bush Administration, concurred.

"There are several ways the new acting administrator could change course," said Dudley, who now heads the George Washington University Regulatory Studies Center, in an email.

"One would be for EPA to suggest changes and negotiate them with OIRA (and other relevant agencies) while the rule is under review," she said. "That often happens for smaller changes an agency might want to make after they've submitted a rule. Another would be for EPA to withdraw the rule, make the changes and resubmit."

Wheeler did hear arguments for maintaining the stringency of the standards from Mary Nichols, chairwoman of the California Air Resources Board, with whom he met earlier this week.

California has a Clean Air Act waiver allowing it to set tougher tailpipe standards than the federal ones. Thirteen other states and the District of Columbia have adopted those standards, representing nearly half the country's population.

While Nichols described the meeting as "pleasant," she said she fundamentally saw little difference between Wheeler and Pruitt (Climatewire, July 18).

"In terms of if there is a difference between Wheeler and Pruitt on these issues, I have yet to see any," Nichols said after the meeting. "It's not better or worse; it's the same."

### **Carper**

The timing of next week's rollback announcement may have come as a surprise to the top Democrat on the Senate Environment and Public Works Committee.

Sen. Tom Carper (D-Del.) earlier this year obtained a leaked draft of an EPA plan that would freeze fuel economy targets at 2020 levels through 2026, similar to what will likely be proposed next week (E&E News PM, April 27).

Since then, the Democrat has been pressing Wheeler to reverse course, saying the new acting EPA boss could "only be better" than Pruitt.

As recently as yesterday, Carper appeared to be holding out hope that Wheeler would back off the rollback. Carper said at a hearing yesterday on the nomination of Mary Neumayr to lead the Council on Environmental Quality: "So far in my conversations with Andrew Wheeler and [EPA air chief] Bill Wehrum, they basically said, 'We want a 50-state solution' that actually is good for the environment, is good for these companies and is just a win-win."

The Democrat told reporters after the hearing: "I think [Wheeler] believes a 50-state solution is out there, it makes sense, and that he'd like to see that. I wouldn't want to put words in his mouth, you can ask him. But I think he sees what the possibilities are."

Asked whether he had a different sense meeting with Wheeler than Pruitt, Carper said, "Oh, my God, night and day."

Carper today said, "I continue to believe that a 'win-win' solution — one that can garner the support of both automakers and the State of California — is within reach, despite what the most extreme voices would have you believe."

"I stand ready to work toward an agreement that would put American consumers' interests first, protect our environment and strengthen the economy, and I know that the key parties involved want the same thing."

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