



Safe Climate Campaign's Daniel Becker, a longtime backer of strong fuel economy rules, tells Inside EPA that there is ongoing uncertainty about prospects for a deal, even as he outlined barriers to reaching one any time soon.

"A deal is a deal. Whenever it is reached it can supersede whatever else happens," he said, adding it might be up to automakers to seek out an agreement with California even if the Trump administration snipes from the sidelines.

But the best time to have avoided the looming confrontation was "six months ago, or 12 months ago," Becker says.

He adds that "auto companies do want certainty and California doesn't want its authority taken away. The challenge is, what is it that California can agree to with either the Trump administration or automakers that allows California to keep its authority and actually use it?"

Any Vehicle GHG 'Deal' Seen As Unlikely Until After Court Battle Begins

By: Doug Obey

Observers are increasingly expecting that any deal on changes to vehicle greenhouse gas and fuel economy standards is unlikely before the Trump administration finalizes an aggressive rollback of the rules, suggesting debate over the issue will only get more acrimonious -- not less -- in the coming months.

Such a dynamic could also make it even more complicated to resolve differences among Trump officials, California-led states and automakers, given that any negotiating would be occurring amid high-stakes litigation over the federal rollback.

The appraisals come as the ongoing partial government shutdown is injecting a new level of uncertainty into the timeline for issuing a final rule if EPA and the Transportation Department remain closed for a significant period of time. Even prior to the funding lapse, sources said completing the package by a stated March timeline would be a heavy lift.

"Nobody is very optimistic about a near term deal," says a former EPA official. "If there is a deal, it is probably going to be later."

That timeline could mean that litigation over the final rollback -- which sources suggest could closely resemble the agencies' proposal to freeze standards at model year 2020 levels through MY26 -- would be already underway as the sides continue to try to reach a resolution.

The exact outlines of how such a scenario could play out remain scarce, with some groups suggesting exit strategies that may seem implausible on their face. "Nobody knows" how the issue will unfold, the source says.

The administration's regulatory freeze -- coupled with a direct attack on California and other states' authority to regulate vehicle GHGs -- has been highly contentious from the start. Trump officials are seeking to justify the move on safety and cost grounds, but a raft of unusually strenuous objections from EPA technical staff have emerged, blasting the analysis supporting the plan as fundamentally flawed.

At the same time, a knowledgeable source expects "not much" to occur before a final rule package, whether or not the agencies follow through with a freeze or completes a less aggressive rollback that still significantly weakens Obama-era standards.

Expectations that any deal could be reached later rather than sooner suggest that regulatory uncertainty for the auto industry will get worse, not better, in the coming months.

"I am just guessing," the source says, but one thing to watch for is manufacturers approaching California -- after the rule goes final -- to seek some sort of a way out.

ClearView Energy Partners in a Jan. 4 analysis offers a similar appraisal, predicting “escalating conflict” between the Trump administration and California after agencies finalize the vehicle package.

Only after a “protracted legal battle” does the consulting firm predict any kind of a “bargain” to resolve the issue, with one goal of such a deal being to avert separate federal and California vehicle programs.

While litigation over the rollback could be halted if Trump officials and California reach a bargain, implementing such a deal could still face bureaucratic hurdles, given that agencies might have to launch a new notice-and-comment rulemaking process that could take months.

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Shutdown Impact

Shorter-term movement on the vehicle standards rollback has been stymied by the ongoing government shutdown, raising questions about whether pending rulemaking schedules will be affected.

A former senior government official in the George W. Bush administration suggests that a shutdown of a few weeks may not matter much. But if it extends to months, it could hamper the Trump administration's ability to shore up the basis for its rulemakings.

“The technical and legal documents required to support deregulation are highly labor intensive, and are difficult to complete in a defensible manner without the work of the career civil service in the regulatory agencies.”

At the state level, California has already changed “deemed to comply” provisions in its state rules -- specifying that automaker compliance with weakened federal standards does not satisfy the state's vehicle program. That means the state would have to formally change its rules yet again if a deal is reached to retain harmonization of federal and state programs.

Additionally, the near certainty of high-stakes litigation over any final rollback has already prompted observers to suggest the possibility of a court stay, perhaps more likely if the final plan retains a full regulatory freeze -- a scenario that might boost pressure on automakers to seek a deal under the presumption the rollback could be overturned on the merits.

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