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EPA will grant California the right to ban sales of new gas cars by 2035

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The Environmental Protection Agency plans to grant the state the right to set stronger climate rules for cars, SUVs and pickup trucks as soon as next week.

Updated

By Maxine Joselow and Evan Halper
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Traffic backs up on Interstate 80 on Nov. 27 in San Francisco. Under the Clean Air Act, California can receive a waiver from the EPA to set tougher vehicle emissions rules than those of the federal government. (Justin Sullivan/Getty Images)

The Environmental Protection Agency plans to grant California permission to set stronger climate rules for cars and SUVs — a move that President-elect [Donald Trump](#) could attempt to reverse — according to two people briefed on the matter.

The EPA intends to issue California a waiver as soon as next week to enforce its rule aimed at [banning sales of new gasoline-powered cars in the state](#) by 2035, said the two people, who spoke on the condition of anonymity because they were not authorized to comment publicly. The Trump administration will probably try to revoke the waiver, although those efforts could run into legal obstacles.

The EPA plan underscores how President Joe Biden is [racing to Trump-proof](#) his climate legacy before leaving office next month. Just this week, his administration moved to [block new mining](#) in a sensitive watershed and to [ban two cancer-causing chemicals](#) used in a variety of consumer products and industrial settings.

Under the Clean Air Act, California can receive a waiver from the EPA to set tougher vehicle emissions rules than those of the federal government. More than a dozen other states follow California’s stricter rules, collectively accounting for about 40 percent of the U.S. auto market.

The California Air Resources Board, the top air pollution regulator in the state, approved a rule in 2022 that would phase out sales of new gasoline-powered cars and SUVs, culminating in a ban by 2035. The EPA in March [finalized its own rule](#) that would require automakers to more gradually ramp up EV sales while slashing emissions from gas-powered models.

California has requested a total of eight waivers to enforce climate regulations — not only for cars but also for heavy-duty trucks, trains and commercial harbor craft. It is unclear whether the EPA plans to issue other waivers in addition to the one for cars, the two people said.

EPA spokesman Nick Conger declined to confirm the agency's plans.

"EPA continues to review California's waiver requests closely to make sure its decisions are durable and grounded in the law," Conger said in an email. "We have no updates to share on timing."

Environmental and public health advocates have praised California's stronger car rules, which could cut smog-causing pollution from light-duty vehicles by 25 percent by 2037.

But many Republican lawmakers and conservative strategists have slammed the Golden State's approach, saying it will prevent consumers from choosing what kind of cars to drive.

"The American people have proven to refuse to be force-fed these electric vehicles,"

Sen. John Barrasso (R-Wyoming) said on the Senate floor on Wednesday.

"Can't be pushed into buying them, can't be bribed into buying them. 'No thank you,' said the American consumer. But that's exactly what the Democrats have been trying to do — to ban traditional vehicles and to bribe people to buy electric vehicles."

Environmentalists have vowed to challenge the Trump administration's possible waiver revocation in court, just as they did during Trump's first term.

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Ann Carlson, who recently served as chief counsel to the National Highway Traffic Safety Administration, said it would be difficult for the incoming administration to revoke the waiver, because it stands to help California comply with federal air pollution standards.

“Is the EPA going to say you can’t set standards to come into compliance with our own pollution rules? That puts the EPA on shaky legal ground,” said Carlson, a professor of environmental law at the University of California at Los Angeles.

Automakers also plan well in advance for future models, and some could be locking in long-term plans while the litigation plays out, Carlson added.

Car companies “are already making decisions about what models to have in place in 2028,” she said. “By that time, a new election is coming around.”

On Friday, the Supreme Court said it would review a lower court’s decision that fossil fuel industry groups lacked the legal right to challenge the waiver. Oral arguments in the case could occur as soon as March.

Trump has repeatedly railed against Biden’s policies promoting electric vehicles, arguing that they have hurt the domestic auto industry.

“I will end the electric vehicle mandate on day one,” Trump said in his speech at the Republican National Convention in Milwaukee, adding that the move would result in “saving the U.S. auto industry from complete obliteration.”

The president-elect also campaigned on ending the federal EV tax credit, even though Tesla CEO Elon Musk has emerged as one of Trump’s top backers and the subsidy has [driven much of Tesla’s business](#).

Musk has been tapped to help lead a new “[Department of Government Efficiency](#)” that will seek to slash regulations across the federal government.

Congressional Republicans could also take aim at the waiver using the Congressional Review Act, which allows lawmakers to nullify any regulation within 60 days of enactment with a simple majority vote. However, many legal experts and environmentalists have argued that the waiver is not subject to the CRA because it is not a regulation.

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