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Court Rejects Fuel Standards on Trucks

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SAN FRANCISCO — A federal appeals court here rejected the Bush administration's year-old fuel-economy standards for light trucks and sport utility vehicles on Thursday, saying that they were not tough enough because regulators had failed to thoroughly assess the economic impact of tailpipe emissions that contribute to climate change.

A three-judge panel of the Ninth Circuit Court of Appeals, in San Francisco, voided the new regulations for 2008-2011 model year vehicles and told the Transportation Department to produce new rules taking into account the value of reducing greenhouse gas emissions.

The court, siding with 4 environmental groups and 13 states and cities, also asked the government to explain why it still treated light trucks — which include pickups, sport utility vehicles and minivans — more mildly than passenger cars.

Under the rejected rule, the average fuel economy of light trucks was to rise to 23.5 miles a gallon in 2010, up from the current standard of 22.5 m.p.g., but still well below the current standard for passenger cars of 27.5 m.p.g.

The ruling, which is likely to be appealed to the United States Supreme Court, represents a major setback for both the auto industry and the White House at a

time of growing public concern over the rising price of gasoline and the issue of climate change.

Lawyers specializing in environmental issues said on Thursday that the decision had significant implications beyond the automobile industry's struggles over fuel-economy standards.

It was the third federal court ruling in seven months pressing regulators to take the risk of climate change into consideration as they set standards for industries that emit carbon dioxide and other heat-trapping gases produced when oil, coal and natural gas are burned to produce energy.

"What this says to me is that the courts are catching up with climate change and the law is catching up with climate change," said Patrick A. Parenteau, an environmental law professor at Vermont Law School. "Climate change has ushered in a whole new era of judicial review."

In each case, starting with the Supreme Court's 5-to-4 ruling this year that the Environmental Protection Agency can regulate heat-trapping emissions, courts have found that federal officials must either grapple with the consequences of climate change or explain why they chose not to.

In the latest decision, Judge Betty B. Fletcher wrote that the "impact of greenhouse gas emissions on climate change is precisely the kind of cumulative-impacts analysis" required

under the National Environmental Policy Act.

While the federal government may use a cost-benefit analysis to determine the "maximum feasible" fuel-economy standard, she added, "it cannot put a thumb on the scale by undervaluing the benefits and overvaluing the costs of more stringent standards."

The appeals court, in a decision that was unanimous on all the major points, also chided the Bush administration for exempting larger S.U.V.'s — those like the Ford Excursion and the Hummer H2 that weigh 8,500 pounds to 10,000 pounds — from any fuel-economy standards.

Among the environmental groups bringing the case were the Center for Biological Diversity and the Natural Resources Defense Council.

"This is another major rebuke of the Bush administration's policy of ignoring global warming," said Aaron Colangelo, a lawyer with the N.R.D.C.

Kieran Suckling, policy director of the Center for Biological Diversity, called the decision "a seismic change moment in terms of environmental regulation of all kinds in this country."

The ruling came after a decision two months ago by a federal judge in Vermont who rejected industry arguments that states like California, Vermont and New York were improperly usurping a federal prerogative when they set out

to regulate tailpipe emissions of carbon dioxide. The judge also ruled against the industry's argument that it was not feasible to comply with the state standards.

The decision comes at a time when American auto companies, in particular, have been trying to paint themselves as more environmentally conscious and interested in developing more fuel-efficient vehicles. At this week's auto show in Los Angeles, for example, several automakers introduced a number of new hybrid-electric car and trucks.

But Detroit and some foreign automakers have continued to lobby against the most stringent Congressional proposals to raise fuel-economy standards, supporting more modest proposals instead.

"Automakers support aggressive fuel-economy increases that would raise the standards for all vehicles to as much as 35 miles per gallon by 2022," Dave McCurdy, president of the Alliance of Automobile Manufacturers, said in a statement. At the same time, he said, the standards should seek "a good balance of safety, higher fuel economy and jobs benefits for all Americans."

The Bush administration has called for an increase in fuel economy that would require fuel efficiency to rise about one mile a gallon a year for the next few years. Fuel standards have recently been raised in Europe and Japan, and China has imposed its first standards.

Congress is debating several proposals for tougher auto-mileage standards and is beginning to address the broader question of setting a nationwide cap on the overall level of carbon dioxide and other global-warming emissions.

As for the latest court ruling, Charles Miller, a spokesman for the Justice Department, said: "We're in the process of reviewing the decision and we will consider all of our options" — among them is appealing the case to the Supreme Court.

Attorney General Edmund G. Brown Jr. of California, a state that has been in the forefront of regulating greenhouse gases, called the decision a "major victory" and "a stunning rebuke" to the Bush administration. He added that it signaled to Congress that it "must get serious about automobile efficiency and combating dangerous foreign oil dependency and global warming."

When the fuel-economy rules were introduced 19 months ago by Norman Y. Mineta, the transportation secretary then, they were estimated to cost auto manufacturers \$6.7 billion and to add about \$200 to the cost of the average vehicle. Environmentalists quickly attacked the rules, saying the industry could achieve far higher standards economically and technologically.

That was at the core of the environmentalists' court challenge, accompanied by arguments that there

was no clear explanation for treating light trucks differently from passenger cars and that bigger trucks should not be exempted from the federal standards.

"The need of the nation to conserve energy is even more pressing today" than when the original fuel-economy law was enacted, Judge Fletcher wrote. "What was a reasonable balancing of competing statutory priorities 20 years ago may not be a reasonable balancing of those priorities today."

Felicity Barringer reported from San Francisco and Micheline Maynard from Detroit.