



DOJ Seeks To Halt State Vehicle GHG Suit As Automakers Vow Talks

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The Department of Justice (DOJ) has requested that a federal appeals court suspend litigation filed by California and others over the Trump EPA's efforts to prohibit state vehicle greenhouse gas programs that are more stringent than federal rules, in order to allow the Biden administration to reconsider the policy.

And the remaining automakers who had sided with the Trump administration to oppose stricter state vehicle GHG rules are now [moving Feb. 2 to withdraw from the suit](#).

In addition, major auto companies are now outlining principles for a new federal vehicle GHG program and vowing to engage in talks with the Biden administration on the future of auto climate rules, although the scope of such negotiations is unclear.

The move to delay the suit was expected, as part of President Joe Biden's effort to reverse a suite of Trump EPA deregulatory actions as well as pursue stricter GHG rules for vehicles and other emissions sources.

Oral argument is not yet scheduled in the case, and it would "hardly be sound stewardship of judicial resources to decide this case now," DOJ writes in [a Feb. 1 motion](#) to the U.S. Court of Appeals for the District of Columbia Circuit in the consolidated legal dispute, *Union of Concerned Scientists, et al, v. National Highway Traffic Safety Administration (NHTSA), et al.*

The motion cites Biden's Jan. 20 executive order (EO) on public health and science, [which directed EPA and other agencies to review](#) numerous Trump administration policies, including the vehicle GHG action.

That order also laid out a series of deadlines for steps to reverse many of those policies, including an April timeframe for the policy on state programs, dubbed the “One National Program” rule, and a July deadline addressing a separate Trump administration rollback of federal standards.

“Abeyance will further the Court’s interests in avoiding unnecessary adjudication, support the integrity of the administrative process, and ensure due respect for the prerogative of the executive branch to reconsider the policy decisions of a prior Administration,” DOJ writes, asking the D.C. Circuit to hold the dispute in abeyance pending implementation of the Biden EO and “potential reconsideration” of the Trump policy.

The filing cites several precedents, including the same court’s 2009 decision to hold in abeyance a “similar challenge” to the George W. Bush EPA’s decision to deny a Clean Air Act waiver requested by California in order for it to pursue a state vehicle GHG program. The court’s decision allowed the Obama administration to reconsider, and DOJ in its motion notes that the court “later granted the petitioners’ request to have the case voluntarily dismissed after EPA granted the waiver upon reconsideration.”

The dispute over allowing California and other states to implement their own vehicle GHG and zero emission vehicle programs is separate from pending litigation over Trump administration’s rollback of federal vehicle GHG rules. The Obama administration made a landmark agreement with automakers on developing increasingly stringent vehicle emissions standards, but the Trump EPA and NHTSA action, backed by many automakers, undid that plan.

Automakers’ Withdrawal

Prior to DOJ’s motion, some automakers -- including General Motors and Nissan -- [had already exited](#) from a coalition of companies who were backing the Trump administration in the case.

But the remaining automakers and a coalition of auto dealers, represented as the Coalition for Sustainable Automotive Regulation and the Automotive Regulatory Council, in a Feb. 2 motion asked to withdraw from the litigation and the defense of the Trump administration’s policy. Companies that belonged to the group at the time of that filing include FCA US, and the American divisions of Mazda, Mitsubishi, Toyota, Hyundai, Kia and Subaru, as well as the National Automobile Dealers Association.

The Alliance for Automotive Innovation, which is the main auto industry group, in a Feb. 2 press statement floats three principles for engagement with the Biden administration on federal vehicle GHG controls.

They include a revised national program that includes California with “common requirements” and a level playing field; GHG improvements “roughly midway” between current standards and Obama-era requirements; and an effort to “modernize the current regulatory approach to focus on GHG emissions” and that supports “vehicle electrification” through incentives and other policies.

The policies include expanded credit multipliers for electrification, and “reforms that will be complemented by other important federal, state, and local investments and policies that support the transition to a zero-emission future.”

Environmentalists who support stricter vehicle GHG standards are touting the litigation developments but expressing caution on next steps. Dan Becker, director of the Safe Climate Transport Campaign for the environmental group Center for Biological Diversity, said the group “welcome[s] the auto industry’s retreat from its nefarious attack on the right of California and other states to protect their people from auto pollution.”

But he added that the Biden administration “must not agree to the auto companies’ request to negotiate weak standards after they repudiated their agreement to abide by the Obama-Biden standards they negotiated” during President Barack Obama’s administration. He then reiterated his own group’s goal of eliminating gas-powered vehicles by 2030, a position stricter than that of some other environmental groups.

“To protect the climate, the President should order strict rules slashing pollution from new vehicles and phase out gas powered automobiles by 2030.”

Another environmentalist adds: “Like they did under Trump, the automakers are again looking for handouts. The weak standards they are pushing fail to meet the necessary task of dramatically reducing pollution from vehicles. This is far from what the Biden administration has promised.” -- *Doug Obey* (dobey@iwpnews.com)

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