

January 3, 2008

## Calif. Sues EPA Over Tailpipe Rules

By SAMANTHA YOUNG – 4 hours ago

SACRAMENTO, Calif. (AP) — California sued the federal government in its struggle to set the country's first greenhouse gas limits on cars, trucks and SUVs, asking the Environmental Protection Agency to review its decision to deny the state a waiver that would allow it and 16 other states to regulate emissions.

Dismissing California's arguments that it faced unique threats from climate change, EPA Administrator Stephen L. Johnson said last month the federal government had a national plan to raise fuel economy standards. California officials on Wednesday provided new data in an attempt to show their program is superior to the federal plan.

"I think we are coming back strong not only with our legal case, but our technical justification," California Air Resources Board chairwoman Mary Nichols told reporters in a conference call.

Johnson said energy legislation signed by President Bush would raise fuel economy standards to an average of 35 miles per gallon by 2020, which he called a more effective approach to reducing greenhouse gases than a patchwork of state regulations.

California officials say their more aggressive law would require the auto industry to cut emissions by one-third in new vehicles by 2016, boosting efficiency to about 36.8 mpg.

EPA spokesman Jonathan Shradar said in an e-mail statement Wednesday that federal estimates show California's law would achieve reductions to only 33.8 mpg.

But an analysis released by state air regulators showed their 2004 tailpipe regulation would be faster and tougher than the federal fuel economy rules.

By 2016, California's standard would reduce the amount of carbon dioxide that vehicles produce by 45.4 million metric tons a year in California and the 12 other states that have already adopted the rules. That's nearly double the 23.4 million metric tons the report forecast would be cut under the federal fuel-efficiency standards, according to the analysis, which was based on EPA air pollution modeling.

By 2020, the California law would achieve a 44 mpg standard if the state extended its law as regulators have suggested, the report said.

Nichols said the report shows the EPA's rationale for denying the waiver was wrong. She and a coalition of environmental groups also challenged Johnson's claim that California does not face extraordinary conditions from climate change.

Scientists say rising seas could erode the state's coastline and top its levees, while warming temperatures are expected to reduce the Sierra snowpack, leading to a potential water crisis.

"He's wrong factually and legally," said David Doniger, an attorney for the Natural Resources Defense Council, which led environmental groups in filing a similar lawsuit Wednesday. "No other state can claim to be affected in so many serious ways as California."

Gov. Arnold Schwarzenegger said in a statement that EPA officials "are ignoring the will of millions of people who want their government to take action in the fight against global warming."

California Attorney General Jerry Brown filed the lawsuit Wednesday in San Francisco's 9th U.S. Circuit Court of Appeals, which is viewed as more friendly to the state's position than other federal courts. Brown said he expects the Bush administration will seek to transfer the case to the more conservative Washington, D.C.-based appeals court.

"We understand this is a long fight that may go to the Supreme Court," Brown said. "We feel this is going to be a struggle."

Twelve other states — Connecticut, Maine, Maryland, Massachusetts, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont and Washington — have adopted California's emissions standards, and others have said they plan to do so. The 12 states, along with Arizona, Delaware and Illinois, said Wednesday they plan to intervene in support of California.

"Today, there is simply no environmental issue more compelling — or extraordinary — than the increasing threat of climate change," New York Attorney General Andrew Cuomo said in a statement.

The EPA's Dec. 19 decision was a victory for automakers, which argued that they would be forced to reduce their selection of vehicles and raise prices in states that adopted California's standards.

It was the first time the EPA had fully denied California a waiver under the Clean Air Act since Congress gave the state the right to obtain such waivers in 1967.

The Alliance of Automobile Manufacturers, which represents General Motors Corp., Ford Motor Co., Chrysler LLC, Toyota Motor Corp. and six other automakers, favors the federal plan, spokesman Charles Territo said.

"We agree with EPA that a national policy is important to avoid a patchwork quilt of state regulations," Territo said.

The EPA's denial angered members of Congress, including California Democrats. Sen. Barbara Boxer and Rep. Henry Waxman, who chair the committees that oversee the EPA, said the agency ignored the legal requirements of the Clean Air Act.

Sen. Dianne Feinstein, D-Calif., on Wednesday called on the agency's inspector general to investigate allegations that Johnson acted against recommendations from his technical and legal staff in denying the waiver.

Last week, the EPA said it would turn over all documents about its decision to congressional committees that have promised hearings. The documents would include records of the EPA's communications with the White House.

The auto regulations are a major part of California's global warming law, which aims to reduce greenhouse gases statewide by 25 percent by 2020. Auto emissions account for about 17 percent of the state's proposed reductions.

Nichols said the California air board is reviewing other measures it could impose on automobile manufacturers if the lawsuit fails or delays the state's regulations from taking effect.

*Associated Press writers Paul Elias in San Francisco and Ken Thomas in Washington, D.C., contributed to this report.*

## **State sues EPA to force waiver over greenhouse gas emissions**

Bob Egelko, Chronicle Staff Writer

Thursday, January 3, 2008

California led 15 other states and five environmental groups into federal court Wednesday to challenge the Bush administration's refusal to let the state limit vehicle emissions of gases that contribute to global warming.

In a lawsuit filed in San Francisco, the state accused the Environmental Protection Agency of exceeding its authority when it barred California last month from enforcing limits on cars and trucks starting with the 2009 model year, the first law of its kind in the nation. The state needed the EPA's approval to implement clean-air standards that are stricter than federal rules.

"The EPA has done nothing at the national level to curb greenhouse gases, and now it has wrongfully and illegally blocked California's landmark tailpipe emissions standards," state Attorney General Jerry Brown said at a news conference in San Francisco.

He said EPA Administrator Stephen Johnson had offered no coherent legal explanation for his Dec. 19 refusal to let California act and accused President Bush's appointee of merely "doing the bidding of the auto industry."

The lawsuit was endorsed by Gov. Arnold Schwarzenegger, who said federal regulators were "ignoring the will of millions of people who want their government to take action in the fight against global warming."

The federal veto affected as many as 19 other states that have adopted California's standards or indicated their intention to do so, including the 15 that joined the lawsuit filed Wednesday with the Ninth Circuit Court of Appeals in San Francisco.

Other California political leaders chimed in, including Democratic Sen. Dianne Feinstein, who chairs a Senate subcommittee on the environment. She cited reports in The Chronicle and other news outlets that Johnson had ignored his legal staff's recommendation to grant California the waiver and asked the EPA's inspector general to investigate the decision.

"The thought has occurred that this was a political decision rather than an environmental decision," Feinstein said.

In response, EPA spokesman Jonathan Shradar cited Johnson's position that a national approach to the problem is better than state-by-state regulation. He noted that Bush had just signed legislation that requires makers of cars and trucks to increase fuel economy to an average of 35 miles per gallon by 2020.

"We now have a more beneficial national approach to a national problem, which establishes an aggressive standard for all 50 states as opposed to a lower standard in California and a patchwork of other states," Shradar said.

California's law, passed in 2002, established limits on auto emissions of carbon dioxide and other gases that scientists consider to be among the major causes of global warming. The law was scheduled to take effect with the 2009 models and would require automakers to reduce their 2016 fleets' emissions by 30 percent.

A federal judge in Fresno upheld the law last month, rejecting automakers' arguments that the law would interfere with exclusive federal regulation of fuel economy and would make new cars dangerous and unaffordable. But the state still needed EPA approval to enforce the law.

The federal Clean Air Act allows California, because of its smog problems, to enact air-quality rules more stringent than the national standard if the state gets a waiver from the EPA. The agency had approved about 50 waiver applications without a denial since the law took effect more than 30 years ago.

The greenhouse gas case was different, because California and the states that followed its lead were implicitly challenging Bush's policy of relying on voluntary industry action, rather than mandatory limits, to reduce greenhouse gas emissions.

After considering California's request for two years - finally prompting California to file another lawsuit seeking a prompt ruling - Johnson denied a waiver last month. He cited the newly signed federal fuel-economy law and also said the state didn't qualify for a waiver because greenhouse gases are not unique to California.

But the state and environmental groups said the EPA has regularly granted waivers to California to address air pollution problems that were not unique to the state.

In addition, "no other state can claim the same wide range of severe impacts that California faces: melting of the state's snowpack ... increases in catastrophic wildfires, worsening of dangerous smog levels and other harms," said attorney David Doniger of the Natural Resources Defense Council, one of the five advocacy organizations that went to court along with California and the other states.

California and its allies also disputed the EPA's assertion that the state law is weaker than the new national fuel-economy standards.

The EPA's Shradar said the federal agency estimates that manufacturers could comply with the California law by achieving an average of 33.8 mpg in their new cars and trucks by 2016.

But Mary Nichols, chairwoman of the state Air Resources Board, said studies by board staffers concluded that the California law would require a fleet average of 44 mpg by 2020 and would reduce greenhouse gas emissions in the state by about twice as much as the federal law.

"Frankly, this is not very surprising because California standards start earlier, go faster ... and the end points are more stringent," Nichols said.

Brown's office had said earlier that federal law required the lawsuit to be brought in the U.S. Court of Appeals in Washington, D.C., a more conservative court than the Ninth Circuit. Brown said Wednesday that Johnson's letter rejecting California's waiver did not refer to the controversy as a nationwide issue - which would have sent the suit to Washington - and instead referred only to conditions in California.

Brown said he prefers the Ninth Circuit because its record in environmental cases "has been more closely aligned with how we interpret the law." That may not matter in the long run, he added, because the case could wind up in the U.S. Supreme Court.

*Chronicle staff writers Matthew Yi and Zachary Coile contributed to this report. E-mail Bob Egelko at [begelko@sfchronicle.com](mailto:begelko@sfchronicle.com).*

<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/01/03/MN7HU850E.DTL>

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## **baltimoresun.com**

### **Md., other states file lawsuit over 'clean car' laws**

#### **Action follows EPA refusal to grant waiver to allow legislation**

By Tom Pelton

Sun reporter

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Maryland joined California and 14 other states in suing the Bush administration yesterday for blocking state efforts to reduce global-warming pollution from cars and trucks.

The U.S. Environmental Protection Agency announced last month that it would not grant a waiver to allow "clean cars" laws passed by Maryland and the other states. The announcement came a day after President Bush signed a law to increase average fuel-efficiency standards for vehicles to 35 miles per gallon by 2020, up from the current 25 miles per gallon.

EPA Administrator Stephen L. Johnson said the law made the state programs unnecessary.

But California Attorney General Edmund G. "Jerry" Brown Jr. led a group of states yesterday in a federal lawsuit to move forward with the state emissions restrictions.

"The EPA has done nothing at the national level to curb greenhouse gases and now it has wrongfully and illegally blocked California's landmark tailpipe emission standards, despite the fact that 16 states have moved to adopt them," Brown said.

Maryland Attorney General Douglas F. Gansler argued that it's an unfair denial of states' rights for the federal government to try to thwart state pollution control laws.

"Each state ought to be able to implement its will - and if a state wants to have more stringent standards, it ought to be able to do that," said Gansler.

The EPA said that a federal program makes more sense for a broad-ranging problem like greenhouse-gas pollution.

"We now have a more beneficial national approach to a national problem which establishes an aggressive standard for all 50 states," said agency spokesman Jonathan Shradar in an e-mailed statement.

California officials estimate that their program - copied by Maryland and other states - would achieve almost twice the greenhouse gas cuts as the federal fuel-efficiency standards.

The California program requires a 30 percent reduction in greenhouse-gas emission from new cars and trucks by 2016, as a fleetwide average. That requirement would mean reductions of about 45 million metric tons of pollution a year, compared with 23 million tons under the federal standards, said Stanley Young, a spokesman for the California Air Resources Board.

The 1963 federal Clean Air Act granted California unique authority to set emissions standards tougher than the federal rules.

Other states, including Maryland, have the choice of following California's standards or adopting the more relaxed federal limits. But California must get a waiver from the EPA each time that it sets a new standard. Over the past four decades, the federal agency had never denied a waiver in more than 40 requests - until last month.

Following more than a dozen mostly Northeastern states, Maryland passed a "clean cars" law last year that mirrors California's goal of cutting global-warming pollution by new cars by a third.

Maryland environmental Secretary Shari T. Wilson said yesterday that federal fuel-efficiency standards for engines should complement, but not replace, state limits on pollution from tailpipes.

"We've always had fuel-efficiency requirements, but that doesn't mean we also don't have regulatory programs to control emissions from vehicles," Wilson said. "This is a sudden change in course [by the federal government], and it's really perplexing."

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