



Thursday, Dec. 20, 2007

Schwarzenegger vs. the Feds

By Kristin Klobberdanz/Fresno

TIME'S Kristin Klobberdanz sat down with Gov. Arnold Schwarzenegger and Mary Nichols, chairperson of the California Air Resources Board, in Fresno, California to discuss the Environmental Protection Agency (EPA) denying the right of California and 16 other states to set their own fuel emission standards. The Governor was clearly frustrated though he remained genial. Excerpts from the interview:

TIME: How frustrating was the EPA ruling?

SCHWARZENEGGER: I always start with the positive. I was very happy that Congress and that the President signed into law [an improvement for] fuel efficiency of the vehicles by the year 2020. That is the first time in a long time, which, of course doesn't say much for the United States.... But it's good news. So that's number one. It's one of those things that you get that news in the morning and then a few hours later, then you get the real bad news. Which is that they don't believe that we should be controlling our own destiny and cleaning up the air and controlling the tailpipe emissions and all those kinds of things.

What this means is, we sued them in order to get the waiver [to set their own standards], now we're going to sue them to overturn the decision [denying the states the right to set their own standards]. And I think what it's basically saying is that they made a decision which is against the will of millions of people in California. It's a decision that is against the will of 16 other states. When I look at that, the Environmental Protection Agency is the Environmental Destruction Agency. The name says it protects the environment. How can that protect the environment when you don't want to let anyone really move forward with this agenda? And [as for] the excuse that it is a national issue and therefore it must be handled at a national level — I say to myself, "Wait a minute, let me think this through for a second," which we always do, we think a little bit. If you have a national problem with hunger and starvation, do I say, "Stop feeding people at the local level. We can't get involved. We have to have a policy nationally." No, we don't.

What, ideally, do you want in this situation?

SCHWARZENEGGER: What I'm saying is, give me a national policy that says we're going to take this seriously and we're going to fight global warming. But right now, there has been none. So how can you say you cannot regulate, you cannot have your own standards [that] we have to set a national standard, when there is no national standard? The tailpipe emission standard [of California] was already passed in 2002, the Pavley bill. There was no [national] standard. And in 2003, there was no standard. In 2004, there was no standard. In 2005, there was no standard. In

2006, there was no standard. So what are they talking about, "you cannot do this on your own because we have to have a national standard"? I say, "There is no standard!" Their standard is to have no standard. Therefore, we have to come in as a state.

It's always been the case if the federal government has fallen short on anything, the states come in. As a matter of fact, the federal government has said many times that we are the laboratories for the federal government. Let's have the states try something, if it's healthcare, education, whatever it is, because we all know all great things start at a grassroots level. Why are we all of a sudden fighting that? It can only be that [the federal government is] going to the car companies and [is] saying to them, "Hey what can you really handle comfortably here," and they tell them, and they say "Whoa whoa whoa," California is stepping over the line, this wouldn't help you.

MARY NICHOLS: Just to put a legal point on that, the [Corporate Average Fuel Economy (CAFE)] legislation which is part of the Energy Bill [passed by Congress] is not a greenhouse gas emission standard. It's a totally different thing. The argument that somehow because we now have a CAFE standard that means we shouldn't be regulating greenhouse gases, it just doesn't hold water, it makes no sense.

SCHWARZENEGGER: That's absolutely right. And so, I just think that they've been dragging their feet. As I said to [EPA Administrator Stephen Johnson], I obviously respect their opinion and I understand where he's coming from, he can only go so far because he is part of the Administration, but the bottom line is, it's very, very disappointing. I think, again, this is news that will go all over the world that they are not serious.

Is EPA Playing Dirty With Clean Air Law?

Dec. 21, 2007

(CBS/AP) The old axiom goes, "Lead, follow, or get out of the way."

Critics are saying the Environmental Protection Agency has added another option: "Trip up."

Several states are now talking about suing the EPA because of its rejection of a strict auto emissions law set to be enacted by California and 16 other states, rules which would have required cleaner cars beginning two years from now.

Under the Clean Air Act, California is allowed to have stricter clean air laws than the federal government. Other states are also allowed to adopt California's stricter regulations than the federal rules.

With 10% of all car purchases in the U.S. made in California, the state represents a sizable market for U.S. and foreign car companies. And with other states signing on, the new emissions law would have covered approximately 45% of the U.S. auto market.

The law would cut pollution, greenhouse gas emissions, and fuel consumption.

And California wasn't going it alone: 16 states were ready to adopt California's standards, including Arizona, Colorado, Connecticut, Florida, Maine, Maryland, Massachusetts, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Utah, Vermont and Washington.

However, the EPA had to agree to the new law by issuing a waiver. And the EPA said "no."

EPA Administrator Stephen Johnson announced Wednesday that, without waiting for a finalized written statement by the agency's technical and legal staff, he had declined California's request.

Referring to the energy bill which Congress recently passed and which the president signed into law, Johnson said, "The Bush Administration is moving forward with a clear national solution - not a confusing patchwork of state rules - to reduce America's climate footprint from vehicles."

It was the first time California had ever been denied a waiver when asking to enact clean air rules that were *cleaner* than federal rules.

Johnson said that, unlike other waivers issued in the past for pollutants impacting local and regional air quality, California's current request for emissions whose effects are "fundamentally global in nature" was rejected because it did not "meet compelling and extraordinary conditions."

The Los Angeles Times now reports that Johnson overruled his own staff's findings in denying California's waiver, after agency staff had argued unanimously that the Golden State had met all of its requirements.

California Air Resources Board Chairwoman Mary Nichols was one source cited by the paper as saying EPA staff informed her that they had been overruled by Johnson.

The Los Angeles Times also suggested that correspondence from auto manufacturers, and pressure possibly linked to meetings held last month between executives from Ford and General Motors and Vice President Dick Cheney which were first reported by the Detroit News, may have influenced Johnson.

California Governor Arnold Schwarzenegger vowed to fight back. "I am extremely disappointed by EPA's decision to block the will of millions of people in California and 16 other states who want us to take tough action against global warming," he said in a statement.

"EPA's denial of our waiver request to enact the nation's cleanest standards for vehicle emissions is legally indefensible and another example of the failure to treat climate change with the seriousness it demands."

Schwarzenegger announced that the state will sue EPA to overturn the ruling as quickly as possible. "I have no doubt that we will prevail because the law, science and the public's demand for leadership are on our side.

"Anything less than aggressive action is inexcusable," he said.

Automobile manufacturers sued to prevent the California law from taking effect, arguing that they could not alter production to meet the demand in time. The Bush administration joined their case, claiming the EPA should not regulate carbon dioxide - a major greenhouse gas - because it believed CO₂ is not a pollutant.

In April the Supreme Court rebuked the Bush administration, saying that **the Clean Air Act does give the Environmental Protection Agency the authority to regulate the emissions of carbon dioxide and other greenhouse gases from cars.**

In September, a federal district court judge rejected the automakers suit brought before a Vermont court. And earlier this month, another federal judge tossed the automakers' suit in California. "Given the level of impairment of human health and welfare that current climate science indicates may occur if human-generated greenhouse gas emissions continue unabated, it would be the very definition of folly if EPA were precluded" from regulating greenhouse gases, Judge Anthony Ishii wrote.

It seemed that California and the other states were on the verge of moving forward. But shortly after President Bush signed the new energy bill, Johnson announced there would be no waiver.

The Energy bill, which President Bush originally threatened to veto, raised car fuel efficiency standards for the first time in 32 years, and marked a defeat for automakers who had vigorously opposed raising fuel economy in the past.

California's regulations would have required a 30-percent cut in greenhouse gas emissions in new cars and light trucks by 2016, with the first cutbacks starting in 2009.

The new federal regulations would result in somewhat smaller reductions of greenhouse gases - 10-23% by 2030 - and would require automakers to achieve an industry-wide standard of 35 miles per gallon four years later than the California law, in 2020.

California's law would also apply to all vehicles - unlike federal rules which separates cars and trucks under different categories.

Johnson said that the new federal fuel efficiency ratings (known as Corporate Average Fuel Economy, or CAFE, standards) mean that states need not adopt competing standards.

"There is much greater environmental benefit of 50 states abiding by this new law [than] one or two or twelve or seventeen," he said.

But other states adopting California's law means there would be only two standards, no matter how many states opt in. And those states are opting to join with California in fighting the EPA.

Oregon, Washington and Pennsylvania have already indicated they will appeal the decision.

Maine Governor John Baldacci said the Bush administration is playing an "obstructionist" role in its environmental policies.

In a joint statement, Maryland's Governor Martin O'Malley and Attorney General Doug Gansler accused the Bush administration of "bowing down to corporate interests," and thereby "thwarting the will of the citizens of more than a dozen states and the Supreme Court of the United States.

"While new federal standards on auto emissions are a positive step, the Bush Administration should not prevent states from making even more progress where the federal government has failed to act for so long," they said.

New Jersey Gov. Jon Corzine said the EPA decision is "horrendous" and based on "crazy reasoning," while New York Governor Eliot Spitzer called the EPA's decision "incomprehensible" considering current climate change issues.

Kathleen A. McGinty, Pennsylvania's environmental protection secretary, said, "We will litigate and use every other tool at our disposal to reverse President Bush's decision."

White House press spokesman Tony Fratto denied that President Bush had any hand in the decision, saying it was made independently by the EPA, but that the denial of California's clean air law was not a rejection of states rights.

"There's always a balance. And [Mr. Bush] does have a healthy respect for states' rights. But these decisions need to be made in terms of what is best for the country."

Speaker Nancy Pelosi, D-Calif., told the EPA on Friday that Congress would closely scrutinize its decision to reject the state of California's request to tighten rules on greenhouse gas emissions.

"The actions of the EPA in denying the California request cannot help but raise serious questions about the support of the Bush administration for state efforts to safeguard the environment and the health of their residents," Pelosi wrote in a letter to Johnson.

Rep. Henry A. Waxman, D-Calif., chairman of the House Oversight and Government Reform Committee, is investigating Johnson's decision, saying it "ignores the law, science and common sense.

"This is a policy dictated by politics and ideology, not facts," he said.

CBSNews.com producer David Morgan contributed to this report.

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Friday, December 21, 2007

Emissions decision draws fire

Calif., other states vow to sue EPA for blocking enactment of stricter rules

David Shepardson / Detroit News Washington Bureau

WASHINGTON -- Critics mounted a fierce attack on the Environmental Protection Agency's decision to deny California and other states the right to impose strict vehicle tailpipe emissions limits, with House and Senate committees demanding documents and many state governors vowing to sue to overturn the decision.

President Bush defended the federal agency's decision on Thursday.

"Is it more effective to let each state make a decision as to how to proceed in curbing greenhouse gases? Or is it more effective to have a national strategy?" Bush said in a year-end press conference. "(EPA) Director (Stephen) Johnson made a decision based upon the fact that we passed a piece of legislation that enables us to have a national strategy."

On Wednesday, Johnson denied California's request to require a 30 percent cut in vehicle tailpipe emissions by 2016, which would have set fuel efficiency requirements of 43.7 miles per gallon for passenger cars and 26.6 mpg for most light trucks.

The decision came the same day Bush signed an energy bill that will raise fuel economy standards 40 percent to an industry fleet average of 35 mpg by 2020.

California and other states that were seeking the waiver to impose standards stricter than the federal mandates vowed to sue the EPA. Their protests were supported by Rep. Henry Waxman, D-Calif., chairman of the House Government Oversight Committee, who sent a two-page letter to EPA administrator Johnson demanding "all communications within the agency and all communications between the agency and persons outside the agency, including persons in the

White House, related to the California waiver request."

Late Thursday, the Senate Committee on Environment and Public Works also sent a demand to the EPA for documents relating to the waiver deliberations, including all records "presenting options, recommendations, 'pros and cons' legal issues or risks, (and) political implications."

The letter signed by the committee's chairwoman, Sen. Barbara Boxer, D-Calif., also sought records of all contacts with the vice president's office and White House by Jan. 7, including e-mails. Boxer said the formal two-page denial by EPA "is unsupported by legal or technical analysis" and the decision "appears to be contrary to the Clean Air Act and the science."

The Detroit News previously reported that Ford Motor Co. President and CEO Alan Mulally and Chrysler LLC CEO Robert Nardelli met with Vice President Dick Cheney to lobby against the EPA waiver.

Johnson refused to say if he had spoken with Cheney or any members of the White House staff about the waiver, saying he had made an "independent" decision as required under the Clean Air Act.

Waxman wasn't convinced of that, and in his letter told EPA officials to not destroy any documents related to the waiver. Boxer also urged the EPA not to destroy any records.

The Washington Post reported Thursday that the EPA's legal and technical staff had unanimously recommended against denying the waiver and had created a PowerPoint presentation that warned the EPA could lose a legal challenge. The EPA did not deny that the presentation was created or that technical and legal advisers supported granting the waiver.

A spokeswoman for the agency said Johnson never saw the presentation.

"Your decision not only has important consequences to our nation, but it raises serious questions about the integrity of the decision-making process," Waxman wrote. "In fact, reports indicate that you overruled the unanimous recommendations of EPA's legal and technical staffs in rejecting California's petition."

An EPA spokeswoman said the agency "strongly supports the oversight authority of Congress."

"The agency will respond to the chairman regarding the administrator's decision and his support for a clear, national solution to reduce greenhouse gas emissions from American vehicles," EPA spokeswoman Jennifer Wood said.

"The Bush administration is moving forward with a clear national solution, not a confusing patchwork of state rules, to reduce America's climate footprint from vehicles," Johnson told reporters on a call Wednesday night, adopting the language of automakers.

The waiver denial was a major victory for automakers, which oppose the California standards, in large part because they would require state-by-state regulations. The automakers say such

mandates would cost them tens of billions of dollars.

'It is beyond inexplicable'

California Gov. Arnold Schwarzenegger said Thursday the state will sue to overturn the decision within three weeks in the U.S. Court of Appeals in Washington. At least eight other states plan to join the lawsuit.

"(The) EPA's denial of our waiver request to enact the nation's cleanest standards for vehicle emissions is legally indefensible," Schwarzenegger said. "Anything less than aggressive action is inexcusable."

Connecticut Gov. M. Jodi Rell called the decision laughable. "They have gone from being a passive failure to actively interfering with progress. It is beyond inexplicable: It is inexcusable."

Rep. John Dingell, D-Dearborn, said the House Energy and Commerce Committee, which he chairs, would review the decision, but his initial assessment is the EPA is making an "honest effort."

Waxman's committee conducted an investigation this year that found Transportation Department employees had lobbied members of Congress and governors to oppose the California waiver request.

Waxman ordered the EPA to turn over documents from the Office of Transportation and Air Quality and Office of General Counsel by Jan. 17, and any other documents by Jan. 23.

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Congress to scrutinize EPA Calif. decision: Pelosi

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WASHINGTON (Reuters) - The U.S. Congress will closely examine the Environmental Protection Agency's decision to deny California's request to regulate carbon dioxide emissions from vehicles, the Speaker of the U.S. House of Representatives said on Friday.

The EPA on Wednesday denied California's attempt to place first-ever U.S. limits on automobile emissions of heat-trapping gases, which account for about 30 percent of the U.S. total.

The decision, lauded by the auto industry and pilloried by environmental groups, also stymies 16 other U.S. states' attempts to enact similar rules.

"Your decision will be challenged immediately in the courts and will be carefully scrutinized by the Congress as well," Nancy Pelosi, a California Democrat, wrote to EPA administrator Stephen Johnson.

California said it will quickly appeal the decision.

"Administrator Johnson stands behind his decision," an EPA spokeswoman said. "Greenhouse gas emissions are global in nature and California is not exclusive in facing this challenge."

The House Oversight and Government Reform Committee, chaired by Rep. Henry Waxman, California Democrat, this week opened a panel probe into the agency's decision and told the EPA to preserve all papers and documents in the case record.

"Your decision appears to have ignored the evidence before the agency and the requirements of the Clean Air Act," Waxman wrote to Johnson, noting that the decision went against agency staff recommendations to grant the waiver.

The EPA will cooperate with Waxman's investigation, the agency spokeswoman said.

The EPA said an energy bill signed into law this week by President George W. Bush means no further action is needed to cut carbon dioxide emissions from vehicles.

The EPA, charged with making the decision, said the law to raise automobile fuel standards by 40 percent by 2020 was a "better approach" than a "patchwork" of state rules.

"I vigorously disagree with your rationale for that decision and I strongly support the inquiry (by Waxman's committee) into your decision-making process," Pelosi wrote.

California needed the EPA waiver to implement a law it passed this year to force automakers to make vehicles that cut emissions 25 percent by the 2009 model year.

(Reporting by Chris Baltimore, editing by Matthew Lewis)

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State will join suit challenging emission ruling

By Warren Cornwall

Seattle Times environment reporter

Washington will join a planned lawsuit challenging the federal government's decision to stop states from clamping down on greenhouse gases from cars, Gov. Christine Gregoire vowed Thursday.

Gregoire called an afternoon news conference to say the state would join a suit that California Gov. Arnold Schwarzenegger promised after Wednesday's announcement by the U.S. Environmental Protection Agency.

"We have to move forward and we're ready to lead as states," Gregoire said. "For them to come in now and obstruct our ability to move forward is simply wrong."

EPA Administrator Stephen Johnson said he would reject a waiver that California needs to impose its own emissions rules on new cars. Other states that want to follow California's lead, including Washington, were also effectively halted by the decision.

Johnson said new national fuel-mileage standards in a recently passed energy bill would provide a better, nationwide approach.

Oregon Gov. Ted Kulongoski said he also plans to enter the pending court battle, and Vermont and several other states are expected to as well.

In her remarks Thursday, Gregoire said the EPA's decision will make it harder for Washington to meet its goals to cut greenhouse-gas emissions. Gregoire last year issued an executive order to roll statewide greenhouse-gas emissions back to 1990 levels by 2020, and to 50 percent below 1990 levels by 2050.

The governor said she didn't know exactly how much of a difference the California-style limits would make versus the new federal law.

The biggest difference appears to be that the California limits would start with the 2009 model year and take full effect in 2016, versus a start of 2011 for the federal law and full effect in 2020.

Meanwhile, Seattle officials don't think the EPA decision will affect the city's efforts to cut greenhouse-gas emissions to meet the goals of the international Kyoto treaty, said Alex Fryer, a city spokesman. The city calculated its needed progress based on an assumption that the EPA would reject the California law.

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State Groups To Fight EPA Move

Rell Calls U.S. Rejection Of California Emission Standards 'Patently Absurd'

By DAVID FUNKHOUSER

Courant Staff Writer

December 21, 2007

The Bush administration may have ruled, but it's going to lose in court, environmental groups and politicians in Connecticut said Thursday in response to a Bush administration decision to reject California's tailpipe emissions standards.

State Environmental Protection Commissioner Gina McCarthy vowed that the decision would not slow down efforts to control greenhouse gas emissions that are widely blamed for humans' influence on climate change.

Connecticut will produce rules for a carbon trading system to control power plant emissions by the end of the year, she said. Also in the works is a labeling system to help consumers identify environmentally friendly cars.

The decision Wednesday by federal Environmental Protection Agency Administrator Stephen L. Johnson left many here with a sour taste.

"I guess they couldn't find anything else to give the auto industry for Christmas," said Chris Phelps of the group Environment Connecticut.

California wants to establish emission standards that are stricter than what the federal government allows. Connecticut and a dozen other states have adopted those same standards, which would attempt to reduce emissions from cars and trucks by 30 percent by 2016.

But the EPA must first grant California a waiver under the federal Clean Air Act. The denial prevents other states from implementing the new rules.

The Washington Post reported Thursday that Johnson decided to refuse the waiver contrary to a unanimous recommendation from his staff. Johnson argued that a federal standard is a better solution than "a confusing patchwork of state rules."

The EPA decision comes on the heels of Congress' passing the first new gas mileage standards in over three decades. That law will, in effect, cut emissions by requiring vehicles to use less gasoline. Automakers will have to meet a fleet-wide average of 35

miles per gallon by 2020.

Johnson said that is a better approach than California's. The Bush administration has adamantly avoided implementing mandatory curbs on greenhouse gas emissions — reflected earlier this month in the U.S. refusal to set reduction targets at a global conference in Bali.

Gov. M. Jodi Rell called the EPA's rationale for rejecting the California standards "laughable."

"The argument that new mileage standards ... are somehow a substitute for greenhouse gas emission standards is patently absurd," she said. "And their claim that because global warming is a planet-wide problem all the solutions must be planetary in scope is simply an excuse for doing nothing."

According to the Post, the EPA staff has also concluded that the agency would lose the battle over the California waiver in court. Several recent court rulings have gone in California's favor, and the EPA has not refused California a waiver under the Clean Air Act in 37 years.

"We will clearly continue with a court action," McCarthy said. "We were already heading to court to force the EPA's hand."

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EPA's denial of Calif. fuel rule probed

Agency ignored evidence, staff suggestion, lawmaker says

December 21, 2007

BY JUSTIN HYDE

FREE PRESS WASHINGTON STAFF

WASHINGTON -- The chairman of the U.S. House Oversight Committee launched a probe Thursday into the decision by the Environmental Protection Agency to deny California's request for tougher fuel economy standards, ordering the agency to turn over documents by next month.

The probe by U.S. Rep. Henry Waxman, D-Calif., follows a report by the Washington Post that EPA staffers unanimously recommended that the EPA grant California's waiver request. The California law, which has been or is expected to soon be adopted by 17 states, sets a fuel economy standard far tougher than the 35 mile-per-gallon average by 2020 signed by President George W. Bush on Wednesday.

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Waxman told EPA Administrator Stephen Johnson to order EPA staff to preserve all relevant documents and turn them over to his committee by Jan. 23. Waxman and the Bush administration have tangled several times over requests for documents.

"Your decision appears to have ignored the evidence before the agency and the requirements of the Clean Air Act," Waxman said in a letter to Johnson on Thursday.

President George W. Bush defended the decision in a news conference Thursday, echoing Johnson's explanation that it was better for the nation to have one national standard than to let states set their own rules.

"Director Johnson made a decision based upon the fact that we passed a piece of legislation that enables us to have a national strategy," Bush said.

California officials from Gov. Arnold Schwarzenegger on down, along with officials from other states that have adopted the rules, have vowed to sue to overturn them.

"EPA's denial of our waiver request to enact the nation's cleanest standards for vehicle emissions is legally indefensible and another example of the failure to treat climate change with the seriousness it demands," Schwarzenegger said in a statement. "We will sue to overturn this ruling as quickly as possible."

Under the Clean Air Act, California is allowed to set pollution controls that are tougher than national standards with EPA approval. Since the Clean Air Act was first passed in 1963, EPA has never rejected a waiver request from California as it did Wednesday.

The U.S. auto industry has been united in opposition to the California rules, saying they were too strict and could create a patchwork of regulations. The law calls for mileage standards of about 43 m.p.g. for cars and trucks weighing less than 3,750 pounds by 2016, but would allow changes in air-conditioning systems to bring that target to roughly 40.5 m.p.g.

Federal laws say other states can copy California's rules only if they leave them unchanged, and automakers worry that they would have to sharply restrict sales if they couldn't balance demand for cars and trucks across state lines.

U.S. Rep. John Dingell, the Dearborn Democrat who oversees energy bills in the House, said he hadn't reviewed the EPA's decision. He did praise the energy bill that Bush signed Wednesday, saying it will take the nation about half way toward his goal of reducing greenhouse gases by 60% to 80% around 2050.

Dingell's Energy and Commerce Committee plans to tackle its own global-warming gas control bill early next year, he said.

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New York Times
December 21, 2007

Denial of State Emissions Plan Was Foreshadowed

By [JOHN M. BRODER](#) and [MICHELINE MAYNARD](#)

WASHINGTON — The Bush administration's decision to deny [California](#) the right to regulate greenhouse gases from vehicles exploded like a grenade here and in California. But it was hiding in plain sight for weeks.

The ruling was foreshadowed in White House letters, floor statements by members of Congress, public arguments from automobile industry officials and hints from the [Environmental](#)

Protection Agency.

Stephen L. Johnson, the environmental administrator, announced the decision on Wednesday, the day President Bush signed the first major change in vehicle mileage standards passed by Congress in 32 years.

Mr. Johnson said the new law made the proposed California standards unnecessary.

Addressing criticism that the White House had dictated the agency's decision, Mr. Bush emphasized on Thursday that the ruling had been made solely by Mr. Johnson, a 27-year employee of the agency. Mr. Johnson also said he had acted on his own.

The ruling answered the pleas of industry executives. They reluctantly accepted the fleetwide standard of 35 miles a gallon by 2020, the centerpiece of the energy bill, but feared even tougher rules under the proposed California standard. Those rules would have required a fleet average of 36 miles a gallon by 2016.

Automobile executives specifically cited apprehension over the California rules at meetings in October and November with Vice President Dick Cheney, other top White House officials and influential members of Congress.

The White House, in a letter last week to lawmakers, said the energy bill should set a "single national regulatory standard," rather than allowing states to set their own rules.

Senator Carl Levin, a Michigan Democrat and longtime ally of the auto industry, said in a floor statement that he was voting for the fuel efficiency measure based on assurances that it would not be "undercut" by future rules from the environmental agency on emissions of heat-trapping gases like carbon dioxide.

The agency's decision faces legal challenges and Congressional reviews, and a new president could reverse it. But, for now at least, automakers gained something from the administration that they could not have obtained from Congress or the courts.

They have blocked California and other states from creating what Mr. Johnson repeatedly called a "patchwork of state rules" for fuel efficiency and for the carbon dioxide produced by every internal combustion engine.

Under the Clean Air Act, the automakers have for decades chafed under separate, tougher state standards for other tailpipe emissions like those that cause smog.

The industry pushed for the new ruling as part of its overall lobbying on the energy bill, which also calls for a huge increase in ethanol and other biofuels over 15 years.

In meetings in October with Mr. Cheney and sessions with White House staff members, auto executives made clear that they were concerned not just about the fuel economy measures in the

bill but also about the California proposal for stricter emissions standards.

California developed rules in 2004 to reduce tailpipe emissions of carbon dioxide and other pollutants that scientists say contribute to [global warming](#). The state applied to Washington in December 2005 for a waiver from the Clean Air Act to let it apply the tougher standards. Eventually, 16 states joined the application for the exception.

Since 1970, such waivers have been routinely granted more than 50 times involving tailpipe pollutants that foul the air in some states more than in others. But none faced the political atmosphere surrounding the California proposal, which dealt with a gas that affects the world climate, not that of a particular state.

The environmental agency had two hearings on the waiver and received more than 100,000 comments. Insiders said the technical and legal staffs at the agency were never asked for formal analyses of the California plan, and no documentation was released with the ruling, as has been routine in waiver cases.

Senator [Barbara Boxer](#), the California Democrat who leads the environment committee, said she believed that the administration never intended to grant the state's request. Ms. Boxer said Mr. Johnson refused to meet her on the question and evaded questions about White House pressure at a hearing before her panel.

She said the signing of the energy bill on Wednesday provided Mr. Johnson convenient timing and a rationale to reject the waiver.

"They used the energy bill — I'd say misused it — as a way to justify what they wanted to do all along," Ms. Boxer said.

Other lawmakers and environmental advocates expressed suspicion that the decision had been made weeks or months ago and pointed to White House statements raising questions about the fuel-economy measure as it moved through Congress.

The White House expressed concerns that the bill did not clarify the relative roles of the environmental agency and the Transportation Department, which regulated mileage rules.

A White House official, speaking on background last week, said it was critical that the new standard not be supplanted by a new program from the environmental agency or the states.

"If Congress says they have to meet 35 by 2020, that's what it should be," the official said. "Not what it should be until someone says it's something different."

Although the California rule would have addressed just emissions of heat-trapping gases, it would in effect be a fuel economy standard, because the main way to cut emissions is to cut fuel use.

Auto company executives told the White House and sympathetic members of Congress that they

feared that the fuel economy standards and the California waiver would force them to reduce emissions and raise fuel economy on a faster timetable than the energy bill that became law.

“We had California, and we had all these other issues colliding into that,” said a senior auto company official who insisted on anonymity. He called the California situation “one of our worry beads.”

Executives at two companies said they did not know the precise timing of the decision until Wednesday afternoon, when the White House made courtesy calls to members of Congress.

John M. Broder reported from Washington, and Micheline Maynard from Detroit.

December 21, 2007

E.P.A. Ruling Puts California in a Bind

By [FELICITY BARRINGER](#)

SAN FRANCISCO — The decision by the [Environmental Protection Agency](#) to block [California](#)'s air quality standards for motor vehicles evoked angry responses from state officials on Thursday and the threat of a court battle.

But it also left California in a bind.

Officials here must now look elsewhere for millions of tons of carbon-dioxide reductions to meet its self-imposed mandate for curbing heat-trapping gases like carbon dioxide. And by law, the motor vehicle industry is where they must look.

The state enacted legislation last year requiring a cutback of 173 million tons of carbon dioxide by 2020, and officials had counted on the cutbacks in vehicle emissions for 18 percent, or about 31 million tons, of the total.

Even when the emission reductions associated with the new federal gasoline-mileage standards are taken into account, the state is about several million tons short, thanks to the E.P.A.'s decision, according to a spokesman for the California Air Resources Board. But the Legislature had prepared for the possibility when it passed last year's [Global Warming Solutions Act](#).

Mary Nichols, the chairwoman of the Air Resources Board, which writes the state's air pollution regulations, said in an interview: “We are going to get them from motor vehicles one way or another. I expect we will win our lawsuit and get them from” the regulations that the Bush administration just blocked.

“If not,” Ms. Nichols said, “we will pursue other ways to get these tons in ways that don't derive from the Clean Air Act,” and therefore do not require a federal waiver.

But none of those ways are likely to be easy, cheap or popular.

No decisions have been made, Ms. Nichols emphasized, but she said some options being considered included imposing fees or penalties to be paid by auto manufacturers selling cars that fail to meet specified requirements. Alternatively, she said, the state might fall back on the authority the federal government granted it more than a decade ago to create electric cars. Perhaps that authority could be used to wring emission cuts from new cars.

Ms. Nichols said Gov. [Arnold Schwarzenegger](#) told her in conversations on Thursday that “we should applaud” Congress and the president for the fuel-economy standard that just became law. “But,” she added, “it has nothing to do with the problem of global warming. The two things are in different worlds.”

Others spoke even more sharply.

“Californians will realize again that maybe it’s time to secede from the Union,” said Hal Harvey, environment director for the William and Flora Hewlett Foundation.

“This is the first time that federal government has attacked California rather than agreeing with it” on air pollution standards, said V. John White, a longtime clean-energy lobbyist in Sacramento. “They have become a hostile force as opposed to a partner. They are an enemy, and they prefer the interests of the auto industry over the interests of the health of our people and state.”

If the E.P.A. denies the waiver, California has three options, said Barton H. Thompson Jr., the co-director of the Woods Institute for the Environment at [Stanford University](#).

“One, you sue,” Mr. Thompson said. “Two, you look for a legislative fix that would require Congress to clarify” that the Clean Air Act allows the state to regulate greenhouse-gas emissions from tailpipes. “Three, you wait for the next administration.”

“You are not going to get any relief from the courts any faster than that,” he added.

A lag of a year or two in carrying out the California standards represents a significant saving for the automobile industry, Mr. White, the clean-energy advocate, said. “This is fundamentally about delaying investment,” he said.

Jim Marston, a climate policy expert with Environmental Defense, said the industry might have second thoughts. “The automobile manufacturers may have violated the rule about be careful what you wish for,” Mr. Marston said. “California is serious about its numbers. You can’t get there if the biggest single source is exempted.”

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Thursday, Dec. 20, 2007

California's Clean-Air Slapdown

By Bryan Walsh

Environmentalists harbor no illusions about the Bush Administration. From a 2001 decision to weaken regulations on arsenic in drinking water to its antagonistic performance at last week's U.N. climate change talks in Bali, the White House has consistently opposed green goals. But Wednesday's move by the Environmental Protection Agency (EPA) denying California and 16 other states the right to set their own standards for carbon dioxide emissions from automobiles was an unpleasant surprise, even by Bush standards. The announcement, made by EPA Administrator Stephen Johnson, temporarily torpedoes state efforts led by California to drastically reduce CO₂ emissions from cars by treating the greenhouse gas as a pollutant that could be regulated like any other. The California initiative, part of the state's landmark climate change plan, could have provided a nationwide model for cutting automobile emissions, one of the single biggest sources of greenhouse gas in the U.S. "The Administration has done a number of indefensible things on the environment and global warming," says Jim Marston, director of the state climate initiative for Environmental Defense. "But this is the worst in terms of process, and the one that will be most harmful to the health and safety of the American people."

The EPA's action came after California had waited nearly two years for federal approval of its new auto regulations. Under the Clean Air Act, California has the right to pass auto emissions standards that are tougher than federal ones — a recognition of the state's historical struggles with air pollution. In this case, the state proposed rules that would have required automakers to reduce greenhouse gas emissions by 30% in all new cars and light trucks by 2016, beginning with the model 2009 year. All California needed was a waiver from the federal government, which has been virtually automatic over the past decades — until this decision, the first time the EPA has said no. "It's absurd," says Michelle Robinson, director of the clean vehicles program for the Union of Concerned Scientists. "There is no reason for the Administration to squash this program."

The EPA's Johnson argued that California's regulations had been preempted by national fuel economy legislation just been signed into law by President Bush, which requires all new cars and trucks to meet a toughened 35-mpg standard by 2020. He also contended that CO₂ — unlike the pollutants that cause smog and other local problems — causes an essentially global problem, and therefore California's request didn't meet the "extraordinary and compelling" justification needed for a state waiver under the original Clean Air Act. "The Bush Administration is moving forward with a clear national solution — not a confusing patchwork of state rules," said Johnson. "I believe this is a better approach than if individual states were to act alone."

But that's simply not true. The new national fuel bill sets 35 mpg as a federal fuel economy floor, not a ceiling — and in any case, California officials contend that their rules would require at least 36 mpg by 2016, with room to grow. The idea that there would suddenly be a "patchwork" of state CO2 regulations seems unlikely as well, since only California has put forward its own standards, with 16 other states ready to adopt Sacramento's rules, in line with California's role as a national leader on environmental regulation. And several recent court cases have recognized the right of states to regulate CO2 as a pollutant like any other. The fact that at international climate meetings the White House has actually advertised state efforts like California's as evidence of American action on global warming only adds to suspicions that the EPA's ruling is essentially political. "If dealing with the most serious environmental threat of our time in our biggest state tackling its largest source of greenhouse gas pollution isn't extraordinary and compelling, I don't know what those words mean," says Marston.

California Gov. Arnold Schwarzenegger sharply criticized the EPA, and announced that the state would seek to overturn the decision in court. They'll have a strong case — Johnson's own lawyers in the EPA argued that the agency would be unable to defend the move, the *Washington Post* reported. But it's likely to take half a year or more for the case to make its way through the courts, delaying efforts to control greenhouse gases. Coming after a string of relative victories for the environmental movement — the first federal climate change bill just passed out of committee, and the new energy bill represents the first increase in fuel economy standards in decades — the EPA move is especially disheartening. "It's going to take time, and it does set back progress," says Robinson. "But there's going to be a wave of opposition to this."

That wave is already growing throughout the U.S., where state and local governments have taken aggressive steps on global warming in the absence of federal guidance. But the EPA's decision leaves little doubt that the Bush Administration, with a year left in office, has no interest in meeting environmentalists halfway — or perhaps, at all. "This is the Administration showing its true colors," says Robinson. "They're attempting to undercut progress even as they get ready to walk out the White House doors." Change is on its way, but 2008 may be a lost year for global warming, at the very moment when we can't afford to lose a day.

EPA rejects states' greenhouse-gas limits on cars

By Chris Woodyard, USA TODAY

The Bush administration Wednesday derailed an attempt by California and 12 other states to enact the nation's first greenhouse gas-limits on new vehicles.

The efforts by states to regulate carbon-dioxide emissions that are considered a prime cause of climate change are not necessary in light of the energy bill just signed into law by President Bush, the administrator of the Environmental Protection Agency said.

"The Bush administration is moving forward with a clear national solution, not a confusing patchwork of state rules," said EPA Administrator Stephen Johnson. "This is a better approach than if individual states act alone."

California Gov. Arnold Schwarzenegger, a Republican, vowed to appeal, saying that the energy law doesn't go far enough in curbing Earth-warming vehicle emissions. Environmental activists joined him in denouncing the administration's decision.

California, which has more vehicles than any other state, adopted rules in 2004 that would have required automakers to start reducing greenhouse-gas emissions in new cars and light trucks by 2009. The rules would have cut emissions 30% by 2016.

California was joined by Connecticut, Maine, Maryland, Massachusetts, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont and Washington in adopting the rules. Governors in Arizona, Colorado, Florida and Utah vowed to join in.

Adopting a tougher rule than mandated by federal regulation, however, required a waiver from the EPA.

Johnson said action by the states, and therefore the waivers, are no longer necessary because the law signed Wednesday by Bush mandates an average fuel efficiency of cars of 35 miles a gallon by 2020.

That improvement, the first change in the fuel efficiency rules in 32 years, will achieve "the greatest greenhouse-gas reductions in the history of the United States," Johnson said.

The auto industry lauded the EPA's decision. The Alliance of Automobile Manufacturers said that while automakers recognize the need to address global warming, allowing states to adopt different standards would lead to confusion in the marketplace. It said the new law will be just as effective in achieving 30% reductions in carbon dioxide emissions.

Environmentalists slammed the Bush administration about the waiver denial.

"There's no evidence of leadership on global warming from this administration, so why get in the way of states that are motivated to do good things?" asked Tim Carmichael of the Coalition for Clean Air.

Roland Hwang, vehicle policy director for the Natural Resources Defense Council, called the EPA's reasoning for the denial "indefensible." He said California is especially vulnerable to global warming, given the possibility of rising sea levels and melting snow packs.

"It looks like the Bush administration is the Grinch that stole Christmas for us," he added.

Contributing: The Associated Press