Expert discusses proposed rollback of key climate change regulations

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The Trump administration is planning to roll back several key climate-change regulations from previous administrations, including ones requiring reduced methane emissions, much stricter fuel

efficiency/vehicle pollution standards, and energy-efficient light bulbs. Here, Environmental Law expert Professor Deborah Sivas explains the regulations and how proposed changes might impact greenhouse gases and climate change.

Let's start with vehicles. How important is regulation of vehicle fuel pollution to climate change?

The transportation sector accounts for about one third of U.S. greenhouse gas emissions, so vehicle fuel economy standards are a significant piece of the puzzle.

Last year, the EPA signaled it was ready to roll back Obama-era vehicle fuel-economy standards, which require automakers to meet the higher standard that is set by California to nearly double the average fuel economy for new cars and trucks to 54.5 miles per gallon by 2025. California's Attorney General sued the Trump administration to stop the proposed rollback. Can you update us on how that case is proceeding?

That lawsuit basically challenged the Trump administration's rewriting of the so-called "midterm evaluation" by the Obama EPA in 2016, which concluded that the industry was on track to meet the 2025 standard. The case hasn't really moved forward significantly. I think it was mostly filed as a "shot over the bow," to let the EPA know that California was going to fight any rollback and to ensure that the state didn't inadvertently waive any arguments about the applicable science. But new litigation is certainly on the way and likely to overtake this case.

Recent reports indicate that some automakers are not in agreement with the EPA's rollback and at least four are already planning new cars to meet the new fuel economy. What's the history here?

It's kind of a crazy rollercoaster. The auto industry agreed to the ramped up standards back during Obama's first term as a way to put an end to ongoing litigation, to obtain some certainty about future requirements, and to achieve a uniform national standard by which California would abide despite its authority under the Clean Air Act to set higher standards. It didn't hurt that the domestic auto industry was on its knees in 2009, requiring big government bailouts to stay afloat, and that the grand deal brokered by the Obama EPA gave the industry several years to adjust its production and marketing to achieve the higher standards.

Then, as soon as Trump was elected, virtually all of the domestic automakers and the foreign companies that export vehicles to the United States signed onto a letter to the new administration claiming they couldn't possibly meet the standards to which they had previously agreed; conveniently, the "bite" of those standards was just coming into play in a significant way in 2017. The new administration obliged by indicating almost immediately that it intended to roll back the 2025 standards and was also considering revocation of the Clean Air Act "waiver" that allows California to set more stringent standards.

Why did some automakers change their positions—and are now balking at the proposed rollback?

As they say, "be careful what you wish for." Since 2017, many of the auto companies have realized that the rollback and revocation of

California's waiver will inevitably result in the kind of prolonged litigation that is bad for business. As a result, automakers began urging a compromise between the Trump EPA and California. That hasn't happened and isn't likely to happen, in my view. Given that reality, at least four automakers decided, instead, to strike a voluntary deal with California.

What did the four carmakers agree to?

The deal hews pretty closely to the original agreement in terms of the ultimate mileage standard, but gives the companies a little more time to get there. I suspect the companies did this to obtain some certainty, regardless of what the federal government does and regardless of any resulting litigation, and perhaps to position themselves as "greener" than other automakers. Right now, these four automakers account for about 30 percent of the domestic car market, but it seems likely that at least a few additional manufacturers will ultimately sign onto the California deal.

Does the global car market play into this too? How is law working with the market?

The law and the market are working in complementary ways here. If there were no regulatory standards, I doubt the automakers would be at the table. But with the backdrop of regulatory uncertainty over the standards and the global car market pushing in the direction of higher fuel efficiency, the automakers that sell into the American market can see the writing on the wall. Those who get out in front on low and zero emission vehicles are likely to do better, ultimately.

How has the Trump administration reacted to the carmakers' side deal with California?

Unsurprisingly, the Trump administration did not react kindly to the California agreement. The Department of Justice has launched an antitrust investigation against the four participating auto companies, and the EPA has now said it will expedite the revocation of California's waiver and is also considering a lawsuit to challenge the voluntary agreement.

What do you expect for California's legal next steps?

In addition to defending its voluntary agreement with automakers, California will certainly challenge any revocation of the waiver and any rollback of the national standard. Historically, about a dozen other states, more or less, have adopted California's more stringent standards for all kinds of air pollutants, and I expect at least some of these states will follow California's lead again. So we can expect a gigantic knot of litigation over the next few years.

We also had news just a few weeks ago of another EPA proposal—this one to weaken regulation of methane emissions. How important is this in terms of climate change? Is methane a big greenhouse gas issue?

Yes, methane is a much more potent greenhouse gas than carbon dioxide. Its heat-trapping property is at least 30 times greater than for carbon dioxide—and some scientists think the number is closer to 80 times greater. Either way, methane leakage from oil and gas fields is a substantial contributor to the climate problem. The Obama EPA methane rule was intended to address that situation by reducing leakage of what is, after all, a valuable commodity is other circumstances—the natural gas we burn in furnaces and stovetops. The reversal of that rule, which the current EPA proposed at the end of August, would save the industry less than $20 million annually, by EPA's own estimate. That's a pittance for an industry with annual revenue of over $100 billion—an

order of magnitude difference.

What was the response from relevant industries? Do they support this rollback?

What's particularly weird—and frustrating—here is that even the oil and gas industry doesn't necessarily support the rollback.

Okay. One more. We also had news on August 28 of Trump administration plans for new rules to weaken efficiency standards for light bulbs—upending a law passed in 2007. What's this one about?

Frankly, at a common sense level, this is the most baffling of all the rollbacks. Energy efficiency is the low-hanging fruit in climate policy. Technological advancements have given us quite feasible and acceptable alternatives to incandescent light bulbs, a technology that is now more than 100 years old, and much of the world has already moved in the right direction of banning them. Moreover, the cost of LEDs has fallen dramatically—similar to how the spread of photovoltaics has dramatically reduced the price of solar panels in recent years.

Can you talk about the law regulating this?

With the Energy Independence and Security Act of 2007, Congress required the gradual phase-out of incandescent light bulbs in the United States. Consistent with this directive, starting in January 2020, most everyday light bulbs were supposed to achieve LED levels of energy efficiency. These new efficiency standards not only would avoid millions of tons of carbon emissions each year, but also would save consumers billions of dollars annually in electricity costs. That is what the

administration has now put on hold. Again, I expect lawsuits and I think they will ultimately be successful. But the head-scratcher is: Why on Earth is the administration pursuing this rollback?

Can you explain how important these rollbacks might be in terms of climate change?

Although no single rule is a panacea, the various rollback proposals collectively pose a significant setback for climate policy. I'm confident that the next administration, whenever that is, will reverse course again on all these delays and rollbacks. But in the meantime, we are, as the scientists tell us with increasing alarm, in a desperate race to save the planet and we are losing precious—indeed, invaluable—time with this administration's often-inexplicable gamesmanship.

Provided by Stanford University

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