

# Talks to avoid a messy legal fight over California's emissions rules appear stalled

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Talks between the Trump administration and California over rules requiring automakers to steadily decrease car emissions are no closer to reaching a deal than when they began months ago, setting the stage for a

protracted legal battle.

Behind the scenes, negotiations have been largely cosmetic and unproductive, according to officials in Washington and California with direct knowledge of the talks.

Unlike the Obama-era negotiations that led to the creation of national fuel efficiency and emissions standards, the current talks have lacked detailed technical analysis and regular input from the agencies' career staff, according to the officials, who declined to be named, citing the sensitivity of the discussions.

Instead, [administration officials](#) have repeated the same set of talking points or steered the conversation to small talk, they said.

Several officials briefed on the discussions said they were reluctant even to describe them as negotiations, given the lack of substance.

And partly because of the 35-day partial government shutdown, the last discussion between the Environmental Protection Agency, Department of Transportation and California Air Resources Board took place nearly two months ago on Dec. 4, according to EPA spokeswoman Molly Block.

"I've seen a lot of going through the motions," said Jody Freeman, a Harvard environmental law professor who is not involved in the current talks but worked on the first set of national vehicle emissions standards under President Barack Obama. During those negotiations, Freeman said she required agency staff with technical expertise to be deeply involved.

"I haven't seen, through this entire process, the signs of a real push by the auto industry or the administration to get to agreement (with California)," she said.

California and senior administration officials began far apart and there they remain.

Last year the EPA announced plans to relax fuel economy and tailpipe emission rules put in place during the Obama administration that were designed to cut down on planet-warming greenhouse gases. California vowed to plow ahead, holding tight to its legal authority to maintain stricter standards.

Despite their differences, the two sides began talking quietly last year in an attempt to avoid a court battle that could leave automakers subject to conflicting regulations and divide the market between states that follow California's requirements for cleaner cars and states using the Trump administration's scaled-back standard.

Thirteen states and the District of Columbia have adopted California's rules, accounting for nearly 40 percent of all new vehicles sold in the U.S., according to the Union of Concerned Scientists, a nonprofit group.

During his confirmation hearing earlier this month, Acting EPA Administrator Andrew Wheeler said that he was working to reach a compromise with California. He said he had met three times with the chair of the California Air Resources Board, Mary Nichols.

"We've had numerous conversations. My staff has worked with her staff for months now," he told the Senate Environment and Public Works Committee. "We would love to have a 50-state solution."

However in a statement to the Los Angeles Times, Nichols sounded a note of deep frustration with Wheeler.

She said that in abandoning the emissions standards adopted by the previous administration and attacking California's authority to enforce

its own rules, the acting administrator had "failed to use his authority to protect the health and welfare of all Americans."

"This is a blow not just to California but to all the states who follow our regulatory approach," Nichols said. "States are prepared to defend our rights against federal overrides by all legal means."

Carbon dioxide emissions from vehicles already rank among the major contributors to climate change and they are expected to account for an even greater portion in the future. For this reason, the national fuel efficiency standards aimed at getting the nation's cars and trucks to average more than 50 miles per gallon by 2025 are often considered one of the country's most effective steps to fight global warming.

In August, the Trump administration unveiled a proposal to freeze mileage targets after 2020. In addition to ending California's unique authority to set its own, tougher greenhouse gas [emissions standards](#), the plan would nullify the state mandate that automakers sell a certain number of electric vehicles.

Automakers, who had complained that the Obama-era regulations were too costly, asked the Trump administration to relax them. But even they were caught off guard by the aggressiveness of the proposal, and some have since advocated for a more moderate approach in hopes of avoiding a lengthy legal battle.

Still, it remains unclear how forcefully automakers have pushed back against the administration's plans.

California officials have proposed that if the current fuel efficiency rules remain in place through 2025, they would be willing to make it easier for automakers to meet those requirements by taking advantage of existing loopholes. In exchange, the Trump administration would have to

agree not to challenge the state's power to set its own pollution standards.

According to people with knowledge of the talks, agency officials have not responded to this proposal.

During Wheeler's nomination hearing, Sen. Thomas R. Carper of Delaware, the top Democrat on the committee, said he had "heard that the Trump administration now plans to finalize a 0.5 percent annual increase in the stringency of the standards, a rate that is 10 times weaker than the current rules."

EPA officials have said they are still working on a final draft of the rules.

California has already sued the Trump [administration](#) to block the EPA's efforts to weaken the existing standards. And if talks fail, more litigation inevitably will follow, reviving old arguments about whether California has the legal authority under the Clean Air Act to set its own standards.

Meanwhile, regulators in China and Europe are going forward with tougher standards of their own to curb auto emissions.

"I think the [worst-case scenario](#) is lost years of progress, which may be critical for climate change," said Paul Cort, an attorney for the environmental advocacy group Earthjustice. "I don't think you can stop the progress that's happening. It's just it could be slowed here in the U.S."

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