

Pumping the brakes? Outlook for state and federal vehicle, engine and equipment emissions standards

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With the transition to the second Trump Administration in the rear view mirror, there remain many uncertainties with respect to how the new administration will regulate vehicle, engine, and equipment emissions, and the steps the second Trump Administration may take to roll back emission standards set during the Biden Administration.

However, one thing is certain, there will be changes; and those changes are likely to impact how the industry develops new mobile source products, meets emission standards, invests in new technologies, and considers any federal rollbacks of the mobile source obligations set by California and adopted by other states that implement California's mobile source rules.

Already, the National Highway Transportation Safety Administration (NHTSA) has been directed to reconsider all fuel economy standards the agency issued that are applicable to vehicles from 2022 forward.

Beyond that, there is only speculation whether a similar review will be required for emission standards the U.S. Environmental Protection Agency (EPA) issued for model year 2027 and later light- and medium-duty vehicles, and the greenhouse gas emission standards issued for heavy-duty highway vehicles, both of which were finalized by the Biden Administration EPA in the spring of 2024.

Whether there will be a full-scale rollback of those standards or more measured changes is unclear. However, unless Capitol Hill Republicans are successful in using budget reconciliation legislation to target EPA's vehicle emissions standards, any changes to the federal standards would require a new EPA rulemaking which could take a year or more to accomplish, leaving regulated industry facing uncertainty going into 2026 with respect to the specific standards that will apply for the 2027 model year.

What is perhaps more clear is that the change in administration will almost certainly effect at least some of California's mobile source rules. Under Section 209 of the Clean Air Act, states are preempted from adopting or enforcing emissions standards for new vehicles and engines.

However, Section 209 of the Clean Air Act allows California to request that the EPA waive this preemption so that California can enforce more stringent standards in the state. Under Section 209 of the Clean Air Act, unless the EPA finds certain limited grounds for

denial it must grant California's waiver request. Section 177 of the Clean Air Act also allows other states to adopt California's mobile source standards.

While EPA has never denied a waiver request from California, in the first Trump Administration, EPA withdrew California's waiver for its Advanced Clean Cars I rule. That waiver was subsequently reinstated by the Biden Administration, followed by a deluge of litigation related to EPA's overall waiver authority since then.

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For example, on December 16, 2024, the Supreme Court denied certiorari in *the State of Ohio et al. v. EPA* where the joining states argued that the Clean Air Act's preemption waiver provision violated "equal sovereignty".

While the Supreme Court declined to take on the constitutionality of EPA's waiver authority in that case, similar challenges may be raised in the future, given that EPA has recently approved a number of new waiver requests and is set to approve the remaining outstanding waiver requests in the coming days.

Regardless of the waiver-related litigation, the Trump Administration is likely to withdraw at least some of the EPA's recently approved waiver requests, which would remove California's and the states proceeding under the authority of Section 177 to enforce rules covered by the waiver once the waiver is withdrawn.

In addition, just prior to inauguration day, the California Air Resources Board (CARB) withdrew two pending waiver requests awaiting approval from the EPA the: (1) In-Use Locomotive regulation, and (2) Advanced Clean Fleets regulation, and one partial waiver request for the amendments to the Transport Refrigeration Unit amendments.

The Trump Administration was expected to deny any waivers that remained pending after taking office, which would make those rules unenforceable in California and in the other states that have adopted the California rules. The Advanced Clean Fleets regulation, in particular, was the subject of ongoing litigation and industry pushback.

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It appears unlikely that the CARB will attempt to reissue these rules at least during the second Trump term; however, CARB has not issued a formal statement with respect to how it plans regarding how to implement the regulations covered by the withdrawn waiver requests, which in the absence of an approved waiver are unenforceable.

EPA has also recently approved waivers for six additional California rules:

- (1) Advanced Clean Cars II regulations
- (2) Heavy-Duty Omnibus Low NOx regulations
- (3) Small Off-Road Engines (SORE) Amendments
- (4) Commercial Harbor Craft Amendments
- (5) Partial approval of the Transport Refrigeration Unit (TRU) Amendments

(6) In-Use Off-Road Diesel-Fueled Fleet Amendments

How the Trump Administration will address these recently issued waiver approvals is less certain. If the first Trump term is any indication, it is likely that all or some of these recently issued waivers will be withdrawn, triggering protracted litigation and industry uncertainty.

During Trump's first term, following the withdrawal of the Advanced Clean Cars I rule waiver, CARB entered into voluntary agreements with certain auto manufacturers that imposed alternative greenhouse gas standards as a stopgap while the waiver withdrawal was litigated and to help provide some regulatory certainty for automakers while the state of the regulations was in flux.

CARB also indicated that it would retroactively enforce the Advanced Clean Cars I rule if the waiver was later reinstated. This could serve as a playbook for CARB during Trump's second term if a number of the above waivers are denied or withdrawn.

For example, with respect to the Heavy-Duty Omnibus Low NOx regulations, CARB previously entered an agreement with certain manufacturers that sets alternative standards for those parties in an effort to achieve regulatory certainty and stave off protracted challenges. Under that agreement, manufacturers also agreed not to challenge certain CARB regulations including the Advanced Clean Trucks regulation.

While uncertainty remains with respect to how the new administration will address vehicle, engine, and equipment emission standards and requirements, there will be changes that may require regulated industry to adjust current compliance, production, and investment plans, particularly with respect to electric and other zero-emission technologies, related infrastructure, and supply chain arrangements.

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