The fight over fuel economy rules is getting messy



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Legal wrangling among the federal government, the state of California, and four automakers who—oddly—are asking for more stringent regulations got even more knotty this month, when the Department of Justice reportedly launched an antitrust probe into companies that struck a deal with California climate regulators.

Now some members of Congress are urging an independent investigation of the investigation, amid suspicions that the probe is an attempt to punish the automakers—and California—for parting ways with federal policy on fuel economy.

The "what' is confusing; the "why," less so. If the average global temperature rises by 4°C by the end of the century, as it may be on track to do, scientists say a whole bunch of bad things would likely happen: higher sea levels, more extreme weather. In the US, transportation is responsible for 29% of greenhouse gas emissions, and nearly 60% of those come from light-duty vehicles like passenger cars.

That's why the Obama administration decided in 2012 to (slowly) strengthen regulations governing vehicles' tailpipe emissions and fuel economy standards, requiring each automaker's fleet to average 54.5 miles per gallon by 2025 and boosting the penalty for missing that target. The Trump administration, on the other hand, wants to freeze those standards at 37mpg and delay the penalty hike, arguing that it will save automakers money, keeping prices low so that more people can buy newer cars with safer technology. (Electric vehicle proponents have questioned this logic.)

California has other ideas. In July, state regulators said they had reached their own deal with Ford, Honda, BMW, and Volkswagen, which would continue to ramp up fuel economy standards through 2025. Together, the four automakers account for roughly 30% of US car sales. The compromise would reach the same average fuel economy levels as the Obama-era standards but with a slighter longer timeline.

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California is a vital market for automakers, and not just because it's the nation's largest economy: thirteen other

states have pledged to follow its lead on emissions rules. Together, those 14 states account for about one-third of US vehicle sales. One set of rules for one-third of the car-buying country, and another for the rest would be disastrous for carmakers.

Other big automakers are in wait-and-see mode. General Motors reportedly believes the California deal doesn't give manufacturers enough credit for investments in fully electric vehicles. The Automobile Alliance, which represents the four carmakers involved in the California deal but also non-signatories like GM and Fiat Chrysler, says its priority is avoiding "uncertainty from protracted litigation."

California is able to set its own emissions standards thanks to text in the Clean Air Act that dates back to the 1970s. At that time, California was well ahead of the rest of the country in combating emissions, so Congress gave it authority to write its own, stricter rules. The Bush administration tried to deny California's effort to set its own emissions standards in 2007, but Obama had taken office before the case was resolved.

Now the Trump administration wants to revoke California's legal authority to set its own rules, and it's trying to do that through lawsuits and new regulations. (Technically, California and other states sued *it*, arguing that it doesn't have the authority to nix the Obama-era rules.) Legal experts say the administration may have a tough road ahead without Congress' help. "The statute is very clear: It says EPA shall grant the waiver," Cara Horowitz, co-executive director of the Emmett Institute on Climate Change and the Environment at UCLA School of Law, has told WIRED. However, federal judges at a hearing in Washington, DC, earlier this month signaled they would be willing to consider the merits of the administration's arguments.

Experts say the antitrust probe into California's dealings is

unusual and that antitrust charges might not apply to businesses' cooperative agreements with government entities—the state of California, for example. Congress could also choose to intercede to prevent the federal government from using antitrust laws as punitive sticks.

Congress, meanwhile, may launch an investigation into the antitrust probe. In a Friday letter to the head of the Department of Justice's Office of the Inspector General, Senate Judiciary Committee member (and presidential candidate) Kamala Harris (D-California) urged the office to examine the motivations for the probe, calling it part of a "multi-pronged assault on California's framework." The House's Judiciary Committee, meanwhile, which is controlled by Democrats, has said that it will seek documents and hearings connected to the antitrust investigation.

California politicians also seem ready for a long-haul flight. "The Trump administration has been attempting and failing to bully car companies for months now," California Governor Gavin Newsom said in a statement earlier this month. "We remain undeterred. California stands up to bullies and will keep fighting for stronger clean car protections that protect the health and safety of our children and families."

This story originally appeared on wired.com.

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