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California officials vow to fight rollback of environmental power

President Trump on Sept. 18 revoked a decades-old rule that empowers California to set tougher car emissions standards than those required by the federal government — putting the state and the administration on a path to years of fighting in court.

California's special authority to go further than the federal government in regulating auto pollution dates back to the 1960s, when Los Angeles was enveloped in a thick layer of smog that state officials came to see as a public health crisis. By the time the 1970 Clean Air Act took effect, the state had already enacted its own tailpipe emissions controls.

Concerned that each state would pass different regulations, Congress decided that the EPA would set vehicle pollution standards for the nation. But it carved out an exception for California, granting it a waiver to set its own rules, provided they were at least as stringent as the federal ones. Thirteen states and the District of Columbia now follow California's regulations. Illinois does not.

The revocation comes a few months after California spurned the White House by secretly negotiating a deal with four major automakers. As part of the pact, the car manufacturers — Ford, Honda, Volkswagen and BMW — agreed to voluntarily abide by California's rules and increase fuel efficiency and reduce emissions, essentially ignoring the Trump administration's plans to roll back tailpipe pollution standards.

"Crazy!" the president tweeted in response. "The Founders of Ford Motor Company and General Motors, are

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NADA urges FTC not to adopt proposed Safeguards Rule changes

A series of amendments to the Federal Trade Commission's Safeguards Rule would add significant cybersecurity duties — and costs — on all financial institutions, including dealerships, the National Automobile Dealers charged Sept. 9.

Since 2003, the Safeguards Rule has required dealers and other financial institutions to develop, implement and maintain a comprehensive written information security program to protect the data obtained from their finance and lease customers. The FTC proposal includes a litany of new requirements such as dual-factor authentication, data encryption and engagement of a chief information security officer.

The NADA said it is concerned about the effect the proposed changes may have on dealers, especially smaller dealers. In comments filed with the FTC, the NADA objected to most of the new requirements as premature, unsupported, expensive and of little cybersecurity benefit for consumers.

In addition to detailing its concerns, the NADA estimates the average dealer would incur nearly $300,000 in up-front costs plus more than $275,000 annually to comply, if all the proposed requirements ultimately are adopted.

"Data security is of critical importance, and dealers should continue their vital efforts to protect customer information, meet regulatory requirements and earn customers' trust every day," the NADA said in a statement. "While we have urged the FTC not to adopt these expensive proposed requirements, dealers should continue to work with their IT staff and providers to ensure they are adequately protecting the information they maintain."

Dealers can find more background information and other tools at www.nada.org/dealerdata. Questions can be directed to regulatoryaffairs@nada.org.

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'rolling over' at the weakness of current car company executives," he wrote.

Other automakers, such as General Motors, have reportedly been interested in joining the agreement. The administration's move to strip California of its authority to set its own emissions standards has been viewed by some of the president's critics as retaliatory.

"It's clearly a big slap at California," said Ann Carlson, a professor of environmental law at UCLA. "It does make you wonder whether there's a motivation here that's political rather than legal."

Further escalating tensions, the Department of Justice has launched an antitrust investigation into whether the automakers that reached the voluntary emissions agreement with the state violated federal competition law.

The EPA and the Department of Transportation also sent a letter to California regulators earlier this month warning of "legal consequences" if the state did not abandon its agreement with automakers. The letter reiterated the administration's long-held belief that only federal agencies have the authority to set fuel economy and greenhouse gas emissions standards for cars.

The revocation of the state's waiver is only one step in the administration's plans to weaken car pollution standards.

Current rules put in place during the Obama administration require automakers to build increasingly efficient vehicles so that by 2025 the nation's cars and trucks would average more than 50 miles per gallon.

Under Trump, the EPA and the National Highway Traffic Safety Administration have proposed weakening the standards by freezing mileage targets at about 37 miles per gallon for cars after 2020. While acknowledging their plan would increase oil consumption and greenhouse gas emissions, the federal agencies have argued that the current standards endanger drivers by making new, safer cars too expensive.

In response to the EPA's decision, Peter Welch, the NADA president, released a statement: "(The) NADA believes that the regulation ... should be done at the federal level for the entire country.

"One national standard for fuel economy will create much-needed regulatory certainty for the auto industry — and certainty for all American new-car and -truck buyers regardless of the state in which they reside.

"America's franchised auto dealers continue to support continuous improvements in the fuel economy of the nation's new-vehicle fleet, as well as federal fuel economy standards that help keep new vehicles affordable. If we lose affordability, we will lose new-vehicle sales. And if we lose new-vehicle sales, all we do is keep Americans in older, less safe and less fuel-efficient cars and trucks longer, and shift our nation's environmental objectives into reverse."

Carlson, the environmental law professor, said that revoking California's waiver would not necessarily harm state regulators' deal with automakers because the agreement is voluntary. In fact, the move could backfire on the administration, she said.

If California's waiver is revoked and the current Obama-era standards remain in place, automakers actually could be forced to lower emissions levels more than they had agreed to as part of their pact with California.

The California standards have contributed to not only reducing the amount of carbon in the atmosphere by billions of tons, but also to directly promoting the development of new automotive technologies, from the catalytic converter to the hybrid engine to the electric car. Those advancements also have been critical to keeping U.S. manufacturers competitive with other makers from around the world.

KEEPS a new preferred partner

The KEEPS Corporation and its Dynatron Software has been added to the CATA's roster of approved member partners, as a company with a proven track record of benefitting CATA member dealers.

The company's primary focus is on fixed operations reporting and consulting. Within the first 90 days of engagement, it historically has generated an average profit improvement of $200,000 using its Virtuous Circle of Perfect Pricing program. The program focuses heavily on pricing compliance as well as competitive market analysis, which allows KEEPS to maximize Effective Labor Rate in a variety of ways.

Once the ELR has reached its full potential, the KEEPS warranty labor rate submission approvals have been significantly higher than before the company begins its efforts. KEEPS makes service management easier and more profitable.

For more information, contact Rob Melaris at rmelaris@dynatronsoftware.com or (702) 425-6134.

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US to allow drivers to choose 'quiet car' alert sounds

The National Highway Traffic Safety Administration on Sept. 16 proposed allowing automakers to offer a variety of sound choices for electric vehicles and other "quiet cars" to choose from to alert pedestrians.

The agency last year finalized rules requiring EVs and hybrids to emit alert sounds to warn pedestrians of their approach, extending to 2020 the deadline for full compliance.

The long-delayed rules, which were first demanded by Congress in 2010, require automakers such as Tesla, Nissan and General Motors to add sounds to vehicles when they are moving at speeds of up to 18.6 mph to help prevent injuries among pedestrians, cyclists and the blind.

The agency on Sept. 16 said in response to a petition from automakers that it was proposing to amend its rules "to remove the current limitation of one sound per vehicle model." The agency wants public comment "on whether there should be a limit to the number of compliant sounds that a manufacturer can install in a vehicle and what that limit should be."

NHTSA required the alerts be in all "quiet" vehicles by September 2020. Automakers were required to have the sounds in 50 percent of vehicles by Sept 1.

To meet emissions requirements from California, automakers need to sell more electrically powered vehicles, and those vehicles are often harder to hear at lower speeds than gasoline-powered engines.

At higher speeds, tire noise, wind resistance, and other factors eliminate the need for a separate alert sound, regulators say.

The Trump administration froze the Obama-era rule as it conducted a review of petitions from automakers. Nissan had argued that the alert was only needed up to 12.4 mph.

NHTSA said last year it expects the rules finalized on Sept. 16 to prevent 2,400 injuries annually and to require the addition of alert sounds to about 530,000 model 2020 vehicles.

NHTSA has said the rules will cost the auto industry about $40 million annually because automakers will need to add an external waterproof speaker to comply. But the benefits of the reduced injuries are estimated at $250 million to $320 million annually.

The agency estimates the odds of a hybrid vehicle being involved in a pedestrian crash are 19 percent higher than with a traditional gasoline-powered vehicle. About 125,000 pedestrians and cyclists are injured annually on roads in the United States.

Used-vehicle index climbs to new record high in August: Mannheim

The Manheim used-vehicle value index for the month of August rose to 141.3, a 1.2% year-over-year increase and a record high. The index was propped up by lower-than-normal depreciation.

Prices for 3-year-old vehicles declined in aggregate 0.5%, less than the expected average of 1%. As a result, August reflected a "much stronger" used-retail market compared with other summer months, according to the report.

August used-vehicle sales increased 1.8% year over year, with the SAAR coming in at 39.8 million units, compared with 39 million in the prior-year period.

Meanwhile, new-vehicle sales were up 11% year over year, and the SAAR increased to 17.0 million units, compared with 16.9 million units last August. New-vehicle inventories, on the other hand, were under 4 million units for the fourth straight month — their lowest level since August 2016.

However, looking forward, the percentage of households planning to purchase a vehicle in the next six months improved to its best level in three months, the report noted.

By segment, compact cars posted the largest decrease in price year over year — down 2.7% — followed by vans at 1.2%, and SUVs at 0.1%. Conversely, luxury cars' price increased 1.8% year over year, followed by pickups at 1.4%, and midsize cars at 0.2%.

New: GAP coverage for 'life events'

Golden Eagle Insurance launched a new product this month designed to aid lenders and customers during unexpected life events.

The negative-equity protection program is described as GAP insurance for life events, allowing customers to walk away from their auto loans or skip payments in the case of unexpected life events, including involuntary unemployment, physical injury or a permanent change of station for military personnel.

The program, called Life Event Auto-loan Protection, or LEAP for short, was based on Hyundai's Assurance insurance policy, Golden Eagle Marketing Manager Christine Hannigan said.

CFPB outlines auto finance plans

While the Consumer Financial Protection Bureau focused supervisory and enforcement activity last year on mortgage lending, small business lending and student loan servicing, it hasn't forgotten about the auto finance industry, according to the agency's 2018 Fair Lending Report issued to Congress.

The CFPB intends to zero in on "whether there is discrimination in policies and practices governing auto servicing, including the use of models that predict recovery outcomes," the report said.

The bureau also intends to scrutinize the Equal Credit Opportunity Act's disparate impact doctrine. An initial reexamination came last year in response to a 2018 congressional resolution that disapproved of former CFPB Director Richard Cordray's 2013 guidance on indirect auto lending, which limited the ability of auto dealers to offer auto loans to their customers.

In addition, the bureau has encouraged innovations that would "be implemented in a consumer-friendly way to help serve populations currently underserved by the mainstream credit system through alternative credit," wrote Patrice Alexander Ficklin, director of the CFPB's office of fair lending and equal opportunity.

The CFPB estimates that nearly 45 million Americans are "credit invisible," causing them to run into roadblocks when attempting to access credit.

Hundreds flock to Washington to step up dealer advocacy efforts

More than 450 new-car and -truck dealers and association executives traveled to the nation's capital Sept. 16 and 17 to take part in the National Automobile Dealers Association's 45th annual Washington Conference and Congressional fly-in, stepping up their advocacy efforts to shape the federal laws and regulations that will impact their industry for years to come.

The second day of the conference kicked off at the JW Marriott Washington D.C. with a breakfast hosted by NADA PAC. Then the NADA member advocates fanned out across Capitol Hill to attend more than 200 congressional appointments to discuss trade, tariffs, recall legislation and repeal of the federal excise tax on heavy-duty trucks. "We are in the 11th hour," said Donovan Bertsch, president of Theel Inc. in Bottineau, North Dakota, and chairman of NADA PAC. "We cannot take today for granted. It's up to you to push for what you want for your business."

That sense of urgency was threaded through comments made by NADA President Peter Welch, who noted that while the NADA and its members have tallied up "a string of legislative victories over the last few years, we still have a full plate. There is a lot of static over the horizon."

IRS proposes guidance on 100% bonus depreciation availability

The Internal Revenue Service on Sept. 13 released both final and proposed regulations on the 2017 Tax Cuts and Jobs Act's bonus depreciation provisions.

The proposed regulations address the availability of 100% bonus depreciation for dealers who also deduct floor plan financing interest.

Under the TCJA, a dealer's ability to deduct floor plan financing interest is not subject to the law's new limitation on interest deductibility. However, the trade-off for this exemption is the general unavailability of the law's 100% bonus depreciation provisions.

In written and oral testimony to the IRS, the National Automobile Dealers Association and the accounting firm Crowe argued — with support from accounting firms Boyer Ritter and Moss Adams — that dealers who deduct floor plan financing interest but do not reach the 30 percent cap on interest deductibility should, similar to other taxpayers, qualify for 100% bonus depreciation.

The proposed regulation states that a dealer who has total business interest, including floor plan financing interest, which does not exceed the 30 percent of adjusted taxable income limit still is generally allowed to also claim 100% bonus depreciation. This calculation is made on an annual basis. Crowe has published a preliminary explanation of the regulation.

As many dealers elected to extend the deadline for their 2018 tax returns due to the uncertainty surrounding this provision (Sept. 15 was the extended deadline for pass-through entities), dealers are encouraged to discuss the proposed guidance with their tax advisors immediately.

For more information, contact Paul Dorsey, with NADA Regulatory, at pdorsey@nada.org.

Tune in . . .

. . . to "Drive Chicago," the CATA's automotive radio show, 8-9 a.m. Saturdays on WLS-AM 890.