

Federal Ruling Boosts California's Efforts to Curb Auto Emissions

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A federal judge on Wednesday boosted California's efforts to curb greenhouse gas emissions from tailpipes when he rejected auto industry arguments that such power rests solely with federal regulators, not individual states.

"The court concludes that both [the federal] EPA and California ... are equally empowered through the Clean Air Act to promulgate regulations that limit the emission of greenhouse gasses, principally carbon dioxide, from motor vehicles," wrote Eastern District of California Judge Anthony Ishii, of Fresno.

The decision means that, if California receives a long-awaited waiver from the EPA, the state can mandate lower emissions in cars, SUVs and pickup trucks starting with 2009 models. Gov. Arnold Schwarzenegger and Attorney General Jerry Brown sued the EPA in November, arguing that the agency is dragging its feet on processing California's waiver.

EPA officials have said that they expect to rule on the waiver request by the end of the year.

Automakers had argued in Wednesday's *Central Valley Chrysler Jeep v. Goldstone*, 04-6663, that California's 2002 tailpipe emissions law would effectively set higher gas mileage standards, a power that now belongs to the federal Department of Transportation.

"We need a consistent national policy for fuel economy, and this nationwide policy cannot be written by a single state or group of states -- only by the federal government," Dave McCurdy, the president and CEO of the Alliance of Automobile Manufacturers, a trade group that represents plaintiff Chrysler and nine other car manufacturers, said in a prepared statement. "The Alliance will continue studying the decision and consider ... the options, including an appeal."

The U.S. Supreme Court also aided California's mission to curb carbon emissions in April, when it ruled in *Massachusetts v. EPA*, 05-1120, that the EPA has the authority to regulate global warming emissions and to aid states that want to enact emission controls.

In September another federal court upheld Vermont's tailpipe emission rules, which had also been challenged by the auto industry. Eleven other states, including Vermont, have adopted their own versions of California's tailpipe emissions law.

"Practically speaking, the court's decision [Wednesday] means that this whole legal avenue of claiming that [fuel efficiency] laws pre-empt air pollution laws is shut down," said Roland Hwang, vehicle policy director of the Natural Resources Defense Council, which intervened in the Eastern District case. "This is the third time a court has affirmed that the Clean Air Act and fuel efficiency standards can co-exist side by side."

Matthew Pawa, an attorney who represented three environmental groups in the California and Vermont lawsuits, said that recent court decisions reflect the judiciary's recognition of global warming as more than just a political issue.

"Global warming is now a burgeoning area of the law, and this shows that this is an issue in which all three branches of government can bring their tools to bear," Pawa said.