

California's emission-control law upheld on 1st test in U.S. court

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(12-12) 11:54 PST FRESNO -- California's first-in-the-nation effort to limit cars' emissions of gases that contribute to global warming took a big step forward Wednesday when a federal judge upheld the state's right to control air pollution and dismissed a challenge by the auto industry.

The ruling by U.S. District Judge Anthony Ishii of Fresno also was a victory for 16 other states whose laws or regulations on tailpipe emissions were modeled after California's 2002 statute. The 17 states represent nearly half the U.S. population, and their laws would effectively require automakers to cut greenhouse gas emissions nationwide, despite President Bush's rejection of mandatory national standards.

The California law, however, cannot be enforced without the approval of the Bush administration's Environmental Protection Agency. The state asked the EPA two years ago for a waiver that would allow it to exceed federal clean-air requirements and regulate cars' greenhouse gas emissions starting with 2009 models.

The EPA has never denied California such a waiver, but the agency has been lobbied by auto companies and by Bush's transportation secretary to deny the request. The state has sued the agency to force a decision, and EPA Administrator Steven Johnson has promised to decide by the end of the year.

Ishii's ruling "leaves the Bush administration as the last remaining roadblock to California's regulation of tailpipe greenhouse gas emissions," said state Attorney General Jerry Brown, whose office defended the law.

Gov. Arnold Schwarzenegger signed another groundbreaking law last year seeking a 25 percent reduction in all greenhouse gases emitted in California by 2020. He said Wednesday that with motor vehicles contributing nearly 30 percent of those emissions, "it is imperative that we be granted the fuel waiver from the federal government."

Environmental groups that joined the defense of the state law praised the ruling. The law's author, former Assemblywoman Fran Pavley, a Los Angeles-area Democrat now with the Natural Resources Defense Council, said the decision "affirms California's legal right to clean its air and protect the health of its citizens."

The ruling was the result of a 2004 lawsuit filed by auto industry trade organizations that wanted to overturn the California law. On Wednesday, the auto industry groups were noncommittal on whether they would appeal, apparently awaiting the EPA decision on the state's waiver request. Dave McCurdy, chief executive of the Alliance of Automobile Manufacturers, repeated his group's position that the issue should be off-limits for individual states. "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 the federal government," he said.

Ishii, however, disagreed with the auto industry's claim that the state's curb on greenhouse gas emissions amounted to a forbidden intrusion on federal regulation of gas mileage. There is no conflict between the federal government's efforts to improve fuel economy and a state's attempts to protect its residents' health and resources by reducing air pollution, the judge said.

The ruling is the latest in a series of court decisions in favor of states and environmental groups that have argued that laws originally enacted to fight smog can be used against greenhouse gases - carbon dioxide and other fumes from tailpipes and smokestacks that scientists believe cause global warming.

Bush opposes mandatory limits on greenhouse gas emissions and says the nation should address the problem through voluntary industry action and modest increases in fuel economy standards. But in April, over Bush administration objections, the Supreme Court ruled that the emissions are pollutants covered by the Clean Air Act, and that the EPA must regulate them unless it can back a refusal to do so with scientific evidence.

In September, a federal judge in Vermont upheld a state law identical to California's auto emissions statute, a ruling that automakers have appealed. Last month, the Ninth U.S. Circuit Court of Appeals in San Francisco ruled that the federal government's new miles-per-gallon standards for SUVs and light trucks were too lax because they failed to account for the effect of fuel consumption on global warming.

The California law requires car manufacturers to lower emissions gradually, to 23 percent below current new-car levels by 2012 and 30 percent by 2016. It does not specify how the reductions are to be accomplished, but the state Air Resources Board says automakers can reach the goals by a combination of improving gas mileage, implementing new technology, using alternative fuels and reducing leaks of greenhouse gases from air conditioners.

The lawsuit by auto trade groups, manufacturers and dealers argued that the California statute conflicts with federal law. The suit contended that the only practical way to reduce greenhouse gas emissions is to increase gas mileage, a subject regulated exclusively by the federal government.

In Wednesday's 57-page ruling, Ishii said California is not directly regulating fuel economy even if its law has the effect of forcing increases in gas mileage. "The required increase in fuel economy is incidental to the state law's purpose of assuring protection of public health and welfare under the Clean Air Act," Ishii said.

Compliance with the law, he said, "can be at least partially achieved through changes that are not directly reflected in fuel economy improvements," such as using other fuels and improving air conditioners.

Ishii said the Supreme Court addressed a similar issue in its April ruling when it rejected the EPA's argument that regulating greenhouse gases would require the agency to increase fuel economy, a task that the agency said was the job of federal transportation officials.

In light of scientists' increasingly dire warnings about global warming, Ishii said, preventing an environmental agency from setting air pollution limits that might require improving cars' gas mileage would be "the very height of folly."

Global warming rulings:

Wednesday's ruling: U.S. District Judge Anthony Ishii said that California has the authority to limit cars' emissions of carbon dioxide and other greenhouse gases and that the state would not be intruding into the federal government's exclusive authority to regulate fuel economy.

Previous rulings: The U.S. Supreme Court ruled in April that greenhouse gases are air pollutants subject to regulation under the Clean Air Act. A federal judge in Vermont upheld a state law in September that is identical to California's law. In November, the Ninth U.S. Circuit Court of Appeals in San Francisco found new federal mileage standards for light trucks and SUVs too lax, because they ignored the effect of fuel economy on greenhouse gas emissions.

What's next: The Environmental Protection Agency must decide whether to issue a waiver that would allow California to enforce a standard more stringent than the federal clean-air law, a decision that will affect similar laws or regulations in 16 other states. Wednesday's ruling could also be appealed.

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