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CLIMATE: Dealers revive 'patchwork' argument against Calif. auto waiver (Friday, January 23, 2009)

Josh Voorhees, E&E reporter

In the face of a revitalized effort by California to regulate vehicle greenhouse gas emissions, auto dealers today renewed the industry's argument that state standards would create a "regulatory patchwork" that would devastate the already ailing sector.

In a report, the National Automobile Dealers Association outlined its long-held opposition to U.S. EPA granting California a waiver to allow the state to regulate tailpipe emissions, arguing that the California standards would produce little environmental gain at the expense of "irreparable harm" to the U.S. auto industry.

Under the Clean Air Act, California is the only state that can enforce its own standards -- but only with an EPA waiver. If California receives the waiver, other states would then be permitted to enforce the same tailpipe standard. Thirteen other states have moved to adopt the stricter standards, and another three have indicated that they will follow if the waiver is granted. In all, the 17 states represent nearly half of the U.S. auto market.

Earlier this week, Gov. Arnold Schwarzenegger (R) and California Air Resources Board (CARB) Chairwoman Mary Nichols formally requested that President Barack Obama reconsider last year's denial of California's waiver request (Greenwire, Jan. 22).

Despite California's having been so far turned down, Obama has signaled his support for granting the waiver, and new EPA Administrator Lisa Jackson promised an "aggressive" review of the request when questioned on it during her confirmation hearing.

David Regan, vice president of legislative affairs at NADA, said that it would not make sense to grant the states the right to adopt the stricter standards, given that the federal government is in the middle of extending billions in loans to keep General Motors Corp. and Chrysler LLC afloat.

"It makes no sense for the federal government to aid the auto industry with one hand, and then burden it with a duplicative rule that regulates fuel economy completely differently than the federal government," Regan said.

The NADA report argues that because consumers buy different vehicles in different quantities in different states, automakers' fleetwide greenhouse gas emission averages would vary by state, forcing the manufacturers to manipulate the amount of each model it makes available in each state.

"Application of CARB's regulation means that an automaker could comply in California and offer the exact same choice of vehicles in another CARB state, and yet still not be in compliance, solely due to differing consumer demand," NADA wrote.

The group said the state standard would cause "mix shifting," whereby a carmaker manipulates the composition of its own fleet in a particular state to comply with the greenhouse gas emissions standard, such as by rationing the availability of larger vehicles and discounting smaller-size models.

The report argues that mix shifting limits consumer choice in states that adopt the California standard and creates a "cross-border sale loophole" that would allow new car buyers to travel to neighboring states to purchase a vehicle that is not available -- or is available only at a higher price -- in their own state. "Thus one of the goals of CARB's program, i.e., to reduce in-state emissions of GHGs, will be frustrated and can be easily evaded," NADA wrote.

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