Lawsuit moot, for now, after Biden administration reverses course on California greenhouse gas emission standards

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The resolution of the lawsuit is a clear win for the state, but such a dispute may be reignited if a Republican wins the presidency in 2024.

President Joe Biden’s administration on Wednesday dropped the Environmental Protection Agency's bid to revoke California's waiver allowing the state to implement its own greenhouse gas emission standards.

The EPA announced that its 2019 bid, during President Donald Trump's administration, to eliminate the state's decades-old authority to set more stringent air pollution standards than the federal government was "decided in error and are now entirely rescinded."

The Trump-era EPA sought to get rid of California's waiver, granted when Congress passed the Clean Air Act in 1970, that allowed the state to keep its own standards -- which dated to 1966 -- even if they were tougher than federal law.

For now, that effort is over, although the state's lawsuit against the EPA, pending in Washington D.C. federal court, has not yet been resolved.

California Attorney General Rob Bonta hailed the EPA's decision backing the state's greenhouse gas emissions standards and zero-emission vehicle programs.

"Today's announcement by the Biden administration reaffirming California's authority to require significant reductions in harmful emissions from new motor vehicles is a victory for Californians, a victory for the nation, and a victory for the planet," he said in a statement.

Representatives of the EPA and Bonta's office declined to comment about the state's lawsuit. State of California et al. v. Chao et al., 19-CV-02826 (D. D.C., filed Sept. 20, 2019).

Legal observers said that while there may be a possible dispute over whether California should get attorney fees as the prevailing party, it's unlikely that much will happen because the case is now moot.

"I think the lawsuit will go away," said Dave Owen, a UC Hastings College of the Law professor who teaches environmental law, in a phone interview.
The resolution of the lawsuit is a clear win for the state, but such a dispute may be reignited if a Republican wins the presidency in 2024 and takes actions similar to Trump’s EPA.

"It's all you can get as a lawyer -- temporary wins that might last," Owen said.

Richard M. Frank, a professor of environmental practice at UC Davis School of Law, said the dispute has played out in similar fashion to one in 2008 when the administration of President George W. Bush denied California a waiver to allow it to implement a tailpipe waiver.

The state sued at the time, dropping its case only after President Barack Obama won the presidential election in 2008 and changed the policy.

"This is a critically important climate change decision of the Biden administration and a reaffirmation of California’s leadership role in reducing emissions and providing an orderly transition from fossil fuel to electric vehicles," Frank wrote in an email.

The EPA's decision also is a victory for 13 other states, and the District of Columbia, which opted into California’s standards, he added.

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