CLIMATEWIRE
POLICY. SCIENCE. BUSINESS.

<< Back to Climatewire index page.

CAR RULES

States face roadblocks on path to lower tailpipe emissions

Maxine Joselow, E&E News reporter • Published: Wednesday, January 8, 2020

Traffic snarls to a halt in Bloomington, Minn. Four states — Colorado, Nevada, New Mexico and Minnesota — have followed California's lead in pursuing tougher clean car standards. Glen Stubbe/Zuma Press/Newscom

Amid efforts by the Trump administration to roll back climate change regulations, several blue and purple states have sought to strengthen their own rules. But they've faced significant obstacles.

Nowhere is this trend more evident than in the case of Obama-era clean car standards.

In April 2018, the Trump administration signaled its intent to weaken the auto pollution standards, dealing a gut punch to state efforts to fight climate change and air pollution.

The reaction from Colorado was swift. Then-Gov. John Hickenlooper (D) signed an executive order directing state agencies to begin adopting California's greenhouse gas emissions standards for cars, which are poised to be more stringent than those of the federal government (***E&E News PM***, June 19, 2018).

A few months later, the November 2018 midterm elections ushered in a new wave of Democratic governors with strong climate credentials. Three of those governors — Michelle Lujan Grisham of New Mexico, Steve Sisolak of Nevada and Tim Walz of Minnesota — steered their states toward the tougher car rules, as well.

In Colorado, newly elected Gov. Jared Polis (D) went a step further. Soon after taking office, he signed an order directing state agencies to begin adopting California's zero-emissions vehicle program, which seeks to boost sales of plug-in hybrid and electric vehicles (***Climatewire***, Jan. 18, 2019). The three other states have considered the program, too.

Yet for all four states, the path toward tougher climate rules for cars has not been smooth. There have been multiple roadblocks along the way, according to interviews with 12 people involved in the deliberations and a review of state lobbying records.

From Minnesota to New Mexico, some common themes have emerged. Auto dealers have sounded the alarm that the new rules would raise prices for consumers. The oil and gas industry has joined with conservative groups to decry the rules as costly and burdensome. And auto trade associations have hired small armies of lobbyists to air their concerns in closed-door meetings with state officials.

Amid this avalanche of opposition, only Colorado officially has committed to adopting both California's low-emissions vehicle (LEV) standard and zero-emissions vehicle (ZEV) program. Nevada officials are still weighing the rules, while Minnesota and New Mexico are still early in their planning processes.

These results showcase the difficulties of enacting climate-friendly transportation policy, even in blue or purple states where Democrats control the governor's mansion and in some cases the legislature.

It's a cautionary tale for states looking to tackle pollution from transportation, which recently surpassed the power sector as the country's largest source of planet-warming emissions.

'Being regulated by California bureaucrats'

In Colorado, auto dealers fought hard against the new climate regulations.

Leading the charge was the Colorado Automobile Dealers Association, which represents about 260 dealers in the state. The group argued the new rules would raise the sticker price of new cars, forcing consumers to hang on to their older, more polluting vehicles.

"When both regs are in place, we anticipate higher prices," Tim Jackson, the president of CADA, said in an interview. "That will keep people from buying their next new car. So it may actually have an adverse impact on the environment by keeping consumers in higher-emitting cars."

To back up its claims, CADA commissioned a study from the Virginia-based firm Energy Ventures Analysis Inc. The study found that adopting the LEV standard would raise the price of new cars by $2,500, while adopting the ZEV program would result in an additional $500 increase.

State officials were unmoved by these findings. They noted that Energy Ventures Analysis has faced criticism before for taking the side of the fossil fuel industry.

In 2015, for instance, the National Mining Association hired the firm to produce a report showing that the Clean Power Plan would raise electricity prices nationwide. That prompted a Natural Resources Defense Council analyst to **counter** that the firm was "widely recognized for their biased views and industry-influenced reports."

For its second attempt at quashing the new rules, CADA turned to the courts. It filed a **lawsuit** alleging that the rules "would have a direct adverse effect" on dealers and consumers.

That attempt, too, was unsuccessful. A district judge tossed the suit this summer, saying the dealers association had failed to demonstrate that the rules would materially harm its legally protected interests (***Climatewire***, July 10, 2019).

The loss hasn't prevented dealers from raising an outcry in the three other states, though they've stopped short of litigation.

Scott Lambert, president of the Minnesota Automobile Dealers Association, estimated that adoption of the tougher tailpipe rules would raise the price of new cars in the state by $800 to $2,000.

"This is a hypercompetitive business, and an $800 difference is just gonna kill my dealers in terms of their ability to export cars into other states," he said.

Lambert also raised ideological concerns about borrowing regulations from California, which has different demographics and air quality issues than his Midwestern state.

"I object to being regulated by California bureaucrats who are not associated with anyone in Minnesota," he said. "We're an agricultural state. A lot of people here haul boats and snowmobiles. They throw hockey bags into the backs of their minivans. And I don't think that demographic matches up well with the California regulations, which are really based on dense urban areas with smog."

Andy MacKay, executive director of the Nevada Franchised Auto Dealers Association, said he shares these concerns and plans to communicate them to the state Office of Energy in the coming months.

'Not based in reality'

Amplifying the auto dealers' concerns in the four states were groups tied to the fossil fuel industry and the Koch network.

In Colorado, a group called the Freedom to Drive Coalition raised strong objections to the ZEV program, saying it would harm consumers while yielding few environmental benefits.

The coalition's members included oil and gas interests such as the American Fuel and Petrochemical Manufacturers and the Colorado Petroleum Association. Fielding media inquiries for the coalition was Sean Paige, the former acting director of Americans for Prosperity Colorado, the state chapter of billionaire Charles Koch's national political organizing group.

Reached via email, Paige redirected E&E News to Kelly Sloan, the executive director of the Freedom to Drive Coalition and owner of Sloan & Associates Public Affairs LLC.

"We have nothing against electric vehicles," Sloan said in an interview. "I think they're fine. I'd probably have one myself if I could afford it. The problem we have is the government trying to force them onto a marketplace that's not ready for them, and especially using a mandate that was developed in California for California, for their specific climate and driving conditions."

Sloan added that the majority of electricity in Colorado comes from natural gas or coal, so adding more EVs to the roads would do little to improve air quality.

Will Toor, executive director of the Colorado Energy Office, rejected these claims in an interview.

"They made technically very flawed arguments that there were no air quality benefits from zero-emission vehicles, ignoring the changes that have taken place to the electric grid in Colorado," Toor said of the Freedom to Drive Coalition. He noted that the state's electricity generation from renewable sources has more than doubled since 2010.

"They basically just made a set of arguments that were very weak from a technical perspective and not based in reality," he said.

In Minnesota, a conservative think tank called the Center of the American Experiment created a template for people to submit public comments opposing the new rules.

The think tank is a member of the Koch-funded State Policy Network, according to *DeSmog*, a website that tracks the messaging of fossil fuel companies and their allies.

The Center of the American Experiment has received more than $180,000 from the Donors Capital Fund, an outfit that has funded climate denial groups, according to *DeSmog*.

Of the more than 600 **public comments** that poured in, roughly 13% used identical language provided by the Center of the American Experiment, according to an **analysis** by *DeSmog*.

"They created a script that was posted on their website. Basically anyone could just simply copy and paste this prewritten script and submit it as a comment," said Dana Drugmand, a *DeSmog* reporter and author of the analysis.

In Nevada, the Western States Petroleum Association is carefully evaluating the potential new rules. The transportation sector accounts for 80% of petroleum products used in the state.

"Our industry is proud to provide the critical transportation fuels that Nevadans use every day to drive the state's economy," WSPA President Catherine Reheis-Boyd said in an emailed statement to E&E News.

"While there are no specific policy proposals to provide input on currently, WSPA looks forward to participating in the public process to develop the recommendations due to the governor by the end of the year," she said.

Lobbying blitz

Auto trade associations also beefed up their lobbying muscle in the four states weighing the new climate rules.

An industry source recalled that a lobbyist for the Association of Global Automakers — a powerful trade association whose members include Toyota Motor Corp. and Nissan Motor Co. Ltd. — visited all four states in rapid succession in August.

"It was funny. When I was at a ZEV hearing in Colorado, a representative from Global actually said to me that she was traveling for the rest of the next week, starting with New Mexico and essentially going to hit all of the clean car states, the ones that were considering adoption," said the industry source, who requested anonymity because they were not authorized to discuss the matter publicly.

The Alliance of Automobile Manufacturers — another powerful trade association whose members include General Motors Co. and Ford Motor Co. — also staffed up on lobbyists in the four states.

For help in reaching Colorado officials, the Auto Alliance tapped the Denver-based government relations firm Colorado Advocates Inc., according to state lobbying **records**.

Toor, the executive director of the Colorado Energy Office, recalled meeting with the Auto Alliance several times. He said the meetings were primarily focused on crafting an alternative to the ZEV program based on voluntary sales targets for EVs.

In the end, the two parties were unable to reach an agreement on an alternative. So the state moved forward with the ZEV program as planned.

Still, important concessions were made by both sides. The Auto Alliance agreed to issue a supportive public statement about the ZEV program — and more importantly, not to file a lawsuit over it. And the Colorado Energy Office agreed to structure the program so that manufacturers could "bank" credits for selling more EVs — a top priority for the trade association, Toor said.

In Nevada, the Auto Alliance hired three Reno-based lobbyists from the firm Lewis Roca Rothgerber Christie LLP, according to the state lobbying disclosure **database**. And in Minnesota, the trade association tapped two St. Paul-based lobbyists from the firm Messerli Kramer, the **database** shows.

Asked for comment, Auto Alliance spokesman Wade Newton said in an email: "We've always said that the way to get to an EV future — in any state — is by thoughtful consideration of positive policies on a reasonable timeline. It takes time to build a productive EV market."

A spokeswoman for Global Automakers didn't respond to multiple requests for comment.

Stuck in neutral

As it stands, only Colorado has officially committed to implementing both the LEV standard and the ZEV program. The other three states are still weighing the possibility.

Brad Crowell, director of the Nevada Department of Conservation and Natural Resources, stressed that the state is still weighing its options.

"We have not explicitly announced that we are adopting the California standards. Neither the governor nor his office has explicitly announced it," Crowell said.

It's a similar story in Minnesota, where "the decision whether to adopt the [rules] is made by an administrative law judge," said Mary Robinson, a spokeswoman for the Minnesota Pollution Control Agency.

And in New Mexico, officials are still "early in the planning," said Sandra Ely, director of the Environmental Protection Division at the state Environment Department.

New Mexico in particular has a complicated track record when it comes to clean car standards.

The state Environmental Improvement Board first adopted the LEV rules in 2007, under then-Gov. Bill Richardson, a Democrat. But the state repealed them in 2013 under then-Gov. Susana Martinez, a Republican.

Soon after taking office last year, Lujan Grisham vowed to restore the climate rules for cars. She framed the move as a direct rebuke to the Trump administration.

"While President Trump threatens to rob New Mexico and indeed all states of a valuable tool for combating air pollution and decreasing greenhouse gas emissions, New Mexico will stand up and deliver on our commitment to environmental leadership," Lujan Grisham said at Climate Week in New York City (***Greenwire***, Sept. 25, 2019).

Ely said she's already met with representatives from the Auto Alliance and Global Automakers, though dealers and other stakeholders have been mum so far. In 2007, dealers backed legislation in the New Mexico Legislature that would have blocked the state from adopting the LEV standards.

"Once we have draft rules or more of an active stakeholder engagement process, I'm guessing we'll see and hear more from all of those folks," Ely said.

Twitter: **@maxinejoselow** | Email: **mjoselow@eenews.net**