

Key support for state's bid to curb greenhouse gases

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WASHINGTON - California "appears to have a strong case" in its campaign to secure federal approval to set its own greenhouse-gas controls on vehicles, according to an unreleased report from the Congressional Research Service, a non-partisan body known for its credibility on Capitol Hill.

California made its request to the Environmental Protection Agency in December 2005, arguing that in the absence of federal controls, the state had to act on its own to protect its natural resources and the health of its citizens. State officials have accused the Bush administration of dragging its heels on the issue for nearly two years, and of bowing to pressure from the auto industry.

EPA chief Stephen Johnson has said he will decide by the end of the year, but Gov. Arnold Schwarzenegger said the state will sue in federal court by mid-October if no decision is made.

Meanwhile, 14 other states have pledged to adopt standards identical to California's as soon as the EPA gives its approval.

The 20-page research service report, made at the request of an unknown member of Congress, was completed in July and updated Aug. 20, but has not been made public. The Mercury News obtained a copy Friday.

No objections

The report found that the state met all tests in getting a waiver from the EPA to enforce its own standards, including "substantial flexibility" for the auto industry and the use of current technologies to meet the new rules, starting with 2009 models.

California also made a "persuasive case" that it has already been granted 53 waivers under the Clean Air Act, with no rejections, and demonstrated the adverse impact of climate change on the state's water supply, air quality and overall health, which merit stringent state regulations.

The Congressional Research Service is used by all members of Congress, and its reports are widely cited on Capitol Hill as factual, unbiased and reliable. State officials said the report's positive assessment of the state's legal and policy arguments could bolster its case with the EPA.

"This report confirms why we're convinced that we have every authority to set tougher standards for our cars, and trust that the federal government will do the right thing," said BreAnda Northcutt, spokeswoman for the state EPA.

Tony Kreindler, a spokesman for Environmental Defense, which has supported California in litigation, said, "This independent analysis seems to leave the EPA little room to deny the waiver. As CRS confirms, California's case is strong and the agency should stop dragging its feet."

The state case has become politically charged, with high national stakes, because 14 other states - including New York, Florida and Pennsylvania - are waiting to adopt California's stringent standards, designed to reduce vehicle greenhouse gas emissions 30 percent by 2016. The 15 states represent about 44 percent of the nation's population.

"The stakes involved - both the environmental consequences and the potential impact on the auto industry - go well beyond California," the CRS report found.

Major opponents

Auto manufacturers have fought the California standards, saying they are an illegal way for states to enforce their own fuel economy rules. Transportation officials in the Bush administration lobbied against the waiver. Johnson has promised an unbiased decision on the waiver.

Sen. Barbara Boxer of California, who chairs the Environment Committee, backed a bill requiring the EPA to make a decision by the end of September. The full Senate may take up the bill after it returns next week.

The EPA had resisted regulating greenhouse gases as air pollutants, but lost a Supreme Court case in April brought by states, including California, seeking that authority. That decision "does make it harder for the agency to reject the waiver request," the CRS concluded.

The report also responded to criticism that even if California and the 14 other states enforced the tougher restrictions, that would only cut the nation's total carbon emissions by about 3 percent - not enough to change the impact of global warming on California.

The state has a history of using the Clean Air Act to implement "incremental steps that reduce emissions" that were later used by other states and Congress, the report found.

"California has served as a laboratory for the demonstration of cutting-edge emission-control technologies which, after being successfully demonstrated there, were adopted in similar form at the national level," the report concluded.

The existence of the CRS report came to light because several groups are pushing to make all such reports public. Under current rules in Congress, it's up to members to make

reports public. In some cases, CRS analyses of potential regulations are used by lobbyists long before they receive wide public circulation.

The Center for Democracy and Technology, a non-partisan advocacy group, has collected and posted CRS reports on a Web site, www.opencrs.com. With the help of an anonymous member of Congress, who supplied the titles of reports not yet made public, the Web site lists those reports by name in a link called "Fugitive CRS Reports."

The California waiver study was one of the 20 such reports since July 3 that the center has listed.