

State may sue EPA over clean air law

The governor says he wants action on 2005 bid to cut greenhouse gas emissions from vehicles.

By Janet Wilson

Times Staff Writer

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Gov. Arnold Schwarzenegger on Wednesday said California will sue the federal government if the state is not allowed to implement its landmark law slashing greenhouse gases from vehicles within six months.

"The clock is ticking.... If we don't see quick action from the federal government, we will sue the U.S. EPA," said Schwarzenegger, speaking at the Milken Institute Global Conference in Beverly Hills.

"I just had a conversation with [EPA Administrator] Steve Johnson, and I said we are going to sue him," the governor said. "I put him on notice that the federal government is moving too slow."

Environmental Protection Agency officials countered that they were moving "expeditiously" on California's request. But in a move that provoked immediate criticism, they also said Wednesday that they may link a recent U.S. Supreme Court decision on greenhouse gases to California's request. If they do, it could delay the waiver decision yet again.

Under the federal Clean Air Act, California is allowed to pass its own air pollution laws but must first obtain a waiver from the EPA. The state submitted its waiver request in December 2005, after the law was passed.

After California receives permission, other states can follow its lead. Eleven other states have adopted similar tailpipe greenhouse gas laws.

For months, EPA officials had said that they would not grant California's request until the Supreme Court ruled on whether the federal agency is allowed to regulate greenhouse gases as air pollution.

The high court ruled three weeks ago that greenhouse gases are air pollution and that the EPA should regulate them unless they were not found to endanger public health.

William Wehrum, acting head of EPA's Office of Air and Radiation, said in an interview Wednesday that the agency now needed to decide whether California's waiver should be linked to a determination of whether greenhouse gases are an "endangerment."

"That's a pretty fundamental question ... whether there's a connection," Wehrum said. He said a decision on that and other legal questions would be made "soon."

California Atty. Gen. Jerry Brown said the two were not legally linked and harshly criticized federal officials for considering it.

"They have no legal basis," Brown said. "In good faith they should grant the waiver. The request has been in for

almost two years. If they're now going to sabotage the clean air process by pretending they don't know that greenhouse gases are harmful ... that would not be a decision based on science or the law, but a decision based on raw politics."

David Doniger, a lead attorney with the Natural Resources Defense Council who defeated the EPA in the Supreme Court decision, agreed.

"It's California's choice" whether to regulate air pollution independently, he said. The Bush administration "is still looking for excuses to deny California the waiver, to stall it or deny it."

Schwarzenegger's staff said a letter was sent Wednesday giving the required six-months notice of intent to sue under the Clean Air Act for not allowing California to move forward with its law.

Carmakers have sued to stop the law's implementation in California, Vermont and elsewhere.

In his remarks at the conference, Schwarzenegger, a Republican, repeatedly distanced himself from the Bush administration's policies on global warming and said "the whole world should tell the federal government to wake up and do something about this."

Teased by conference host Michael Milken about his gas-guzzling Hummers, which emit high levels of greenhouse gases, Schwarzenegger said he was having both retrofitted to run on cleaner, renewable fuels.

But he said making people feel guilty about what they drive was not the answer, and insisted that energy issues and environmental concerns can be addressed with new technology.

"Women who have children like SUVs. We should let them keep their big SUVs and change the technology."

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SACRAMENTO

Governor says 'clock ticking' on EPA action to curb emissions

He threatens suit over delay in letting state toughen standards

[Tom Chorneau, Chronicle Sacramento Bureau](#)

Thursday, April 26, 2007

(04-26) 04:00 PDT Sacramento -- Gov. Arnold Schwarzenegger threatened Wednesday to sue the Bush administration for delaying action on California's request to regulate greenhouse gas emissions from cars and trucks.

After waiting more than a year for the federal Environmental Protection Agency to act on the request, Schwarzenegger said the EPA should be moving aggressively now that a recent U.S. Supreme Court decision has cleared away legal hurdles.

"Our clock has started ticking," Schwarzenegger said at a noontime address before an audience at the Milken Institute's Global Conference in Beverly Hills. "And if we don't see quick action from the federal government, we will sue the U.S. EPA."

The threat puts a spotlight on the growing rift between the Republican governor and the Bush administration over regulation of greenhouse gases and raises the stakes in a debate that has taken on global interests in recent months.

At issue is a law passed by California lawmakers five years ago that would gradually tighten standards on carbon dioxide emissions from cars and trucks beginning with 2009 models. State officials requested a waiver from the federal agency in 2005 that would allow the state to impose its own emission regulations that would be more restrictive than national standards.

The Bush administration, which has long supported a voluntary approach to cutting tailpipe emissions, did not act on the request, saying it did not have authority under the Clean Air Act.

The U.S. Supreme Court, in a ruling earlier this month, said the EPA does have the power to control the global warming gases, issuing a strong rebuke to the Bush administration's hands-off approach.

Federal officials said after the high court ruling that they would begin to process California's request for a waiver. The EPA this week also opened the public comment period on the proposal which ends in June.

But in a letter to EPA Administrator Stephen Johnson, Schwarzenegger noted that the agency's public-review process could delay action until the end of October.

"This is clearly an unreasonable delay," the governor wrote. "And I ask that the EPA issue its decision on California's request within the next 180 days in order to avoid legal action."

EPA spokeswoman Jennifer Wood said that Johnson is moving ahead on the request without delay.

"He said he would move ahead with the process and that's exactly what he's doing," she said.

Wood said that the public hearing is scheduled for May 22 and comments can be made on the issue through June 15. She said making any decision before the public review process is complete would be premature.

But Bill Magavern, a lobbyist for the Sierra Club, said the EPA has had plenty of time to consider the waiver.

"The federal government should let California go ahead with our clean car standards," he said. "The Supreme Court cleared the way but the Bush administration continues to drag its feet."

"The state asked for this waiver in 2005 and here we are, April 2007, and they are only scheduling a hearing next month," he said.

Charles Territo, spokesman for the Alliance of Automobile Manufacturers, said it makes little sense to allow individual states to have their own emission standards.

"We believe there needs to be a national and economywide approach to addressing greenhouse gases," he said.

Territo noted that the issue is the subject of a lawsuit currently pending before a U.S. District Court in Vermont.

The case was brought by General Motors Corp. and Daimler-Chrysler in an effort to block rules adopted by the state of Vermont aimed at reducing tailpipe emissions of carbon dioxide.

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EPA is warned of state lawsuit

Governor gives feds a deadline on rules for vehicle emissions.

By Kevin Yamamura - Bee Capitol Bureau

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In a rebuke of the Bush administration's environmental policy, Gov. Arnold Schwarzenegger threatened Wednesday to sue the federal government if it does not decide by October whether to allow California to regulate greenhouse gas emissions on new vehicles.

The California Air Resources Board has approved restrictions on new passenger cars and light trucks that would reduce their greenhouse gas emissions about 30 percent by 2016, but it cannot impose such limits without a federal waiver.

The U.S. Environmental Protection Agency has resisted making a decision ever since the state requested the waiver in December 2005. As a possible precursor to a decision, EPA announced plans to hold a hearing and solicit public comment after the U.S. Supreme Court this month increased pressure on the Bush administration by ruling the federal government should regulate carbon dioxide emissions.

Schwarzenegger said Wednesday at a Milken Institute conference in Beverly Hills that "the federal government is working too slow to get us the waiver so we can implement our laws. And basically our clock has started ticking for these next six months, and if we don't see quick action these next six months, we will sue the U.S. EPA."

The governor spoke Wednesday with EPA Administrator Stephen L. Johnson before sending the notice of intent to sue and met with him while visiting Washington this month.

Schwarzenegger's legal threat is a procedural move designed to ensure California can file suit if the EPA does not settle the waiver issue by October. Under federal law, states are required to notify the EPA six months before filing suit.

U.S. EPA spokeswoman Jennifer Wood said the federal agency plans to hold a public hearing May 22 on the California waiver and will collect public comment until June 15.

"Administrator Johnson is delivering on his word," Wood said. "He said he would move forward with the next step of the waiver process following the decision of the Supreme Court, and that's what he's doing."

Despite personally campaigning for Bush's re-election in 2004, Schwarzenegger has tried to distance himself from the unpopular president on environmental issues.

The governor chided the federal government for not responding to global warming during East Coast speeches at Georgetown University and the Council on Foreign Relations earlier this month. He won praise for signing a law last year to reduce California's greenhouse gas emissions 25 percent by 2020.

After lawmakers and then- Gov. Gray Davis established a greenhouse gas reduction law in 2002, the state Air Resources Board approved regulations requiring automakers to reduce greenhouse gas emissions on vehicles sold in California starting in 2009. The restrictions become stricter each year through 2016. Automakers have filed suit against those rules.

The EPA's decision on the waiver would affect 11 other states that have adopted California's emissions standards.

"The letter today shows that the Schwarzenegger administration and the state of California are serious about cutting global warming pollution from cars," said Jason Barbose, a global warming expert with Environment California. "The time for foot-dragging by the Bush administration is over."

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Governor says he will sue EPA over emissions

State trying to force automakers to cut pollution

By Michael Gardner, COPLEY NEWS SERVICE

SACRAMENTO – Frustrated by 16 months of stalling, Gov. Arnold Schwarzenegger announced yesterday that he plans to sue the Bush administration over its refusal to allow California to force automakers to reduce greenhouse gas emissions.

"If the federal government once again fails to act, we have a legal obligation to take action," Schwarzenegger said.

However, the threat may never be carried out. The U.S. Environmental Protection Agency has initiated a public review process starting next month and could issue a decision long before the governor's 180-day warning

period expires.

States must give notice that far in advance before filing lawsuits, under procedural regulations in the Clean Air Act. California will have waited nearly two years if the EPA does not make a decision within the next 180 days.

Schwarzenegger issued his declaration three weeks after a divided U.S. Supreme Court overruled the EPA's long-standing position that it does not have the authority under the Clean Air Act to regulate greenhouse gas emissions.

California enacted landmark legislation in 2002 that requires automakers to gradually reduce greenhouse gas emissions starting with the 2009 model year. However, the state needs an EPA-issued waiver allowing the state to enforce rules that are more stringent than federal limits, and automakers have filed a lawsuit to block new regulations. It requested the waiver in 2005.

“We are in limbo. They have neither granted or denied the waiver,” said Jason Barbose of Environment California, an organization that lobbies for action on global warming. “The governor is reiterating that California is serious about cutting pollution from cars and has been patient for some time while the Bush administration has dragged its feet and given in to automakers and oil companies.”

The importance of a waiver extends beyond the auto industry and California's borders.

Schwarzenegger is counting on significant tailpipe emission reductions to comply with a separate California law requiring industries to cut greenhouse gases to 1990 levels – a 25 percent reduction by 2020.

If automakers escape tailpipe regulations, smokestack industries such as refineries and cement makers could be forced to impose steeper cuts to make up the difference. Or the state might have to retreat from its ambitious goals.

An EPA waiver also could set a national precedent. About a dozen states have followed California's lead in moving to curb tailpipe emissions.

Greenhouse gas emissions, mostly from burning fossil fuels, are widely considered a leading contributor to global warming. Failure to curb emissions could bring catastrophic climate changes, disrupting water and food supplies and harming the environment, many scientists concur.

“Californians clearly want to protect our environment,” Schwarzenegger said during yesterday's announcement in a speech before the Milken Institute's Global Conference in Beverly Hills. “The U.S. EPA must act aggressively to grant our waiver so we can begin reducing greenhouse gas emissions.”

EPA Administrator Stephen Johnson has already taken action by launching a public review of California's waiver request, according to an agency spokeswoman.

“He is delivering on his word by moving expeditiously,” said Jennifer Wood of the EPA.

Johnson has scheduled a May 22 hearing in Washington. The public comment period closes June 15. However, there is no subsequent deadline for issuing a final decision.

Automakers insist they will prevail in court, even if California pursues litigation against the EPA. The industry contends that the state's greenhouse gas emission regulations are de facto higher mileage requirements that only Congress can order.

“The Supreme Court didn't give states the authority to set mileage standards,” said Charles Territo, a spokesman for the Alliance of Automobile Manufacturers. The automaker suit is pending in U.S. District Court in Fresno. Similar litigation is being argued in Vermont.

Environmental groups hailed Schwarzenegger's announcement.

“With the urgency of global warming, it is indefensible that EPA would not act immediately to grant California's waiver request,” said Karen Douglas of Environmental Defense.

Schwarzenegger said he had provided Johnson, the EPA administrator, with advance warning that the state would not tolerate more delays.

“I had a conversation . . . to put him on notice, to let him know, that the federal government is working too slowly to get us the waiver,” Schwarzenegger said.

“Our clock has started ticking.”