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Subject: 'Blatant' errors in Trump tailpipe rollback, challengers argue

'Blatant' errors in Trump tailpipe rollback, challengers argue

By Alex Guillén

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A coalition of states and environmental groups argued in court documents filed Thursday night that the Transportation Department and EPA made a series of "blatant and significant errors" in their analyses of rules that weaken emissions and fuel economy standards for vehicles to be sold in the next six years.

Background: The Safer Affordable Fuel-Efficient Vehicles rule (Reg. 2060-AU09), which was published last spring, rolled back Obama-era greenhouse gas tailpipe emissions rules and set weaker fuel economy standards under the National Highway Traffic Safety Administration to match. EPA and NHTSA said at the time that the rule's net benefits "straddle zero," meaning they could not show an unmistakable overall benefit to society.

Context: The Biden administration is expected to reconsider the Trump tailpipe rules. The issues being raised in court by the rule's opponents, in additional to legal arguments against the Trump rollback, could support that effort by justifying a new rulemaking effort.

The details: The Trump rule's opponents, filing their opening legal briefs against the rule in the U.S. Court of Appeals for the D.C. Circuit, allege the rule contained a litany of computational errors that undercut its justification. Many of the criticisms are being made publicly for the first time.

In their brief, environmental groups alleged that the single biggest error was in the "congestion" benefits, which argued that reducing fuel efficiency requirements would make driving more expensive and thus decrease driving and reduce traffic delays and other costs.

"But the Agencies' congestion analysis contained basic errors, including failure to adjust for inflation and flagrant misapplications of federal driving statistics," the groups wrote. According to the challengers, correcting those errors reduces the congestion benefits by over $27 billion, which would be more than enough to make any of the agencies' analyses show the rule would cost more than it saves.

The Union of Concerned Scientists raised the congestion calculation argument in a June petition to reconsider the rule filed with NHTSA. The group said it has not received a response from the agency.

Other arguments: In their brief on Thursday, the groups cited additional errors they argue skewed the cost-benefit analysis by an additional tens of billions of dollars. Among those are allegations that the agencies excluded some high-compression ratio technologies, "which are highly cost-effective," from compliance cost calculations; that they wrongly stated automakers could not use more than a quarter of their banked compliance credits; and that they understated an increase in fuel consumption by not accounting for the ethanol content of gasoline.

A separate brief filed by a group of states similarly alleged those errors.

"The fundamental and numerous flaws in the underlying analysis render both Rollbacks arbitrary and capricious; and the EPA Administrator's uncritical adoption of that analysis — which was prepared by NHTSA and roundly criticized by EPA's expert staff — provides an additional, separate basis for vacating EPA's Rollback," the states wrote.

Also: The Competitive Enterprise Institute filed its own brief on Thursday arguing that the agencies should have set more lenient standards.

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