

5 states threaten to sue EPA to get emission rules

By SAMANTHA YOUNG – Jul 30, 2008

SACRAMENTO, Calif. (AP) — Five states intend to sue the Environmental Protection Agency if it does not act soon to reduce pollution from ships, aircraft and off-road vehicles.

In a letter that California Attorney General Jerry Brown was to send Thursday to the EPA, the five states and New York City accuse the Bush administration of ignoring their requests to set restrictions.

"It's a necessary pressure to get the job done," Brown said Wednesday in an interview with The Associated Press. "The issue of reducing our energy dependence and greenhouse gas emissions is so challenging and so important that we have to follow this judicial pathway."

The threatened lawsuit comes as California is challenging the EPA in federal court over its decision last year to prohibit the state from imposing its own emission standards on vehicles.

Brown's letter announces the group's intent to sue, a procedural step required six months before filing a lawsuit. Connecticut, New Jersey, Oregon, the Pennsylvania Department of Environmental Protection and New York City will join California in the lawsuit, according to a copy of the letter obtained by the AP.

A coalition of environmental groups says it too is considering legal action against the EPA and will send a notice of that intent on Thursday.

Both letters demand the EPA respond within 180 days, although the authors acknowledge that the timeframe extends to the next administration, which might view such regulations more favorably.

"The EPA should have been regulating these emissions a long time ago, and it's just been sitting around," said Martin Wagner, an attorney at Earthjustice, a nonprofit public interest law firm.

Domestic and international flights account for 3 percent of the country's greenhouse gas emissions. Tractors, snowmobiles, riding lawn mowers and off-road vehicles produced

about 220 million tons of carbon dioxide in 2007, roughly the same amount as 40 millions cars, according to the petitions.

Emissions from cargo and cruise ships account for 3 percent of global greenhouse gas emissions.

"There's only five countries that release more carbon annually than the global shipping fleet," said Jacqueline Savitz, a marine scientist at Oceana, an ocean conservation group. "The idea of not regulating the shipping fleet is like not regulating Japan."

The U.S., China, Russia, India and Japan are the world's five largest producers of carbon dioxide and other greenhouse gases.

The states want the EPA to require airlines to use more fuel-efficient aircraft, use cleaner fuels or build lighter, more aerodynamic airplanes. They say marine vessels also could use cleaner-burning fuels, travel at slower speeds and plug into land-based energy sources when docked at port.

Off-road vehicles could be required to comply with anti-idling standards, be equipped with automatic engine shut-off systems and built with lighter materials. Older engines would be replaced and hybrid technology could be used in new models.

California and environmental groups filed petitions in October asking the EPA to determine whether greenhouse gas emissions from marine vessels endanger public health and welfare. They were joined by the other states in December seeking a similar review for domestic and foreign aircraft.

In January, they also asked the EPA to consider regulating emissions from off-road vehicles.

In each case, the petitions argued that the federal government has an obligation to regulate greenhouse gas emissions as a pollutant under the Clean Air Act.

EPA spokesman Jonathan Shrader said the agency responded to the petitions when it released a document on July 11 asking the public to comment on whether it should regulate greenhouse gas emissions. In that document, however, the agency said the Clean Air Act is "ill-suited" for dealing with climate change.

"We believe we've been responsive," Shrader said. "The first step in any regulation is an open comment period."

The attorneys general for the five states and the environmentalists say the EPA's actions were insufficient.

"It's pathetic and evasive," Brown said. "While it does indicate many important facts, it in no way comes to a conclusion that significant action needs to be taken now."

The U.S. Supreme Court last year ruled that the EPA has the authority to regulate carbon dioxide and other greenhouse gases linked to climate change. The agency is not required to do so, however, if it can show that carbon dioxide emissions are not a danger to public health and welfare.

In December, the EPA blocked California and at least 16 other states from regulating greenhouse gas emissions from new cars and trucks. EPA administrator Stephen Johnson has said California's proposed emissions limits weren't needed because Congress passed energy legislation raising fuel-economy standards that achieve similar results.

California officials say the national fuel standards are not as stringent and appealed the decision in state and federal courts.

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