

I. Repeal of the EV Mandate and Other Trump Priorities

Automotive manufacturers, regulators and consumers face considerable uncertainty on how the incoming Trump Administration will attempt to reshape the automotive industry when President Donald Trump returns to the White House on January 20, 2025. Significant changes are on the horizon, with President Trump's major campaign themes, including protectionist trade policies and an "all of the above" energy policy, reflecting a noteworthy shift from President Biden's globalist and clean energy platform. As in 2017, President Trump's approach to economic and environmental issues is near certain to create ripple effects throughout the automotive industry.

Changes may be most pronounced on EV policy – a political lightning rod for Republicans in recent years – despite Tesla CEO Elon Musk's role in the upcoming Trump Administration. Future proposals are likely to further President Trump's promises to eliminate government incentives for EV manufacturing and purchases, with the aim of tipping the scales back in favor of gas-powered vehicles, and the oil industry.

President Trump has long had a strong interest in the US automotive industry, and early signs from the incoming administration's transition team indicate a focus on the following initiatives:

- Eliminating the so-called EV-mandate – Biden-era policies encouraging the transition to EVs
- Levying tariffs on importation of foreign-made automotive components, including battery and battery-making materials
- Rolling back [consumer tax credits](#) and incentives for purchase of EV vehicles and installation of EV chargers
- [Reverting](#) to NHTSA's fuel efficiency (CAFE standards) and Environmental Protection Agency's (EPA's) tailpipe emission standards of Trump's first term
- Challenging waivers long relied upon by California and supporting states to implement stricter-than-Federal emission standards under the Clean Air Act

The incoming Trump Administration may face several roadblocks in implementing its automotive policy agenda. Proposals most certainly will face opposition from congressional Democrats and Democratic-led states like California.

In addition, the Trump Administration has expressed ambitious goals and timelines for achieving them, presenting challenges for implementation efforts and adding to uncertainty for industry and the regulated community. Stakeholders, including manufacturers and consumers, must stay alert to automotive policy developments during the second Trump Administration.

In this post, we aim to sort out the realities versus the promises, identify the relative likelihood of success of these goals and offer advice on how industry players can navigate and even influence these changes.

II. Too Fast, Too Furious? An Overview of Hurdles and Challenges to Trump's Potential EV Rollbacks

a. Impounding or Rescinding Funding for EVs

President Trump and congressional Republicans have promised across-the-board spending cuts beginning in 2025, including potential rescission of billions of dollars in unspent Biden-era clean energy and climate funds. Trump has also floated impounding (or withholding) unobligated funding for various grant and spending programs contrary to his policy goals. Efforts to impound or rescind federal funding are likely to reach EV incentives, as well as related grant and loan programs. At-risk EV incentives include billions of dollars in funding for EV charging infrastructure under the Infrastructure Investment and Jobs Act (IIJA), as well as various incentives for EV manufacturing and adoption created by the Inflation Reduction Act (IRA). While federal funding for EV manufacturing and infrastructure is threatened, there are several hurdles the Trump Administration will face in clawing back existing EV funding and incentives.

President Trump and congressional Republicans may first take aim at \$7.5 billion in funding under for EV programs under the IIJA, including the \$5 billion National Electric Vehicle Infrastructure (NEVI) Program and the \$2.5 billion Charging and Fueling Infrastructure Program (CFI), together intended to create a nationwide network of 500,000 EV chargers. Notably, Trump and congressional Republicans have decried the slow pace of nationwide charging infrastructure projects, and key leaders have pledged to terminate such obligated the program. Nevertheless, Trump may face challenges rescinding NEVI funding due to the NEVI Program's design.

The primary challenge is that an increasing share of federal funding for EV infrastructure projects has already been obligated, including roughly \$500 million dollars for EV charging stations. Obligation means that the funds effectively have been committed to an activity under a federal funding opportunity.

Because the NEVI Program is distributed to states and Puerto Rico as formula funding, the funds apportioned to date have been committed to states on an annual basis by the Federal Highway Administration (FHWA), and therefore must be used to reimburse states for EV infrastructure projects carried out under the program and state implementation plans.

While states have yet to commit all their NEVI Program apportionments to projects, even unobligated NEVI apportionments are likely protected from rescission.

Once apportioned to the states, these federal-aid highway apportionments are reserved for the purpose for which they were originally distributed and will likely withstand any attempts at rescission.

The incoming Trump Administration may utilize administrative hurdles to slow or frustrate the flow of the discretionary component of IIJA EV funding – the CFI program – but doing so may place Trump on a collision course with members of his own party who supported the program, further decreasing the likelihood of cuts.

Cuts to programs and incentives under the IRA, however, are more vulnerable to clawback than NEVI apportionments. First and foremost, Congress passed the IRA without Republican support in both the House and Senate, meaning that IRA rescissions may face fewer political obstacles. Second, apart from tax incentives, most IRA funding is provided through discretionary grants awarded by executive agencies rather than apportionments directly to states and territories, meaning that the Trump Administration may directly reshape future funding opportunities or delay programs while funds are set aside for rescission. Finally, even though the Biden Administration has rushed to implement the IRA, billions of dollars in IRA funding remained unobligated – and thus vulnerable to rescission. But at the end of the day, President Trump will require buy-in from Congress to repeal parts or all of the IRA, including the IRA's EV tax credits for consumers and businesses, as well as rescind unspent IRA funding.

b. Rolling Back Biden Rules on Fuel Economy and Emissions: the Congressional Review Act (CRA) and Administrative Procedure Act (APA)

With unified Republican control of Congress and the White House, President Trump and congressional Republicans can again rely on the CRA – a statute used extensively at the start of President Trump's first term – to unwind some Biden-era regulations. While the CRA's reach may be limited to recently-enacted, major Biden Administration regulations, the CRA presents a potent tool for President Trump to quickly and efficiently upend his predecessor's final administrative actions, rather than relying on the APA's lengthy notice-and comment rulemaking within executive agencies.

Under the CRA, Congress is generally empowered to overturn certain covered federal regulations through joint resolutions of disapproval within 60 legislative days after a rule is submitted to Congress. For rules submitted to Congress with fewer than 60 days of session in the Senate, or 60 legislative days in the House prior to adjournment at the end of each Congress, the CRA provides Congress with a special "lookback period" allowing for additional time to review rules at the start of a new session. Under this lookback period, major rules submitted to Congress by federal agencies in the final months of the Biden Administration could be overturned after the Republican Congress convenes and President Trump takes office in January.

Successful use of the CRA has historically been limited to cases where a new President and Congress of one party are elected to succeed a President of another party, as the sitting President may veto resolutions of disapproval passed by Congress – as President Biden has done repeatedly. Nevertheless, successful use of the CRA prevents presidential administrations from promulgating substantially similar rules in the future without subsequent authorization by Congress, meaning Republicans have a strong incentive to disapprove of Biden-era rules and proactively stall future regulatory efforts.

Under the CRA "lookback period," congressional Republicans and President Trump will need to act quickly if they wish to unwind any eligible rules promulgated at the end of the Biden Administration. While the exact date of when the 2024 lookback period begins will not be known until Congress adjourns at the end of December, the Congressional Research Service (CRS) has estimated that rules submitted on or after August 1, 2024, until the end of the second session of the 118th Congress are likely subject to review in the beginning months of the 119th Congress. This means the CRA's procedures for overturning regulations may be unavailable for certain EV rules submitted prior to the lookback date. The Biden Administration, well aware of the reach of the CRA, promulgated its most high-profile environmental regulations early enough in his term. Thus, many major environmental regulations proposed by the Biden Administration are likely to avoid repeal under the CRA and instead may face changes under more arduous administrative procedures. Under an August 1 lookback date, protected rules include Biden's new fuel economy and emissions standards for light vehicles.

Even if not subject to the CRA, the Trump Administration remains committed to weakening nationwide emissions and fuel economy standards for passenger vehicles. In addition to [seeking](#) a return to standards during the first Trump Administration, we also expect to see support for a shift for greenhouse gas emissions from EPA's jurisdiction to NHTSA's jurisdiction. The Project 2025 Chapter covering transportation, for example, recommends giving the Department of Transportation (DOT) the predominant role in setting of fuel economy standards.

c. Bringing Legal Challenges: Who Really Benefits from *Loper Bright*?

President Trump's plans to deregulate may also face broader challenges following the Supreme Court's recent decision in *Loper Bright v. Raimondo* (*Loper Bright*), which overturned the Chevron deference doctrine – longstanding Supreme Court precedent which required courts to defer to federal agencies' reasonable interpretation of ambiguous statutory provisions falling under their jurisdiction. *Loper Bright* has repaved the way for federal courts to review and potentially scrutinize agency rulemakings by asking whether federal agencies have adopted the appropriate interpretation of vague or ambiguous statutes.

While *Loper Bright* has refocused some authority to courts at the expense of administrative agencies, *Loper Bright* is not an inherently deregulatory decision, and President Trump is unlikely to be able to wield *Loper Bright* to dictate wholesale deregulatory changes. In short, *Loper Bright* holds that courts, not executive agencies, are the proper interpreters of ambiguous statutes.

Thus, when a federal agency attempts to promulgate rules which interpret ambiguities in statutes passed by Congress, courts are no longer obliged to accept that agency's interpretation and must instead determine whether the agency's interpretation is justified under the statute. As a result, when President Trump's executive agencies propose to amend or rescind Biden regulations and replace the Biden Administration's interpretation with their own, their decisions will be subject to greater scrutiny. Rather than inviting deregulation, *Loper Bright* may instead serve to limit such regulatory whiplash, common in the post-*Chevron* era when party control of the White House changes. This could mean that opponents of Trump rewrites of Biden-era automotive safety and environmental regulations rely on *Loper Bright* to challenge Trump rulemakings in federal court.

The Trump Administration may opt to pursue changes through formal rulemakings and defend its regulatory agenda before courts, or may seek to implement changes through other agency actions like informal guidance or interagency memoranda, which are more shielded from judicial scrutiny. President Trump may also look to Congress to provide additional specificity in statutes to resolve ambiguities in President Trump's favor and prevent successful legal challenges under *Loper Bright*. However, President Trump may not be willing to wait for Congress to favorably amend every statute underpinning Biden regulations he does not like, as this could significantly delay President Trump's plans to implement regulatory changes.

For a deeper dive into the implications of the Supreme Court's overturning *Chevron*, please see Squire Patton Boggs' [previous analysis](#) on *Loper Bright*.

d. Competing in the Global Market

With US and foreign automotive manufacturers already investing billions of dollars in the US, President Trump may face challenges from industry and global markets in his shift away from EVs. Adversaries and allies continue to develop their EV markets and capabilities, with China already leading the global market and accounting for [nearly 70% of global EV and plug-in hybrid EV sales in 2024](#). The domestic automotive industry is unlikely to acquiesce to policy changes that affect their competitiveness or risk unravelling substantial investments to retool plants, develop workforce talent and strengthen domestic supply chains for EVs. For example, Johns Hopkins Net Zero Industrial Policy Lab recently reported that repealing the IRA could imperil roughly \$50 billion in annual export revenues, including those from the battery and solar markets.

In his first Administration, President-elect Trump took several actions to increase tariffs on various US imports impacting the auto sector, including steel and aluminum and critical components originating from China. Approaching his second term, Trump has proposed several additional actions, including a 10-to-20 percent across-the-board tariff on all imports, a 50 or 60 percent tariff increase on goods from China, and a 100 percent tariff on cars manufactured in Mexico by Chinese companies. He has also pledged to invoke tariffs to achieve non-trade objectives, such as curbing illegal migration and drug flows from Mexico and Canada. While the details of future tariff actions remain unknown, the likelihood of tariff increases under the incoming Trump Administration—particularly to incentivize domestic auto manufacturing—remains high.

The Trump Administration will also lead the United States through the 2026 review of the US-Mexico-Canada Agreement (USMCA), potentially leading to a renegotiation process. A key priority for the Administration will be addressing concerns about China using the agreement as a means to bypass US import restrictions or tariffs, particularly as they concern autos and auto parts. At any rate, Trump's broader economic policies may have a direct impact on the automotive industry and on consumers.

With market and economic challenges mounting against President Trump's proposals, US consumers will not be the only ones pushing back. Between industry's likely inability to benchmark progress against foreign companies with reduced emissions tracking and the sunk cost of the existing EV market, industry is likely to advance a more cautious pace on the changes proposed.

III. California Clean Air Act Waivers: Back in the Spotlight

President Trump's attempt to reshape the automotive industry and deprioritize the transition to EVs is likely to face significant opposition and even legal challenges from Democratic-led states, most notably California, home to over 31 million registered vehicles. President Trump has long expressed frustration with the California Air Resources Board (CARB)'s ability to effectively set nationwide emissions standards through waivers to the Clean Air Act, and during President Trump's first term, the Environmental Protection Agency (EPA) revoked California's Clean Air Act waiver for MY2015-2025 zero and low-emission vehicles. While the Biden Administration reinstated California's waiver in 2022, ongoing legal challenges to California's regulatory authority persist and President Trump and incoming EPA Administrator Lee Zeldin are likely to revisit steps taken in the first Trump administration to remove California's authority to regulate automotive emissions. Automotive manufacturers are caught in crosshairs, given the need for manufacturers to understandably maintain market access in the most populous state.

To establish its own emissions standards, California currently relies on Section 209 of the Clean Air Act (42 USC § 7543), which provides for an exception to the Act's general prohibition against states adopting or enforcing their own emissions standards. Under Section 209, the state of California (i.e., the only state that had adopted standards prior to March 30, 1966) may apply for waivers to permit state agencies to establish its own, independent emissions standards that are "at least as protective of public health and welfare as applicable Federal standards." Once a waiver has been granted, other states may follow suit per Section 177 of the Clean Air Act (42 USC § 7507), and may adopt and enforce emission standards that are identical to California's. As a result, there are at least 17 states and the District of Columbia that have since [adopted](#), at least in part, emissions standards covered by a California waiver that exceed federal standards.

The Clean Air Act provides that EPA may approve California's requests for waivers [unless](#) the state's standards (1) are arbitrary and capricious; (2) the standards are not needed for "compelling and extraordinary conditions"; or (3) the standards are not consistent with the Clean Air Act.

While CARB has asserted that waivers may not be revoked – nor do they expire – because “[t]here is no Clean Air Act process for revoking a waiver,” in 2019, the Trump Administration [revoked](#) California’s waiver for MY2015-2025 zero and low-emission vehicles. California challenged the Trump Administration revocation in court, and the nation and industry largely continued to follow California’s standards even during such challenges.

While the Biden Administration promptly reinstated California’s waiver in 2022, opponents continue to challenge whether California has the legal authority to impose its own strict standards. California’s existing waiver has already faced, and so far survived, foundational legal challenges at the Supreme Court, with the Court [agreeing](#) to review whether businesses have the legal ability to challenge the California regulations, but not whether California has the authority to establish strict standards itself. Petitioners in the case include entities such as the Domestic Energy Producers Alliance, the American Fuel & Petrochemical Manufacturers and related entities. The Supreme Court declined to review a lawsuit by states regarding the constitutionality of California’s vehicle emissions waiver.

Uncertainty lies in how President Trump will approach the ongoing legal challenges and how the Trump EPA will view future waiver requests. However, industry will not be quick to abandon California emission standards yet, particularly given the widespread implementation across states that follow such standards and consumer demands for cleaner, more fuel-efficient vehicles. The Automotive Alliance for Innovation, which includes representation from most vehicle manufacturers, has already cautiously [pushed back](#) on several policy statements by the Trump Administration. In November, the Alliance urged the need for a “stable and predictable regulatory environment,” including “reasonable and achievable federal and state emissions regulations aligned with current market realities.”

Given the Trump Administration’s laser focus on containing California’s national influence on emission standards yet again, CARB is pushing the Biden Administration to issue pending waivers prior to the end of President Biden’s term in January. For example, on December 18, 2024, EPA approved waivers for California’s Advanced Clean Cars II (ACC II) mandating the phaseout of gasoline-powered vehicles by 2036 and for the Heavy-Duty Vehicle and Engine “Omnibus” Low NOx Program. The notices for both, pending publication, take the position the waivers are not subject to rescission under the CRA.

IV. Navigating the Bumpy Road Ahead

Like any new presidential administration, the Trump Administration will seek to implement its goals and vision for transportation policy, and as reflected above, will have multiple avenues available to do so. But when it comes to EVs and more broadly automotive manufacturing, there is no guarantee of what President Trump can and will accomplish over the next four years. With lingering uncertainty and legislative and legal battles likely on the horizon, industry, consumers and regulators should be prepared to face new and unknown challenges.

Industry can expect at least some growing pains as the Trump Administration tests public and political appetite for broad tariffs, as well as tests the legal limits on rolling back funding and regulations that currently favor EVs. This includes potential drawn-out legal challenges to federal funding decisions and to regulatory changes. Amidst the potentially rapidly changing federal posture toward EVs, the automotive industry must navigate these developments in Washington and their impact on short- and long-term business plans and models.

President Trump has identified changes to EV regulations and programs as part of his Day One agenda. But the US government’s posture toward EVs is only one factor – albeit a strong one – affecting the domestic and global EV market. Chief among industry considerations in the months ahead should be consumer demand in the US and abroad. President Trump and allies in Congress have argued that EVs are being forced upon consumers, but market factors like decreasing EV costs, availability of inventory and environmental concerns among consumers may still drive EV adoption in the US. While the US EV market and domestic EV production may stagnate or decline due to federal disinvestment, other countries may not follow suit and some nations may chart forward with new incentives for innovative vehicle technologies and new regulatory standards.

The US EV industry, while not a monolith, has considerable influence with Washington policymakers, which grows with new investments across states and regions. Manufacturers should consider how they can leverage policy uncertainty and their growing footprint to advance short- and long-term goals for automotive policy and EVs. Legislative and regulatory debates will take place, and industry players should be part of these discussions with lawmakers and regulators.

- **Identify champions** – Build in Congress for EV policies and governmental, as well as private investments in EVs; the upcoming surface transportation legislation or annual appropriations bills could be used to advance legislative measures.
- **Find common ground** – Look for opportunities to align industry priorities with those of the Trump Administration, such as areas ripe for deregulation where industry can get things done more efficiently than government; engage in these and other rulemaking opportunities where industry will benefit from regulatory changes.

Finally, there is the option to use legal challenges. Entities that come out on the short side of any of the Trump Administration changes on EV-related regulations or grant rescissions may be willing to litigate to invalidate Trump’s actions. For example, environmental groups are expected to fight to keep the gains they secured in emissions standards under the Biden Administration. Those that support Trump’s changes should be prepared to help defend them.

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