

# Court Upholds CA's Low Carbon Fuel Standard

Jason Dearen, Associated Press

SAN FRANCISCO (AP) — A panel of federal judges on Wednesday upheld California's first-in-the-nation mandate requiring fuel producers to reduce greenhouse gas emissions.

A three-judge panel of the 9th U.S. Circuit Court of Appeals on Wednesday rejected arguments from fuel makers that California's "Low Carbon Fuel Standard" discriminated against out-of-state producers.

The ruling reverses a U.S. District Court ruling in favor of the plaintiffs, and removes an injunction that at one point halted implementation of the law.

The California Air Resources Board, the agency in charge of implementing the standard, appealed, and was able to continue implementing the law while the case was being heard.

"This is a very good step for Californians and the fight against climate change," Dave Clegern, a spokesman for the board, said in an email.

"We are pleased, on behalf of the people of California and its environment, that the Court recognized the importance of this program and that the (standard) remains in effect."

The low carbon fuel standard is a key piece of California's landmark global warming law, AB 32, and is meant to cut the state's dependence on petroleum by 20 percent and account for one-tenth of the state's goal to cut greenhouse gas emissions to 1990 levels by 2020.

Charles Drevna, president of the American Fuel & Petrochemical Manufacturers, said in a statement he was disappointed by the ruling and that the group was considering further legal action.

"Although the LCFS is a California law," he said, "its broad reach and intended scope means that implementing the LCFS will have adverse consequences throughout the nation's fuel refining facilities and supply chain far beyond California's borders."

The industry has argued that the standard will place too high a burden on refiners and fuels makers, which will ultimately affect supply and drive up prices at the pump.

The companies say the standard discriminates against imports by relying on a "carbon intensity score" to determine a fuel's greenhouse gas burden.

The scores measure pollution from a fuel's entire life cycle — such as the type of

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electricity used to produce it or the energy used to make it and transport it to California — not just when it is burned in a vehicle.

Out-of-state refiners and ethanol companies argued that transportation of the fuels into California alone raised their scores, making them less competitive with in-state produced fuels. They argued the law violated the commerce clause of the U.S. Constitution by imposing limits on interstate commerce.

U.S. District Court Judge Lawrence O'Neill in Fresno agreed with the fuel companies and halted implementation of the new law.

But 9th Circuit Judge Ronald Gould, who wrote the opinion, said the state's standard provided fuel makers with avenues to comply with the requirements and get their fuels to market.

He also wrote ethanol made in-state does not ensure a lower carbon intensity score than ethanol made elsewhere.

"California ethanol produces the most transportation emissions because California grows no corn for ethanol, so its producers import raw corn, which is bulkier and heavier than the refined ethanol shipped by producers in Brazil and the Midwest," Gould wrote.

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