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In this issue:

- Unleashing American Energy: A New Era of EV Regulation
- Navigating Recent Developments in U.S. Trade Policies and EV Incentives
- Labor and Employment Law Changes Under Trump 2.0: What the Automotive and Mobility Industries Need to Know

Unleashing American Energy: A New Era of EV Regulation

By Joel D. Eagle and Aren K. Olson

On day one of his second term, President Trump issued an Executive Order (EO) titled "Unleashing American Energy," which will have significant implications for transportation and mobility companies. In line with Trump's campaign promises, the EO outlines a significant policy shift away from electric vehicle (EV) technologies and toward more "affordable and reliable" ones.

Perhaps the most notable example of this is the EO's vow to "eliminate the [Biden administration's] 'electric vehicle (EV) mandate,'" a term that, though undefined, presumably includes the light- and medium-duty vehicle emissions standards the EPA established in early 2024, as well as the standards for heavy-duty vehicles it issued shortly thereafter. As explained in a prior issue of *Mobility Matters Quarterly*, these standards require manufacturers of covered vehicles to comply with progressively lower fleet-wide emission limits (that phase in through 2032) to spur the development of EVs. Eliminating these requirements would remove a major incentive for vehicle manufacturers across the country to invest in the production of EVs and the development of emission-reducing technologies.

In addition to targeting the EV mandate, the EO directs federal agencies to immediately pause the disbursement of funds "appropriated through the Inflation Reduction Act of 2022 (Public Law 117-169) or the Infrastructure Investment and Jobs Act (Public Law 117-58)," including billions of dollars previously earmarked for the development of EV charging stations, pending a review of their "consistency with the … policy" outlined by the Trump administration. Moreover, in a clear reference to the Clean Air Act waivers that allow California to implement EV-friendly laws (such as the Advanced Clean Trucks rule), the EO calls for the termination of "state emissions waivers that function to limit sales of gasoline-powered automobiles."

More recently, on February 14, EPA announced it would send to Congress for review the Biden administration's "rules" granting preemption waivers to California for several car and truck rules, specifically citing California's Advanced Clean Cars II, Advanced Clean Trucks, and Omnibus NOx rules. In the announcement, EPA Administrator Lee Zeldin states that the Biden administration "failed to send rules on California's waivers to Congress, preventing members of Congress from deciding on extremely consequential actions that have massive impacts and costs across the entire United States," and that "the Trump EPA is transparently correcting this wrong and rightly following the rule of law." The prospect of EPA seeking to revoke these industry-altering California vehicle emissions rules presents significant legal questions (including whether EPA waiver approvals are in fact "rules" as EPA classifies them) and will cause ripple effects that the automotive and transportation industries have never faced in the history of EPA/CARB mobile source regulations.

It remains to be seen whether (and to what extent) the Trump administration will be able to follow through on all the policy initiatives outlined in the EO. Many of the initiatives outlined above will require congressional or regulatory action, and such actions will likely be challenged in court. Regardless of how these initiatives ultimately play out, however, the transportation and mobility industries can expect the Trump administration to focus on a very different set of priorities than the prior one. The new administration seems primed to roll back EV incentives and deregulate vehicle emissions, instead favoring initiatives aimed at individual choice, economic development, and energy independence.

Navigating Recent Developments in U.S. Trade Policies and EV Incentives

By Francesca M.S. Guerrero, Kerem Bilge and Kristina Shcheglazova

The U.S. recently implemented significant changes in its trade policy, which will affect automotive supply chains and has revised federal incentives for EVs. These developments necessitate a comprehensive understanding for stakeholders in the automotive and related industries.

Increased Tariffs

The U.S. government introduced several trade-related measures affecting the automotive sector.

Tariffs on China

On February 1, the U.S. imposed a 10% tariff on all "products of the PRC" in an EO that took effect on February 4. This tariff is in addition to existing duties under various trade authorities. China announced countermeasures, which took effect on February 10 and will likely affect large U.S. automakers in the Chinese market.

Tariffs on Canada and Mexico

Concurrently, the U.S. also imposed a 25% tariff on imports from Canada and Mexico. The Canada EO implements a 25% tariff on all "products of Canada" except for "energy resources," on which a lower 10% tariff was imposed. The Mexico EO implements a 25% tariff on all "products of Mexico." The tariffs were initially set to take effect on February 4, but have been paused for 30 days following agreements from Mexico and Canada to enhance measures against drug trafficking into the U.S.

Shortly after the announcement of the tariffs on Canada, the Canadian government announced retaliatory tariffs of 25% against CAD $155 billion of U.S. goods, with $30 billion to begin February 4 and the remaining CAD $125 billion to be implemented within the next 21 days. The list includes some automotive parts, such as tires. Mexico has only stated that it will retaliate with a "carousel" of tariffs, where products are drawn from all sectors and cycle on and off the list at set periods. However, Mexico has not released a list of products that would be subject to these retaliatory tariffs.

USMCA Renegotiation

The recent U.S. actions imposing tariffs on imports from Mexico and Canada have heightened concerns about the future of the United States-Mexico-Canada Agreement (USMCA). Although the tariffs were temporarily paused to allow for negotiations, they underscore the possibility of significant changes during an upcoming review.

USMCA, which succeeded the North American Free Trade Agreement, is approaching its scheduled 2026 joint review, during which the parties will assess the operation of the agreement, consider any recommendations for action submitted by a party, and decide on any appropriate actions. Additionally, the parties will determine whether to extend the agreement for another 16-year term. All parties anticipate that the review will approximate a renegotiation, with many issues on the table. Various aspects of the rules of origin applicable to automotive products, including the increasing presence of Chinese OEMs and suppliers in Mexico, and the recent roll-up dispute between the parties, will likely be among the topics that will be subject to renegotiation. The automotive industry, deeply integrated across North America, may face significant disruptions due to the discussed tariffs and USMCA renegotiation.

Global Tariffs

Beyond North America, the U.S. has signaled intentions to adjust tariffs on a global scale. On February 13, President Trump instructed the Secretary of Commerce and the U.S.

Trade Representative to investigate the "harm to the United States from any non-reciprocal trade arrangements adopted by any trading partners." According to the memorandum, the government agencies are instructed to examine various aspects of current relationships with trading partners, including tariffs imposed on U.S. products, unfair or discriminatory practices on U.S. businesses, including "value-added tax," and other non-tariff barriers or measures. While specific measures are pending, the administration's focus on reciprocal trade and protecting domestic industries suggests potential future tariffs affecting international automotive supply chains. Companies should stay informed about global trade policy shifts to anticipate and mitigate potential impacts.

Sectoral Tariffs

On February 10, President Trump announced 25% *ad valorem* tariffs for steel articles, aluminum articles, and steel and aluminum derivatives (i.e., "downstream" articles) that will enter into force on March 12.[1]

The administration is also considering other sector-specific tariffs, including tariffs on auto products. According to President Trump, tariffs on auto imports could be imposed beginning on April 2. He further suggested that he may impose tariffs on additional products, such as semiconductors, which are critical components in modern vehicles. These product-specific tariffs are likely to exacerbate existing supply chain challenges, leading to increased production costs and potential vehicle manufacturing delays.

Federal Incentives and Funding for EVs

On January 20, the president signed the EO "Unleashing American Energy," which significantly alters federal support for EVs. The EO aims "to eliminate the [EV] mandate and promote true consumer choice … by removing regulatory barriers to motor vehicle access …; by terminating, where appropriate, state emissions waivers that function to limit sales of gasoline-powered automobiles; and by considering the elimination of unfair subsidies and other ill-conceived government-imposed market distortions that favor EVs over other technologies." This includes halting the disbursement of unspent federal funds designated for EV charging infrastructure expansion, such as the $5 billion allocated under the Bipartisan Infrastructure Law.

The removal of federal incentives and funding may slow the adoption of EVs in the U.S. as automakers and related industries reassess their EV strategies, focusing on cost reductions and alternative funding sources to maintain momentum in EV development and deployment.

Navigating Trade Changes

To navigate the evolving trade landscape, a business should consider the following strategies:

- *Know your products and suppliers.* Conduct thorough analyses of your products and their components to understand their origins and associated tariff classifications. Engage with suppliers to assess their exposure to new tariffs and explore possibilities for sourcing diversification to mitigate risks.
- *Review contracts and address tariff risks.* Examine existing contracts to identify clauses related to tariff adjustments and liability. Negotiate terms that allow for flexibility in pricing or sourcing in response to tariff changes. Consider incorporating force majeure clauses that account for significant trade policy shifts.
- *Stay informed and engage in advocacy.* Maintain awareness of policy developments by monitoring official communications from trade authorities and industry associations. Participate in industry groups to collectively advocate for favorable trade policies and to stay informed about best practices in adapting to new regulations.

The recent changes in U.S. trade policies and federal incentives present both challenges and opportunities for the automotive and EV industries. By staying informed, proactively managing supply chains, and engaging in strategic planning, businesses can navigate this complex environment and position themselves for continued success.

Labor and Employment Law Changes Under Trump 2.0: What the Automotive and Mobility Industries Need to Know

By Jessica MacKeigan

The second Trump administration has ushered in a wave of regulatory changes that affect labor and employment law, reversing many of the policies and rules enacted under the Biden administration. These changes have significant implications for the automotive and mobility industries, which rely on a diverse and dynamic workforce that includes independent contractors, immigrants, and LGBTQ+ employees. Here are some of the key changes and their potential impact.

Independent Contractor Classification

The Department of Labor's (DOL) 2024 Independent Contractor Rule introduced a six-factor test for determining whether a worker is an employee or an independent contractor under the Fair Labor Standards Act (FLSA). That rule faced several legal challenges and the DOL recently secured a postponement of oral arguments before an appeals court so that it may decide how to proceed. It is very likely the DOL with not proceed with the government defense of the rule. And the DOL is expected to restore the 2021 Independent Contractor Rule, which favored a more business-friendly approach that focuses on five "economic realities" factors, with an emphasis on the nature and degree of control over the work and the worker's opportunity for profit or loss. This change could benefit the automotive and mobility industries, which often use independent contractors for various services, such as delivery, ridesharing, and maintenance. However, the change would not affect states that have adopted the stricter "ABC" test, which presumes that a worker is an employee unless the employer can prove all three parts of the test: (A) the worker is free from the employer's control and direction, (B) the work performed is outside the usual course of the employer's business, and (C) the worker is customarily engaged in an independent trade, occupation, or business; essentially meaning they operate their own business separate from the employer. Therefore, employers in states like California, Massachusetts, and New Jersey still face legal risks and challenges related to their use of independent contractors, especially if they are subject to state enforcement actions or lawsuits.

Immigration and Employment Verification

The Trump administration has tightened immigration policies, including issuing EOs restricting entry of refugees, limiting birthright citizenship, and increasing enforcement of employment verification requirements. These policies are likely to adversely impact recruiting efforts in the automotive and mobility industries, which employ many immigrants and foreign workers. Employers must be prepared for possible raids or audits by Immigration and Customs Enforcement and could face fines or penalties for violations of I-9 or E-Verify rules. Employers must ensure that they comply with the verification process for all employees, regardless of their immigration status. Employers should also monitor any changes to the remote I-9 verification option, which was introduced during the COVID-19 pandemic but could be revoked under the new administration.

EEO/DEI

The Trump administration has issued EOs rolling back many of the antidiscrimination and antiharassment protections for LGBTQ+ employees that were established under the Biden administration and repealing its EO requiring government contractors to maintain affirmative action programs for women and minorities. The Equal Employment Opportunity Commission has also rescinded its guidance on how to apply Title VII of the Civil Rights Act of 1964 to LGBTQ+ employees. Further, the Trump administration has launched a campaign to investigate and enforce civil rights laws against potentially unlawful DEI programs in the private sector. A federal court recently blocked these enforcement efforts in part, finding that while the administration has authority to prepare reports and conduct investigations of DEI programs implemented by private entities, the DOJ may not initiate enforcement actions against such entities in violation of the First Amendment or based on unconstitutionally vague restrictions. Regardless, employers should review their DEI policies and practices to ensure compliance with federal, state, and local laws.

OSHA/Safety

The Occupational Safety and Health Administration (OSHA) has halted or delayed the implementation of several proposed rules that aimed to protect workers from heat injury and illness and to improve emergency response standards. The Trump administration has also issued a "Regulatory Freeze Pending Review" memorandum, which instructs federal agencies to refrain from issuing or proposing any new rules until they are approved by the president or his designees. These changes could reduce the regulatory burden and costs for the automotive and mobility industries, which operate in various indoor and outdoor settings and face various safety hazards. However, they could also compromise the health and safety of workers and customers and expose employers to potential claims and penalties for violating existing OSHA standards or state laws. Employers should ensure that they continue to provide adequate training, equipment, and procedures to prevent and respond to workplace accidents and injuries.

Union Relations and NLRB Changes

The Trump administration has made significant changes at the National Labor Relations Board (NLRB), appointing a new acting general counsel and removing a Democratic board member, Gwynne Wilcox. The NLRB has said its field offices will continue to process unfair labor practice charges and representation cases; however, Wilcox's removal leaves the NLRB without a quorum to hear challenges. Once new members are appointed, the NLRB is expected to roll back several pro-union policies implemented during the Biden administration, including those that made it easier for workers to unionize and for unions to engage in collective bargaining. These changes could weaken the bargaining power of unions and reduce the likelihood of unionization in the automotive and mobility industries. Employers should stay informed about these changes and consider how they may affect their labor relations strategies and practices going forward.

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[1] "Adjusting Imports of Steel into The United States," February 10, 2025, The White House; "Fact Sheet: President Donald J. Trump Restores Section 232 Tariffs," February 10, 2025, The White House; "President Trump Announces New Tariffs on Imported Steel and Aluminum Articles and Derivatives from All Countries with No Exemptions or Exclusions," February 12, 2025, SmarTrade, Thompson Hine LLP.