

This [Sacramento Bee article](#) is remarkable in describing how aggressively the Trump Administration is now going after California’s efforts to protect the state’s natural resources, including its water resources (see also this [LA Times article](#)). Interior Secretary Zinke is demanding that his agency look for ways to override California water law and force more water to be distributed to farmers, at the expense of the state’s rivers and fisheries. This follows on [orders by Commerce Secretary Ross](#) that emergency provisions of the federal Endangered Species Act should be invoked so that more California water should be diverted towards firefighting efforts, despite the fact that there is no evidence that a lack of water is hampering firefighting efforts in the state.

These reports are remarkable coming from a Republican-led administration that, [at least purportedly](#), endorses states rights in environmental matters. But they are just a few more examples of aggressive Administration efforts to undercut protection of California’s environmental resources by rolling back federal standards, and preempting state efforts to fill in the gap. Other examples include: [BLM’s proposals to restart oil and gas leasing on federal lands in California](#); proposals [to lease federal offshore areas for oil and gas development](#); and [eliminating California’s ability to set more stringent emissions](#) control standards for automobiles sold within the state.

What can California do to fight back? Lawsuits are helpful – the state [has filed over a dozen lawsuits](#) against Trump Administration rollbacks of federal environmental policies, and has already won a number of them. But it may not be possible for the state to file suit against every rollback that is occurring, and the state may not win every lawsuit.

Thus, another option is for the state, as a matter of state law, to incorporate preexisting federal environmental standards – such that even if the Trump Administration does succeed in a rollback of federal standards, the state can at least protect its environment and natural resources. Such a bill is currently pending in the state legislature, [SB 49](#) – but has been tied up because of two concerns: (a) how to identify and specify the relevant federal standards, in order to give fair notice to regulated parties about what their obligations are; and (b) whether private parties should be able to sue to enforce the state-adopted standards, as they currently are able to do under federal law but may not be able to do under state law.

Given the increasing aggressive nature of the Trump Administration’s confrontation with California, enacting SB 49 (what some observers have called [“Trump insurance”](#)) seems increasingly appealing. SB 49 won’t be able to prevent federal rollbacks in all cases – for instance, in some areas federal law preempts state law, so SB 49 won’t matter. But it can make a big difference, and can be more consistent than litigation directly challenging

federal rollbacks.

Hopefully, the state legislature can come to agreement as to how to resolve the main issues in SB 49. For instance, to address the concern about specifying the relevant federal standards, one option could be the formation of a special state commission that could identify the relevant standards, and propose them to the relevant state agency for an accelerated adoption process. While getting the details right for this kind of legislation is important, the larger picture need for the state to protect itself is becoming increasingly urgent. Time is running out for action in this state legislative session, which ends this month.