on Wednesday, May 21, 2025, at 10:30 a.m., to conduct a hearing on nominations.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

The Committee on Agriculture, Nutrition, and Forestry is authorized to meet during the session of the Senate on Wednesday, May 21, 2025, to conduct a business meeting.

COMMITTEE ON ARMED SERVICES

The Committee on Armed Services is authorized to meet during the session of the Senate on Wednesday, May 21, 2025, at 9:30 a.m., to conduct a closed briefing.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

The Committee on Commerce, Science, and Transportation is authorized to meet during the session of the Senate on Wednesday, May 21, 2025, at 10 a.m., to conduct an executive session.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

The Committee on Energy and Natural Resources is authorized to meet during the session of the Senate on Wednesday, May 21, 2025, at 9:30 a.m., to conduct a business meeting.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

The Committee on Environment and Public Works is authorized to meet during the session of the Senate on Wednesday, May 21, 2025, at 10 a.m., to conduct a hearing.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

The Committee on Health, Education, Labor, and Pensions is authorized to meet during the session of the Senate on Wednesday, May 21, 2025, at 10 a.m., to conduct a hearing.

COMMITTEE ON THE JUDICIARY

The Committee on the Judiciary is authorized to meet during the session of the Senate on Wednesday, May 21, 2025, at 10:15 a.m., to conduct a hearing on nominations.

COMMITTEE ON THE JUDICIARY

The Committee on the Judiciary is authorized to meet during the session of the Senate on Wednesday, May 21, 2025, at 2:30 p.m., to conduct a hearing.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

The Committee on Small Business and Entrepreneurship is authorized to meet during the session of the Senate on Wednesday, May 21, 2025, at 10 a.m., to conduct a hearing.

COMMITTEE ON VETERANS' AFFAIRS

The Committee on Veterans' Affairs is authorized to meet during the session of the Senate on Wednesday, May 21, 2025, at 4 p.m., to conduct a hearing.

SELECT COMMITTEE ON INTELLIGENCE

The Select Committee on Intelligence is authorized to meet during the session of the Senate on Wednesday, May 21, 2025, at 2:30 p.m., to conduct a closed briefing.

SUBCOMMITTEE ON CYBERSECURITY

The Subcommittee on Cybersecurity of the Committee on Armed Services is authorized to meet during the session of the Senate on Wednesday, May 21, 2025, at 2:30 p.m., to receive testimony in open and closed sessions.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

The Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs is authorized to meet during the session of the Senate on Wednesday, May 21, 2025, at 2 p.m., to conduct a hearing.

ORDERS FOR THURSDAY, MAY 22, 2025

Mr. THUNE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m. on Thursday, May 22; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, morning business be closed, and following leader remarks, the Senate resume consideration of H.J. Res. 88, the joint resolution be read a third time, and the Senate vote on passage of the joint resolution; finally, if passed, the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. THUNE. Mr. President, if there is no further business to come before the Senate, I ask that it stand adjourned under the previous order, following the remarks of my colleagues.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

H.J. RES. 88

Mrs. CAPITO. Mr. President, as chairman of the Environment and Public Works Committee, I rise in support of my resolution to block the Biden EPA's rule approving California's Clean Air Act waiver for its Advanced Clean Cars II regulation.

I want to explain to my colleagues why they should join me in disapproving of this job-killing electric vehicle mandate and why the use of the Congressional Review Act is appropriate and correct in this instance.

First, I would like to offer a little bit of background about how we got here. Typically, the Clean Air Act stops State laws that regulate emissions for motor vehicles in favor of a national standard by the Environmental Protection Agency. This allows automakers to build the same vehicles for use by drivers all across the country.

Since 1966, the Clean Air Act has given California, and only California, the ability to seek a waiver of Federal mobile source emissions standards. Other States can choose to adopt California's standard or follow the Federal standard, but they cannot seek their own waiver.

Congress provided California this special ability because of its need to address unique locally high levels of pollution—like smog—in Los Angeles and in the San Joaquin Valley. But over the past two decades, California has used its waiver authority to push its extreme climate policies on the rest of the country, which was never the intent of the Clean Air Act's decision to grant the waiver. As EPA recognized in 2008, the rationale for California's ability to seek waivers does not extend to greenhouse gases, as these levels are not unique to California but are global in nature. But now, in addition to establishing an EV mandate, California is also seeking to use its waiver authority to eliminate diesel trucks. The Advanced Clean Trucks and Low NO_X truck rules set unattainable standards that will harm our ability to ship goods across this country.

While my remarks today will focus on the resolution of disapproval that I have offered on the Advanced Clean Cars II EV mandate, I strongly support the resolutions that will follow that are offered by Senator FISCHER and Senator MULLIN to block these rules.

California's Advanced Clean Cars II program requires all—and I did say ''all''—vehicles sold in that State, Washington, DC, and 11 other States that have adopted California's standard—all cars—to be zero-emissions vehicles by the year 2035; meaning, in one decade, these States, totaling 30 percent of the new car market, will have a full ban on the sale of gasoline-powered vehicles—and not just those but also on traditional hybrids as well.

The regulation begins in 2026—next year—by requiring affected States to sell 35 percent electric vehicles. These cars will hit showroom floors within the next few months. So to avoid the devastating impacts of these waivers, we need to act now.

These unattainable standards, backed by a fine of $26,000 per vehicle—I said $26,000 per vehicle—for noncompliance attempt to reshape auto manufacturing and take away consumer choice all across the country.

I want to be clear, I have no problem with electric vehicles. Consumers should be able to purchase the vehicle of their choice. But I do have a big problem with electric vehicle mandates that replace the will of the consumer and the will of the government.

Only 2.3 percent of new vehicle registrations in West Virginia last year were electric vehicles. Nationwide, EVs accounted for only 10.2 percent of new vehicle registrations. The plain truth is, electric vehicles are not popular. Even in New York, one of the States that has adopted the California standard, only 10.1 percent of 2024 new vehicle registrations were EVs. Perhaps that is why six New York House Democrats voted against this rule.

As States and manufacturers ramp up to meet this EV mandate, the impacts and costs will be massive. As the National Automobile Dealers Association wrote, the economic impact of California's regulation will affect all States. Soon, automakers will be forced to either sell more EVs or limit the number of gas cars for sale in the other affected States. Affordable new gas and hybrid vehicles, which cost between $30,000 and $40,000, are expected to be among the first vehicles that would be rationed out. This will leave consumers with far fewer choices and force everyone to pay more for new and used cars to reflect consumer demand and offset automaker losses.

To make matters worse, hundreds of thousands of jobs will be eliminated. The Specialty Equipment Market Association wrote that a ban on internal combustion engines ''would represent over $100 billion annual economic impact to the U.S. economy and impact roughly 330,000 jobs.''

And those job losses will not be confined to California, but they will be spread all across the Nation. Workers in auto manufacturing, oil and gas production, and the agriculture sectors across this country would lose jobs because of California's EV mandate.

And the elected officials who represent Michigan autoworkers, Nebraska corn farmers, or West Virginia gas workers had no say in California and EPA's decision to impose this mandate nationwide.

The responsibility of approving or disapproving California's waiver application rests solely with the EPA.

California applied to EPA for a waiver to implement ACC2 in May of 2023, and the Biden administration sat on that application until December of 2024. Well, there is no practical reason that the Biden EPA couldn't have acted on California's waiver in 2023 or even during the first 11 months of 2024, but we know why the previous administration decided to wait: President Biden and his team knew that electric vehicle mandates were unpopular with most American voters, especially swing State voters that would decide the Presidential and congressional elections. Mr. President, 2024 polling from WPA intelligence showed that 70 percent of likely voters opposed a ban on gas-powered cars, with only 18 percent in support.

Both the text of the Clean Air Act and public sentiment should have led the Biden EPA to reject California's application. Instead, the Biden administration approved California's waiver in December 2024, after Democrats lost the election.

EPA's approval was published in the Federal Register on January 6, 2025, the same day Congress certified President Trump's victory. The decision to limit consumer choice, increase car prices, and cost hundreds of thousands of jobs was made by California and approved by a Federal administration that had already been rejected by the American voters.

I strongly oppose these California EV mandates and strongly oppose a process that allows such a major national policy decision to be made against the will of the American people, without input from their Members of Congress.

In 1996, the Congressional Review Act was enacted through regular order to create an expedited process for Congress to consider resolutions that overturn rules finalized by Federal Agencies, like the Biden EPA's decision to approve California's EV mandate. The CRA's rationale—as explained by sponsors Don Nickles, Harry Reid, and Ted Stevens—was to allow Congress to efficiently stop rules it finds ''too burdensome, excessive, inappropriate, or duplicative.'' Every one of these terms applies to the situation we find ourselves in today.

The CRA works by requiring Federal Agencies to submit their final rules to the Senate and to the House of Representatives. When a rule is submitted to Congress and published in the Federal Register, a 60-day period is opened for any Member to introduce a resolution of disapproval that, if passed by both Chambers and signed by the President, prevents the rule from taking effect. These resolutions, by law, are subject to limited debate, allowing them to be enacted by the Senate by a simple majority vote.

Senators can bring resolutions of disapproval to the Senate floor either by reporting them through committee or by submitting a petition that has been signed by at least 30 Senators. Either way, the process allows the Senators to vote on whether the rule should go into effect, providing a method for elected Representatives to have oversight over unelected bureaucracies.

I decided to use the CRA process and introduce this resolution against EPA's approval of the California electric vehicle mandate for two reasons.

First, enactment of the resolution would vacate EPA's rule approving of the California waiver, stopping the EV mandate and protecting consumers and workers across the country.

Second, because a vote here in the Senate and in the House would allow the elected representatives of Americans of all 50 States, not just California, to decide whether a nationally significant policy should be implemented.

As I discussed earlier, the Biden administration delayed its action on approving the California waiver for 18 months to get past the 2024 election. But that wasn't the end of the previous administration's effort to shield this unpopular EV mandate from the will of the people. The Biden EPA did not submit its approval of the California EV mandate for review under the CRA and claimed its action was not a rule. That was a clear effort to avoid accountability from Congress.

Fortunately, President Trump and EPA Administrator Lee Zeldin decided to give the American people a say by submitting the approved California waiver to Congress as a rule. Under the CRA, that submission by the Trump EPA triggered my right as a Senator to introduce this resolution to block California's EV mandate. But that submission kicked off another effort by Democrats to stop the Senate from voting on this issue.

On March of this year, at the request of three Senate Democrats, the Government Accountability Office wrote an unprecedented letter stating its ''observation'' that the Biden EPA action approving California's EV waiver is not a rule subject to the CRA. Similar to the Biden administration's efforts, this GAO letter was obtained in an attempt to stop the Senate from exercising its authority provided by the CRA, keeping the California EV mandate in place without a vote in this Chamber.

Nothing in the Congressional Review Act, Senate rules, or Senate precedents gives unelected staff at the GAO the authority to prevent elected Senators from considering a resolution of disapproval against a rule. In fact, Comptroller General Gene Dodaro, who is head of the GAO, recently testified in a Senate hearing and said:

> Our decisions are not dispositive on the Congress—they're advisory.

But Democrats now want to give the GAO staff a veto over the Senate's use of the CRA to disapprove rules submitted by Federal Agencies.

The Senate has given GAO the authority in the CRA process in the past to protect the legislative branch's ability to conduct oversight over administrative rules.

My predecessor West Virginia Senator Jay Rockefeller was a leader in 2008 efforts to give GAO the ability to trigger the Congressional Review Act procedures for Agency actions not submitted to Congress as required by the statute.

The issue in 2008 was an action by the Centers for Medicare and Medicaid Services directing States on how they were to administer the Children's Health Insurance Program. CMS did not submit its action to Congress, calling it guidance rather than a rule. Senator Rockefeller asked GAO to determine that the CMS guidance was a rule. When GAO agreed with him, he introduced a resolution to block the rule—the first time such a resolution was introduced pursuant to a GAO decision rather than an Agency submission.

Ten years later, Congress passed and President Trump signed a resolution introduced by my colleague Senator MORAN from Kansas against guidance from the Consumer Financial Protection Bureau that was similarly not submitted. Senator Toomey went to GAO for a legal opinion that the CFPB guidance was a rule for the purposes of the CRA, and GAO determined that Congress could consider it as such.

I have personally gone to the GAO myself on several occasions when I believed that an Agency action not submitted to Congress under the CRA

should, in fact, be considered a rule, like I did in 2022, when GAO agreed with me that guidance from the Federal Highway Administration instructing State departments of transportation to prioritize bike and pedestrian projects over new highway capacity projects should be a rule. And I did so a year later, when GAO disagreed with my argument that a separate California waiver should have been submitted as a rule.

In all of these cases, Federal Agencies had not submitted their actions to Congress, but in this case, EPA did submit its rule approving the California EV mandate to Congress.

A GAO opinion has never been used to cut off the Senate's ability to consider a CRA resolution of disapproval when the Federal Agency actually submitted the rule to Congress. In fact, GAO has repeatedly recognized that its legal opinions are unnecessary when Agencies submit a rule to Congress.

In 2018, GAO wrote:

[The] Congressional Review Act gives agencies the primary responsibility for determining which agency actions meet the statute's definition of a rule.''

And:

Submission . . . to Congress pursuant to the Congressional Review Act obviates the need for a GAO opinion.''

Two years later, GAO concluded:

When an agency submits a document to our office under CRA, we consider that to be the agency's determination that the document is a rule under CRA. When a rule is submitted to Congress, Congress has an opportunity to review the rule and pass a joint resolution of disapproval to void the rule.

Protecting our legislative branch oversight is the basis upon which this Senate has involved GAO in the CRA process since 2008, but it does not follow that GAO should be able to halt congressional privileges when the executive branch does submit a rule. Once an Agency has submitted a rule to Congress, as EPA has done here, elected representatives should be able to decide whether to approve or disapprove of the rule. That is how the Congressional Review Act has functioned since its beginning in 1996.

I want to quickly talk about the filibuster and the Parliamentarian because this has been raised.

My Democrat colleagues argue that there will be ''profound institutional consequences'' by the Senate not allowing GAO a veto over the use of the CRA against Agency-submitted rules. I, on the other hand, disagree. Such a GAO veto has never existed before, and we must remember that the CRA is all about protecting the authority of elected representatives over unelected Agencies. Delegating to the unelected GAO staff the authority to determine if Members of Congress can use the CRA against Agency-submitted rules turns the statute completely on its head.

My Democrat colleagues say that our action today undermines the legislative filibuster, and that is simply not true. I support the legislative filibuster. I have supported the legislative filibuster as a Senator in the majority and as a Senator in the minority.

The Congressional Review Act, which was passed with the legislative filibuster in place, has stood since 1996, providing a narrow exception to the Senate's normal practice of extended debate. It applies only to allow for disapproval of Federal Agency rules and only during a prescribed time defined by the statute.

In deciding to retain the 30-year-old practice of allowing the use of CRA procedures against Agency-submitted rules, we are not expanding any authority to enact laws by a simple majority. We are not expanding the scope of the CRA itself but, rather, simply refusing to narrow the CRA by subjecting its use to GAO approval.

Like my colleagues in the Senate, I hold our Parliamentarians in very high regard. They perform and she performs a vital role in this institution, and her wise counsel is critical to making this Senate function.

I want to make two things crystal clear: The procedural action we have taken today is not about the filibuster and not about the Parliamentarian. Instead, the procedural issue before the Senate was simply whether GAO staff should be able to block resolutions of disapproval against Agency-submitted rules.

I have explained why my answer to that is no. I have spent significant time talking about the CRA itself and about procedure. I think that is important because I respect the Senate as an institution, and I care about how we do things.

We shouldn't lose sight of the substance of what we are doing today. We are deciding whether California, DC, and 11 other States can impose an electric vehicle mandate that will take away consumer choice, drive up prices, and eliminate jobs across the country.

West Virginians don't want California's climate policy. West Virginians don't want California's EV mandate. And I am confident that most Americans don't want these things either. That is why the House of Representatives passed this resolution of disapproval with a strong bipartisan vote that included every Republican and 35 Democrats, some from the State of California.

Today, despite the best efforts of the Biden administration and congressional Democrats to shield this EV mandate from the will of the American people, the Senate will have its say.

I urge my colleagues to vote tomorrow for the resolution of disapproval.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, today, the Senate has done something unprecedented. Our actions and the ones that will follow from the procedural steps taken here today, over the next day or so, will change the Clean Air Act, will change the Congressional Review Act, will change the rules of the Senate, and will do so by overruling the Parliamentarian and breaking the filibuster.

In effect, going nuclear. The Republicans can say what they like about this, but the fact of the matter is that the Parliamentarian ruled that the Congressional Review Act does not permit what we are doing.

And she did so on the basis of advice from the Government Accountability Office, which was given that role by the Senate, given that role in a bipartisan agreement years ago.

So we are de facto legislating here, amending the operation of the Clean Air Act to remove a statutory waiver for the State of California, amending the Congressional Review Act, so it is no longer the narrow provision only about rules with a short timeframe that the Senator from West Virginia described.

That may have been what the Congressional Review Act was like until today, but after today, none of that is true any longer because of this action.

It did not have to come to this. It did not have to come to this. There were many ways around the procedural shortcut of going nuclear, where a majority of the Senate shoves its view on the minority, without consideration, without cloture, without 60 votes, without negotiation, just rolling the minority in order to get what they want done. That ought to be a last recourse for a desperate majority, but instead it was the first recourse because this is the easy way to do what the fossil fuel industry wants.

Now, one way to do this would have been to go and amend the Clean Air Act and amend the Congressional Review Act through regular order, the way the laws were created, through bicameralism, with both Houses passing the bill and the President signing it. They have been amended over and over again. We know how to amend those laws. That is what we call in the Senate regular order. But regular order would have required compromise, would have required effort, would have required working with Democrats, and the fossil fuel industry didn't want to put up with any of that. They wanted the Republican Party to jam this through, and that is what happened.

So regular legislative order—not interested, not going to do it. That was one way. The second way would have been to go to EPA and have them follow an administrative process, which they had already started in the first Trump administration, to review the three predicates for the waiver administratively.

Now, the problem is that would have taken a certain amount of administrative effort out of EPA, and it also would have required EPA to meet the basic standards for Agency action, that the Agency action be rationally based and not arbitrary and capricious.

If they made a decision that had no rational basis and was arbitrary and

capricious, then it could be challenged in court and knocked down. So rather than allow the Agency to go through that administrative process, subject to those very standard requirements of not being arbitrary and capricious and having a rational basis, they came here where it can be as arbitrary and capricious as you please, where it can have no rational basis as long as you have got the votes and are willing to roll the minority.

So that is the second avenue that Republicans could have followed here, that the fossil fuel industry could have followed here, but simply didn't want to.

The third avenue that they could have undertaken was to go talk to California. This is California's waiver. Last I heard, California had a Governor. Last I heard, the United States has a President. They could talk. They could invite the fossil fuel industry into the room. They could invite the auto industry into the room. They could invite environmental groups and health groups into the room.

They could say: Look, we want to have some consideration here. Let's negotiate. But they didn't want to do that because they had this quick and dirty, sneaky maneuver that they could pull off so they didn't have to negotiate, they didn't have to legislate, and they didn't have to use regulatory process. All those rules were available, and yet this was the shortcut that was chosen.

Now, we have repeatedly heard it said—in fact, it was recently said just now on the floor—that President Biden claimed that what was being done with the California waiver was not a rule, claimed that it was not a rule. Do you know why the Biden administration claimed it was not a rule? For the simple reason that it was not a rule.

It did not go through the APA rulemaking process, and it had a history. And I have got a summary of that history right here.

The EPA started granting waivers to California under this Clean Air Act process in 1968. The first waiver was granted on July 11, 1968. And this summary of the waivers that have either been granted or amended or modified over the years, 131 times. The score on whether the California clean air rule is treated by EPA as a waiver or a rule, it is 131 to 0.

It is nearly 50 years of constant practice undisputed. Under President Nixon, 15 times a Republican EPA granted the waivers. Under President Reagan, 33 times a Republican EPA granted the waivers. Under President George H. W. Bush, nine times a Republican EPA granted the waivers. Under George W. Bush, 15 times a Republican President granted the waivers. A waiver for half a century has never once been treated as a rule.

So it really ought to come as no surprise to anybody that the Biden administration did not treat it as a rule. The Reagan administration didn't treat it as a rule. Neither Bush administrations treated it as a rule. No Republican administration since the passage of the Clean Air Act has treated these California waivers as a rule. It just isn't so.

So it is pretty clear that with this history of waivers, there was a real problem. And that is why when EPA pretended for the first time that this was a rule, the Government Accountability Office, which didn't inject itself into this, which didn't butt in to try to interfere with us, which was tasked with giving advice on this by the Senate—we gave them this job, and now we are accusing them of butting in and interfering with our process? We gave them this job so they did it.

It has been said that what GAO did was unprecedented in making this decision that it is actually a waiver and not a rule. Yes, it is unprecedented. It is unprecedented in the same way that a referee blowing a whistle on an unprecedented foul is doing something unprecedented. But it is not the fault of the referee that their whistleblowing is unprecedented, it is the fault of the player committing the foul that has never been committed before, and the foul is to treat the waiver as a rule.

So it was easy for GAO to say: This ain't a rule. This is a waiver. It is not allowed under the Congressional Review Act. Not allowed. But the GAO is just advisory; they don't make any decisions for us.

The rules of the Senate are actually the Parliamentarian, and that is where the going nuclear happened because we went in with the California delegation staff and the EPW staff and the Republicans, and we argued in front of the Parliamentarian. GAO wasn't even in the room. We filed our pleadings. We made our arguments. The arguments went back and forth. The Parliamentarian asked questions.

At the end, there was a decision, and, in my view, it was a slam-dunk decision because the score going in was 131 to 0. Mr. President, 131 times these waivers have been granted. Never once was it even argued that they were a rule, let alone decided that they were a rule.

It was only when GAO and the Parliamentarian made the obvious decision that what the EPA did in this case was wrong that then the fossil fuel industry decided that Republicans had to go nuclear, and that is why we are where we are.

There is statutory text in the Clean Air Act that gives California its waiver. We had testimony from Administrator Reilly earlier today. He was the EPA Administrator at the time this happened. And he understands full well how valuable it was to have a second set of eyes on this process.

The California process is so popular that a dozen other States follow it, and it is in the law. The way we should work around here is if there is something in the law you don't like, you amend the law. You don't run it falsely through the Congressional Review Act, treat it as a rule when it is not, overrule the Parliamentarian when she says it is not, and pretend you haven't broken the rules around here. We have broken the rules around here.

The other rule we broke was the Congressional Review Act itself, which says—I am reading from the text of the law:

In the Senate—

Which is where we are—

when a committee is discharged from further consideration of a joint resolution—

Which means it has come to the floor, it is out of the committee, which is procedurally where we are—

all points of order against the joint resolution are waived.

That is part of expediting the process; part of the deal with it being a very narrow process for only regulations and only in a short time window.

We just heard the person sitting in that chair before this Presiding Officer say that under the rule just created we are now going forward. We just created a new rule through this parliamentary process, and it is that rule that violates this law because now we have a point of order, even though the law says that all points of order are waived.

Why did we go through this? As has been said, the Congressional Review Act is kind of an odd thing. Usually, an Agency goes through a rulemaking process under the Administrative Procedures Act. And if they got it wrong, an aggrieved party can go to court and say that was a bad regulation; it was arbitrary and capricious; it is not a rational basis; you didn't follow the APA properly; your findings are demonstrably false; there isn't support for the rule; the way you have written it violates the actual law involved.

There are a whole array of challenges that you can make in court, but we wanted something more than that. We wanted to have a political intervention narrowed just to rules, just to that short time period window that the Congressional Review Act provides. That was the idea. And the two concerns were what we described in our argument to the Parliamentarian as oversubmission and undersubmission.

I will read from our presentation.

There are two ways in which the Executive branch could try to defeat congressional intent with respect to the scope of the Congressional Review Act. The first would pose an undersubmission problem. In this scenario, an Agency might purposely refrain from submitting an action to Congress, even when the withheld action meets the definition of a rule under the CRA.

Right? So there is a rule. It is actually amenable to Congressional Review Act under the CRA, but they don't submit. They just don't because they don't want to subject it to that process. They thought they could sneak around it would be the notion.

To protect against this type of abuse, it became congressional practice to ask the GAO for an opinion as to whether the withheld action is, nonetheless, a rule and to treat a

positive GAO determination as a trigger for the CRA process.

So if an executive Agency tries to cheat on exposing itself to the CRA process by not submitting the rule, a Member of Congress can go to the GAO and say: Hey, what is up with this? Isn't this a rule?

And if GAO says it is a rule, then it is deemed submitted, and the CRA process begins. That solves the under submission process.

We continued in the argument: The second way an Agency could work to defeat Congressional intent in crafting the CRA would be this situation, the incident situation, where an Agency submits actions, which clearly do not meet the definition of a rule under the CRA. This would pose an over submission problem.

The three CRA submissions at stake here illustrate well the slippery slope that could ensue. Not only would treating them as rules override two GAO analyses and broaden the scope of CRA coverage in an unprecedented way, but the waivers are already in effect, and one was issued so long ago as to violate any reasonable reading of the time bounds in the CRA. To accept these three submissions as rules would be to reject the principle that the privileged procedure in the CRA should be closely examined and strictly limited.

Agencies could submit any final action, going back to the enactment of the CRA in 1996—including adjudications, leasing contracts, grant awards, and licensing decisions—and magically convert those actions into timely rules that could be disapproved under the CRA's privileged procedures. This would nullify the reasonable bounds that Congress itself set in the text of the CRA, in the statutory law.

Without strict limits—truly absent any meaningful limits—the statute would be fully weaponized, threatening to destabilize decades of Agency action and highjack the Senate floor for the foreseeable future, which is precisely the can of worms that the majority has just opened with this overruling of the Parliamentarian, this establishment of a new rule.

Now, the other problem with this is that it provides a way to evade court review. Court review is usually how you check the action of the executive branch when they are up to no good. But very often, they are doing perfectly reasonable things, but a special interest doesn't like it. So they have the right to go to court too.

But when they go to court, first of all, there is a record of the proceeding, and the court is bound to that record. Second of all, there is law involved. There is both the Administrative Procedure Act, and there is the substantive law that is the subject of the regulation. Then you have to deal with evidence. The court reviews evidence. Then there has to be a rational decision by the court. And the court is, what we know of, as a neutral and disinterested magistrate.

Those are pretty essential due process determinations. For the Congressional Review Act, none of that. The only thing is the politics and the votes. You have got the politics behind you, and you got the votes. Anything is fair game.

And that is the danger of what was done today. What we have just done is open up the Congressional Review Act from that little 6-month period—60-day period; I am sorry—all the way back to when the CRA was passed, 30 years. Licenses, leases, Executive actions that have had a decade or more of reliance could simply be brought forward, dumped into the Federal Register, sent over here as a submission, magically become a new rule because of this loophole we just built, and then the majority of the Senate, with a compliant House, can just shove it right out the door without following regular order, without ever going to court, without following bicameralism, and present with the constitutional requirements.

I will conclude with two things. First, please don't call this unprecedented when you are talking about GAO saying that this was not a rule. Please don't call it unprecedented when the Parliamentarian said: This was not a rule. This actually is illegal for you to do.

The only thing unprecedented about what GAO said and what the Parliamentarian said was the fact that this rule breaking by EPA, that is what was unprecedented.

Again, 131 waiver determinations over half a century always, always, always treated as waivers—always—a score of 131 to 0.

But the Trump administration, flacking for fossil fuel, decides that all of that is wrong, that this actually is a waiver, even though there was no APA rulemaking, even though none of the steps that lead to a regulation under the Congressional Review Act were undertaken. They just filed it in the Federal Register and sent it over as a submission.

You could do anything that way. File it in the Federal Register, send it over as a submission, and—boom—it is over here to be kicked around as a political football, without due process, without bicameralism, without regular order—none of it.

That is what was unprecedented. And the only reason that the GAO's decision was unprecedented was because nobody had the nerve or the foolishness to do something so stupid before. So they called them out for it for the first time because nobody had ever done such a thing before.

But because of the politics, that just got shoved through here. Because of the power of the fossil fuel industry, that just got shoved through here.

This is part of a campaign of the Trump administration to pretend that climate change isn't real, to ignore the immediate threats that are looming over us of climate change—looming over us—and to serve the interest of the fossil fuel industry.

You remember the President saying, ''Give me a billion dollars, and I will give you everything you want,'' to the fossil fuel executives? Well, he didn't get the full billion dollars, but he got a lot of money. He got north of a 100 million, and now, sure enough, he has given them everything he wants.

And this is one of the payments—this breaking of the Senate rules, this overruling of the Parliamentarian, this going nuclear, this pretending that something that was never a rule, and is clearly not a rule by any reasonable reading of what APA rulemaking is, is suddenly now magically a rule. All of that is being done as just a political errand for the fossil fuel industry, and it is wrong.

I see that the two Senators from California are here. The hour is getting later and later. So I will not review at this moment my presentation earlier today, where I went through the multiple warnings of the systemic economic collapse that is coming at us, based on a fairly simple proposition, which is that climate risk is making weather and risk unpredictable. And when you can't predict weather risk, you can't predict the insurability of a piece of property. The original concern was about coastal risk—flooding, hurricanes, rainstorms, damage to coastal properties. Now wildfire is just as dangerous. And when you can't predict it, you can't insure it.

And we are right now, in the United States, in the middle of an insurance crisis. Go ask around Florida how property insurance is going. It is a full-blown meltdown.

And when you can't get insurance any longer, you can't get a mortgage on a property any longer. And when property doesn't carry a mortgage any longer, when you can't get a mortgage on that piece of real estate, then your buyer pool collapses. You are left with only cash buyers. And what happens then is that the property value crashes.

And that is the prediction: climate risk to insurance collapse, to mortgage unavailability, to property value crash, to economic collapse—recession. And it is coming from all over—all over. And we won't listen to those warnings whether they come from insurance CEOs, from Freddie Mac, from international banking safety reviews, from international economic magazines, from the chief risk officer of Goldman Sachs, from the head of the Bank of England. I mean, you can just go on and on. The warnings are piling, piling, piling up.

And as Ernest Hemingway said about going broke, ''it happens gradually, and then all at once.'' And we are deep into ''gradually'' on this climate risk mess, and pretty soon we are going to get hit with ''all at once.''

And then all this foolishness done on this floor in the service of the fossil fuel industry, which has the world's biggest conflict of interest and a history of lying and of dark-money political influence, is going to look pretty damned bad.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from California.

Mr. PADILLA. Mr. President, I, first of all, thank my colleague from the State of Rhode Island and echo his sentiment and his message that Senate Republicans have crossed the line this evening. They have chosen to overrule the Parliamentarian, thrown out some rules, rewritten some rules, established new precedents for how this body operates, despite claiming that that was something they were not going to do, despite the majority leader warning earlier this year that this would be akin to killing the filibuster.

But now we have seen it. It is on the record. They have overruled the Parliamentarian not just once but twice. And the Parliamentarian's determination as to whether or not the action taken this evening was in conformance with the rules that we have or not were buttressed by—again, as my colleague from Rhode Island has explained—the analysis and the findings of the GAO, which we charge with this input.

And so I want to take a moment to just read some excerpts from the GAO, as written to the Senate. And I will submit the entire letter for the RECORD, but the key excerpts are important to highlight.

From the GAO:

As background to these issues, we issued a legal decision concluding that a Clean Air Act preemption waiver was not a rule subject to CRA but was instead an adjudicatory order.

It couldn't be more clear than that.

Furthermore, we explained that even if the waiver were to satisfy the APA definition of a rule, it would be considered a rule of particular applicability and, therefore, would still not be subject to CRA's submission requirement because of CRA's exclusions.

Just two other elements that, again, I think are in need of being highlighted here because of the significance of the action taken this evening—quoting still from the letter:

EPA stated that the Notices of Decision were not rules under CRA, and, in the underlying decision documents for two of those notices, cited to our 2023 decision in support of that statement. However, EPA submitted them as rules to GAO and Congress without any explanation of this discrepancy.

Pretty clear.

And, finally, later in their letter:

The agency still did not address the statements in the notices regarding the inapplicability of the CRA, and, to date, EPA has not further responded to our letter.

GAO is charged with establishing this review and making a finding. They heard from the parties involved. They did not get responses from the EPA. Why? They must have something to hide. What are they afraid of? And the GAO shared their conclusions which informed the Parliamentarian in their determination: This was inconsistent with the rules.

Not only have Senate Republicans overruled the Parliamentarian this evening, they have also broken the Congressional Review Act, as has been respected for years, all to bypass the filibuster in order to undermine California's efforts to pursue cleaner air for our constituents. And while today the California waivers may be the target, we don't know what comes next.

In previous statements on this issue earlier today and in previous days, I have given examples of, now that the CRA has been applied in this fashion, there is a whole host of adjudicatory decisions by a wide variety of Agencies across the Federal Government that are now fair game.

But for now, let me continue to focus on the waivers in question that Republicans are seeking to overturn. See, I rise not only in opposition to this power play tonight, I rise in the interest of protecting the health of my constituents, the nearly 40 million Californians that I am honored to represent.

Because, colleagues, leaders in California didn't just wake up one day to find some special privileges to establish our own climate policy and impose it upon the rest of the country. And we certainly didn't cheat the system to jam States represented by Republicans in the Senate or in their Governors' mansions. No. California was explicitly granted waivers because of the unique air quality challenges that we face, different than anywhere else in the country.

California was granted these waivers because California, as a whole, and Los Angeles, in particular—the southern California area, the Los Angeles Basin—is uniquely situated to produce some of the most dangerous air pollution in the Nation. So it means that we had to work harder than other States and other regions to protect the health of our residents.

This is not some new liberal agenda. It actually goes back nearly a century with broad bipartisan support. Way back in the summer of 1943, Angelenos actually started to notice a brown haze descending upon the city. People's eyes and throats began to sting from this smoke, and they could no longer see more than a handful of blocks ahead of them, let alone the beautiful skyline or the views of the city around them.

It was actually in the middle of a World War when Americans feared that breakouts of chemical warfare were imminent and many started to wear gas masks as a result. While it didn't take long to learn that there was no chemical attack targeting Los Angeles, it would take researchers years to learn that the true source of the haze was different. Eventually, they learned it wasn't just factories that were pumping black smoke into the sky; it was in large part due to the cars that were being driven.

Now, unfortunately for us, Los Angeles does create the ideal conditions for smog to thrive. Southern California's sunshine along with a booming population of people reliant on car travel and all the exhaust that comes with it combines to make a photochemical reaction that we call smog. But in addition to that, given the beautiful mountains—and you have all seen the scenes—the mountains that surround the Los Angeles area act as a perfect sort of cradle to hold all those pollutants in, encasing the city in a thick haze of pollution.

For all the beauty of our city—most of you have visited, and you have certainly seen images on television and in the movies—generations of Angelenos know what it is like to feel engulfed by the smog around us.

As I began to share earlier today, that includes me. As many of you know by now, I grew up in the community of Pacoima in the San Fernando Valley, the northern part of the city of Los Angeles. And growing up in the 1970s and 1980s—40 years after the gas masks that I spoke about a minute ago—smog was still ever-present in our sky and part of our daily life.

I still remember what it was like being sent home early from school as a kid because the air was too unhealthy for us just to play on the playground—the stinging in our eyes, the tightness in your chest. Yes, when I was growing up, we were more often waking up to air quality forecasts of unhealthy or hazardous than clean. Imagine just the sheer simplicity of trying to take a deep breath, but not being able to because halfway through taking in a deep breath, your chest would tighten up. You literally choke because of the pollution in the air. While we have come a long way, for too many Californians today, that is still a reality. It doesn't have to be that way.

But that is why, decades ago, Congress recognized both California's unique air quality challenges but also its ingenuity, its creativity, the innovation that is in our DNA and granted California the special authority to do something about those unique air quality challenges.

Thanks to the Clean Air Act, which, again, was adopted in an overwhelming bipartisan basis over 50 years ago, California obtained the legal authority to set its own emissions standards because Congress wisely recognized back then that West Virginia and Wyoming are different than California; and their air quality is different; there are significantly fewer cars on the road in Salt Lake City than there are in Los Angeles; and because California was and still is seen as the innovation center of the United States.

So we earned the right to set California standards for California. We are not setting California standards for national standards. I am sure my colleagues in State government wish we had that kind of power and authority, but that is not the case. And it is certainly not California's agenda to impose our standards on States across the country. We are simply seeking to protect Californians.

And, quite frankly, if Members of this body representing the other 49 States in the Nation are worried about some Federal mandate taking effect

because of California's actions, then you should support California's right to set our own State standards. We know that the EPA and the Federal Government has not effectively done its part to rein in pollution.

So from a government standpoint, let me explain why I get so worked up on this. State and local jurisdictions in California have done all they can to push ambitious but implementable regulatory agendas in the country—some of the most ambitious in the country. But we are out of options when it comes to controlling the pollution sources that State and local governments are allowed to regulate.

What is left—the biggest nut to crack—are the mobile sources of pollution—the cars, the heavy-duty trucks, the locomotives, the ships, and the planes that are the key sources of the bad air quality in regions of California. These are industries that only the Federal Government can regulate.

So California has had no option, but we have embraced the challenge to innovate, to advance creative and indirect source rules or rules that, for example, require ships to plug in when docked in our ports to cut down on pollution.

That is why these waivers are so important. They let us get at these mobile sources of pollution that we need to clean up because unless or until the Federal Government gets more ambitious about setting national standards that meet the moment of this climate crisis, at least let California protect Californians.

I am realistic with the times that we are living in. Under this administration, I doubt we will get the assist from the Federal Government over the course of the next 3½ years.

I want to acknowledge that it was former President Ronald Reagan, when he was Governor of California, who first created the California Air Resources Board. And 3 years later, it was Republican President Nixon who signed amendments to the Clean Air Act into law, fulfilling a promise that he made at that year's State of the Union, that clean air should be the birthright of every American. What a far, far cry from Republican leadership then to the Republican agenda today.

But the bottom line is, colleagues, by supporting this measure, Republicans are simply making it harder for California to improve air quality in California.

As I did yesterday, I also just have to acknowledge what it means for families throughout the State. You see, as the parents of three growing boys—they are not little kids anymore; they are growing—through the course of their upbringing, we have been able to control certain things, like how we feed our kids. We go to the grocery store, and you are shopping for what you are going to prepare for dinner. You have readily accessible information—nutritional information—not just calorie information, protein information, but ingredients of what is in the product you are about to buy. There are certain things that we cannot control, like the ingredients in the air we breathe.

If you are fortunate enough to live in a part of the State of California, in the part of the country with a great air quality index, good for you. But for those who aren't as fortunate and with the assistance of the Union of Concerned Scientists, let me read off a couple of the ingredients that are in the air that we breathe—not just us, our children too.

Particulate matter, defined as follows:

One type of particulate matter is the soot seen in vehicle exhaust. Fine particles—less than one-tenth the diameter of a human hair—[it] pose[s] a serious threat to human health, as it can penetrate deep into the lungs. [Particulate matter] can be a primary pollutant or a secondary pollutant from hydrocarbons, nitrogen oxides, and sulfur dioxides. Diesel exhaust is major contributor to [particulate matter] pollution.

How is this for another ingredient: volatile organic compounds, known as VOCs, referred to as VOCs:

These pollutants react with nitrogen oxides in the presence of sunlight to form ground-level ozone, a main ingredient in smog.

Though beneficial in the upper atmosphere, at the ground level, this gas irritates the respiratory system, causing coughing, choking, and reduced lung capacity.

Now, I know I have felt those things as a kid. It is in the science.

VOCs emitted from cars, trucks and buses—which include the toxic air pollutants benzene, acetaldehyde, and butadiene—are linked to different types of cancer.

Just a couple more:

Nitrogen oxides.

Which we refer to as NO_X.

These pollutants form ground level ozone and particulate matter. . . . Also harmful as a primary pollutant, NO_X can cause lung irritation and weaken the body's defenses against respiratory infections such as pneumonia and influenza.

I can go on and on—carbon monoxide, sulfur dioxide, greenhouse gases—but in the interest of time and given the late hour, let me say this: All of these ingredients are in the air that we breathe, as I just described, but as you heard me say earlier, it is not just our lungs that are at risk; these toxins can permeate into the bloodstream and spread to other parts of the body. That is what is at stake, again, not just for us but for our children.

But for all the dangers that I see around us, I also see opportunity. Thanks to the allowances afforded to California under the Clean Air Act, we have actually made tremendous progress.

As evidence of that, in 2015, USC—the University of Southern California—published a study that said that the reduction of air pollution was paying off; kids were breathing healthier.

Let me read just briefly from their findings, summarized in a National Geographic article from March of 2015 that said:

In the study published in the New England Journal of Medicine, researchers followed 2,000 kids from five southern California cities with some of the worst air, including Long Beach, Riverside, San Dimas, Upland, and Mira Loma. They focused on kids ages 11 to 15, whose lungs are growing the most.

While other studies have compared kids from polluted neighborhoods to those living with cleaner air, the USC team tracked children from the same communities over 20 years and correlated their findings with pollution data from local air monitors. That allowed them to more clearly weed out other potential factors.

Regardless of race, exposure to cigarette smoke, or factors like education and pets, kids tested between 2007 and 2011 had healthier lungs than kids the same ages tested between 1994 and 1998.

I will skip some of the additional scientific details and jump to more of the conclusions because during those decades differential in the study, ''California officials set groundbreaking standards that phased out many inefficient car and truck engines and some of the dirtiest fuels for everything from jet skis and lawnmowers to school buses and heavy-duty trucks. Local smog-fighters in the Los Angeles basin forced cleanup of oil refineries, manufacturing plants, and consumer products such as paints and solvents. Other local and state programs offered incentives for replacing old trucks and buses.''

The result: Some of the most problematic pollutants—smog-forming nitrogen dioxide and fine particles created by diesel-engine exhaust and other fossil fuels—declined in the worst neighborhoods by up to 50 percent in 20 years. Maritime pollution, particularly in neighborhoods near the massive ports of Los Angeles and Long Beach, also has dropped substantially.

As a side note, by the way, the two ports referenced in this, the ports of Long Beach and Los Angeles—sister ports in the San Pedro Sports Complex—account for 40 percent of our Nation's imports, those two ports alone. So you can imagine the intensity of the pollution in that specific region, let alone the air quality and health impacts for Californians.

So I go back to, if the Federal Government, through the EPA, isn't willing to step up to meet the challenge of air quality in California, let California take care of Californians. As these studies and reports lay out, California's leadership is working. Kids are breathing cleaner air.

But we still have a lot more work to do. We have a track record of successfully developing and implementing innovative tools to improve lives, but because of what is transpiring here now in the Senate, our progress is now at risk. It is important, it is urgent, it is significant because we still have so much more work to do.

California plans on continuing to exercise our legal authority under the Clean Air Act to protect kids, to set ambitious but achievable goals, to reduce pollution and, yes, Heaven forbid, set an example, set a model, set a path for other States to follow if they wish because no one is forcing California

standards on States that don't voluntarily choose to follow that simple path.

But what I see transpiring here with the overruling of the Parliamentarian and the overturning of these waivers as if they were rules is the Senators from other States, Republican Senators from other States, imposing their will on California. So much for States' rights, I guess.

And I hope you sleep well at night with the consequences of your decisions in the years ahead.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. GOVERNMENT
ACCOUNTABILITY OFFICE,
MARCH 6, 2025.

Congressional Requesters

Subject: Observations Regarding the Environmental Protection Agency's Submission of Notices of Decision on Clean Air Act Preemption Waivers as Rules Under the Congressional Review Act

This letter responds to your request for a legal decision as to whether the Environmental Protection Agency's (EPA) Clean Air Act preemption waivers and Notices of Decision that EPA submitted as rules to Congress and GAO in late February 2025 are rules subject to the Congressional Review Act (CRA). Our regular practice is to issue decisions on actions that agencies have not submitted to Congress as rules under CRA in order to further the purposes of CRA by protecting Congress's CRA review and oversight authorities. In this case, we are presented with a different situation because the actions were submitted as rules under the CRA, and it is not one in which we normally issue a legal decision. However, we do have prior caselaw that addressed the applicability of CRA to Clean Air Act preemption waivers, B–334309, Nov. 30, 2023, and EPA's recent submission is inconsistent with this caselaw. Therefore, we are providing you with our views and analysis of preemption waivers under the Clean Air Act that may be helpful as Congress considers how to treat these Notices of Decision and the application of CRA procedures.

As background to these issues, we issued a legal decision concluding that a Clean Air Act preemption waiver was not a rule subject to CRA but was instead an adjudicatory order. See B–334309, Nov. 30, 2023. Furthermore, we explained that even if the waiver were to satisfy the APA definition of a rule, it would be considered a rule of particular applicability and, therefore, would still not be subject to CRA's submission requirement because of CRA's exclusions. Id.

For the three Notices of Decision announcing the waivers at issue here, EPA stated that the Notices of Decision were not rules under CRA, and, in the underlying decision documents for two of those notices, cited to our 2023 decision in support of that statement. However, EPA submitted them as rules to GAO and Congress without any explanation of this discrepancy.

We reached out to EPA on February 20, 2025, for clarification on the submission of the Notices of Decision at issue here because the notices themselves stated that CRA did not apply. After receiving your request, we followed our regular procedure and sent a formal letter to EPA on February 25, 2025, seeking factual information and the agency's legal views on this matter. Although EPA resubmitted the Notices of Decision to GAO on February 27, 2025, with additional information in the corresponding CRA reports, the agency still did not address the statements in the notices regarding the inapplicability of the CRA, and, to date, EPA has not further responded to our letter.

As explained more fully below, our view is that the analysis and conclusions in our 2023 Clean Air Act preemption waiver decision would also apply to the Notices of Decision recently submitted as rules to Congress by EPA.

BACKGROUND

Clean Air Act

The Clean Air Act generally preempts states from adopting or enforcing emission control standards for new motor vehicles or new motor vehicle engines. See 42 U.S.C. §7543(a); B–334309, Nov. 30, 2023. However, the Clean Air Act requires the EPA Administrator to grant a waiver of preemption for a state that adopted a standard prior to March 30, 1966, if the state determined its standard will be, in the aggregate, at least as protective of public health and welfare as applicable federal standards. 42 U.S.C. §7543(b); B–334309, Nov. 30, 2023. Only California can qualify for preemption waivers under this section because it is the only state that adopted a standard prior to March 30, 1966. B–334309, Nov. 30, 2023.

The EPA Administrator must approve the waiver unless the Administrator makes any one of three findings set forth in the statute: (1) the determination of the state is arbitrary and capricious; (2) the state does not need state standards to meet compelling and extraordinary conditions; or (3) the state standards and accompanying enforcement procedures are not consistent with 42 U.S.C. §7521(a) (EPA standards for emissions from new motor vehicles or new motor vehicle engines). 42 U.S.C. §7543(b)(1)(A)–(C); B–334309, Nov. 30, 2023.

When the EPA Administrator receives a waiver request, they must provide notice of a public hearing and comment period. 42 U.S.C. §7543(b); B–334309, Nov. 30, 2023; EPA, Vehicle Emissions California Waivers and Authorizations, available at https://www.epa.gov/state-and-local-transportation/vehicle-emissions-california-waivers-and-authorizations (last visited Mar. 5, 2025) (California Waivers and Authorizations Website). The Administrator makes a decision on the waiver and publishes a notice of their decision and reasons in the Federal Register. B–334309, Nov. 30, 2023.

The Clean Air Act provides similar procedures for the EPA Administrator to authorize California to adopt and enforce emission control standards for certain nonroad engines or vehicles. 42 U.S.C. §7543(e)(2)(A). The Administrator must authorize California to adopt and enforce such standards if California determined that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable federal standards, unless the Administrator makes any one of three findings set forth in the statute: (1) California's determination is arbitrary and capricious; (2) California does not need its own standards to meet compelling and extraordinary conditions; or (3) the California standards and accompanying enforcement procedures are not consistent with section 7543. Id. Like the waiver process under section 7543(b), the authorization process under section 7543(e)(2)(A) involves providing notice of a public hearing and comment period and publishing notice of the decision. See id.; California Waivers and Authorizations Website.

EPA Notices of Decision

At issue here are the following EPA Clean Air Act preemption waiver Notices of Decision:

California State Motor Vehicle and Engine Pollution Control Standards; Heavy-Duty Vehicle and Engine Emission Warranty and Maintenance Provisions; Advanced Clean Trucks; Zero Emission Airport Shuttle, Zero-Emission Power Train Certification; Waiver of Preemption; Notice of Decision, 88 Fed. Reg. 20688 (Apr. 6, 2023) (Advanced Clean Trucks Waiver Notice);

California State Motor Vehicle and Engine and Nonroad Engine Pollution Control Standards; The ''Omnibus'' Low NO_X Regulation; Waiver of Preemption; Notice of Decision, 90 Fed. Reg. 643 (Jan. 6, 2025) (Low NO_X Waiver Notice); and

California State Motor Vehicle Engine Pollution Control Standards; Advanced Clean Cars II; Waiver of Preemption; Notice of Decision, 90 Fed. Reg. 642 (Jan. 6, 2025) (Advanced Clean Cars II Waiver Notice).

In the Advanced Clean Trucks Waiver Notice, the EPA Administrator granted two separate requests for preemption waivers regarding four California regulations for heavy-duty on-road vehicles and engines. 88 Fed. Reg. at 20688. The Low NO_X Waiver Notice announced the EPA Administrator's December 17, 2024, decision granting California a preemption waiver for regulations applicable to new 2024 and subsequent model year California on-road heavy-duty vehicles and engines and authorizing regulations regarding off-road diesel engines. 90 Fed. Reg. at 643–44. The Advanced Clean Cars II Waiver Notice announced the EPA Administrator's December 17, 2024, decision granting California a preemption waiver for regulations applicable to new 2026 and subsequent model year California on-road light- and medium-duty vehicles. 90 Fed. Reg. at 642.

Congressional Review Act (CRA)

CRA, enacted in 1996 to strengthen congressional oversight of agency rulemaking, requires federal agencies to submit a report on each new rule to both houses of Congress and the Comptroller General for review before the rule can take effect. 5 U.S.C. §801(a)(1)(A). The report must contain a copy of the rule, ''a concise general statement relating to the rule,'' and the rule's proposed effective date. Id. CRA allows Congress to review and disapprove rules issued by federal agencies for a period of 60 days using special procedures. See 5 U.S.C. §802. If a resolution of disapproval is enacted, then the new rule has no force or effect. 5 U.S.C. §801(b)(1).

CRA adopts the definition of ''rule'' under the Administrative Procedure Act (APA), which states that a rule is ''the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency.'' 5 U.S.C. §§551(4); 804(3). However, CRA excludes three categories of APA rules from coverage: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of nonagency parties. 5 U.S.C. §804(3).

EPA did not submit CRA reports to Congress or GAO for any of the Notices of Decision when they were initially issued on April 6, 2023, and January 6, 2025, and each notice states that CRA does not apply because the relevant action is not a rule for purposes of the Act. Advanced Clean Trucks Waiver Notice, 88 Fed. Reg. at 20726; Low NO_X Waiver Notice, 90 Fed. Reg. at 645; Advanced Clean Cars II Waiver Notice, 90 Fed. Reg. at 643. In addition, the underlying decision documents referenced in the Low NO_X Waiver Notice and Advanced Clean Cars II Waiver Notice include similar statements about the inapplicability of CRA and cite our 2023 decision determining that a Clean Air Act preemption waiver notice of decision was not a rule

under CRA. See EPA, California State Motor Vehicle and Engine and Nonroad Engine Pollution Control Standards; The ''Omnibus'' Low NO_X Regulation; Waiver of Preemption; Decision Document (Dec. 17, 2024) (Low NO_X Waiver Decision), at 95 & n.281; EPA, California State Motor Vehicle and Engine Pollution Control Standards; Advanced Clean Cars II; Waiver of Preemption; Decision Document (Dec. 17, 2024) (Advanced Clean Cars II Waiver Decision), at 189 & n.504 (both citing B–334309, Nov. 30, 2023).

EPA subsequently submitted a CRA report for the three Notices of Decision to Congress and GAO on February 19, 2025. The House of Representatives and GAO received the report on February 19, 2025, and the Senate received the report on February 20, 2025. EPA resubmitted the CRA report to GAO on February 27, 2025. The resubmitted report included additional information for each notice, including the date of the document, the nature of the action submitted, and proposed effective date. EPA did not explain in either submission why the agency was submitting the notices under CRA given its statement in each notice that CRA did not apply.

DISCUSSION

GAO's 2023 Decision on a Clean Air Act Preemption Waiver Notice of Decision

In B–334309, we examined an EPA Notice of Decision titled California State Motor Vehicle Pollution Control Standards; Advanced Clean Car Program; Reconsideration of a Previous Withdrawal of a Waiver of Preemption; Notice of Decision (Advanced Clean Car Program Waiver Notice). 87 Fed. Reg. 14332 (Mar. 14, 2022). This Notice of Decision rescinded EPA's 2019 withdrawal of a 2013 preemption waiver for California's greenhouse gas emissions standards and zero emission vehicle sale mandate, thereby reinstating the waiver. Id. at 14332; B–334309, Nov. 30, 2023.

We determined that the Advanced Clean Car Program Waiver Notice was not a rule under CRA because it did not meet the APA definition of a rule. We concluded that the notice was, instead, an ''order'' under APA. APA defines an order as ''the whole or a part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency in a matter other than rule making but including licensing.'' 5 U.S.C. §551(6). APA further defines ''licensing'' to include an agency granting or revoking a license, and ''license'' to include an agency approval, statutory exemption, or other form of permission. 5 U.S.C. §551 (8), (9). An agency action that constitutes an order under APA is not a rule under the statute and, therefore, is not a rule under CRA. B–334309, Nov. 30, 2023 (citing B–334995, July 6, 2023; B–334400, Feb. 9, 2023; B–332233, Aug. 13, 2020 (rules and orders are ''mutually exclusive'')).

We explained that an adjudicatory order is a case-specific, individual determination of a particular set of facts that has immediate effect on the individual(s) involved. B–334309, Nov. 30, 2023 (citing *United States v. Florida East Coast Railway Co.*, 410 U.S. 224, 245–46 (1973); *Neustar, Inc. v. FCC*, 857 F.3d 886, 893 (D.C. Cir. 2017); *Yesler Terrace Community Council v. Cisneros*, 37 F.3d 442, 448 (9th Cir. 1994)). In contrast, a rule is a broad application of general principles that is prospective in nature. B–334309, Nov. 30, 2023 (citing *Florida East Coast Railway Co.*, 410 U.S. at 246; *Neustar*, 857 F.3d at 895; *Yesler Terrace Community Council*, 37 F.3d at 448).

We concluded that the Advanced Clean Car Program Waiver Notice met the APA definition of an order because the notice determined that California was not preempted from enforcing its Advanced Clean Car Program and therefore made a ''final disposition'' granting California a ''form of permission'' as described in the APA definition. B–334309, Nov. 30, 2023 (citing 5 U.S.C. §551 (6), (8), (9)). We noted that the notice was particular to California's Advanced Clean Car Program, involved consideration of particular facts, as opposed to general policy, and had immediate effect on California. *Id.*

We also concluded that even if the Advanced Clean Car Program Waiver Notice met the APA definition of a rule, it would still not be subject to CRA because of CRA's exclusion of rules of particular applicability. B–334309, Nov. 30, 2023. A rule of particular applicability is addressed to an identified entity and also addresses actions that entity may or may not take, taking into account facts and circumstances specific to that entity. B–334309, Nov. 30, 2023 (citing B–334995, July 6, 2023). We noted that the notice concerned a specific entity—California—and addressed a statutory waiver specific to California's Advanced Clean Car Program; therefore, the notice would be a rule of particular applicability. B–334309, Nov. 30, 2023.

EPA's Recently Submitted Notices of Decision

(1) Applicability of GAO's 2023 Decision

The analysis and conclusion in B–334309 that the Advanced Clean Car Program Waiver Notice was not a rule for purposes of CRA because it was an order under APA would apply to the three notices of decision at issue here. For example, all three notices of decision involve waivers granted to California under the same authority and process (42 U.S.C. §7543(b)) at issue in the Advanced Clean Car Program Waiver Notice. In each case, California requested preemption waivers from EPA with respect to specific California regulations, and EPA, after holding a public hearing, receiving comments, and considering information presented by California and opponents of the waivers, determined to grant the requested waivers. *See* Advanced Clean Trucks Waiver Notice, 88 Fed. Reg. at 20688?90; Low NO_X Waiver Notice, 90 Fed. Reg. at 643–45; Advanced Clean Cars II Waiver Notice, 90 Fed. Reg. at 642–43.

The Low NO_X Waiver Notice also involves an authorization under a separate authority (42 U.S.C. §7543(e)(2)(A)). As described above, the nature of the determination and process used is very similar to section 7543(b), and our analysis and conclusions in B–334309 would apply to this portion of the notice as well. *See* Low NO_X Waiver Notice, 90 Fed. Reg. at 644–45 (describing the relevant procedures and grouping the corresponding findings in sections 7543(b)(2) and 7543(e)(2)(A) together in summarizing the decision). Specifically, California requested EPA's authorization to adopt and enforce specific California regulations, and EPA, after holding a public hearing, receiving comments, and considering information presented by California and opponents of the authorization, determined to grant the requested authorization. *See* Low NO_X Waiver Notice, 90 Fed. Reg. at 643–45.

(2) Effect of Resolutions of Disapproval

If Congress were to treat the EPA Notices of Decisions as rules under CRA and subsequently enact resolutions of disapproval, there is a question as to the precise effect those resolutions would have. As described above, if a resolution of disapproval is enacted, then the rule has no force or effect. 5 U.S.C. §801(b)(1). However, two of the three Notices of Decision submitted by EPA to Congress, the Low NO_X Waiver Notice and the Advanced Clean Cars II Waiver Notice, appear to merely notify the public of previously issued decision documents granting California the requested preemption waivers and, in the Low NO_X Waiver Notice, the requested authorization for its regulations. See Low NO_X Waiver Notice, 90 Fed. Reg. at 643–44 (stating that EPA ''is providing notice of its decision'' and referencing the Low NO_X Waiver Decision); Advanced Clean Cars II Waiver Notice, 90 Fed. Reg. at 642–43 (stating that EPA ''is providing notice of its decision'' and referencing the Advanced Clean Cars II Waiver Decision). EPA did not include the underlying decision documents in its submission to Congress and GAO. In contrast, the Advanced Clean Trucks Waiver Notice, like the Advanced Clean Car Program Waiver Notice we examined in B–334309, appears to be the decision document. *See* 88 Fed. Reg. at 20688 (stating that EPA ''is granting . . . California['s] . . . requests for waivers''). Accordingly, if Congress were to enact resolutions disapproving the Low NO_X Waiver Notice or the Advanced Clean Cars II Waiver Notice under CRA, it is unclear whether or how those resolutions would affect the underlying waivers and authorizations.

CONCLUSION

In these circumstances, our view is that our prior analysis and conclusion in B–334309 that the Advanced Clean Car Program Waiver Notice was not a rule for purposes of CRA because it was an order under APA would apply to the three notices at issue here. We provide this information to assist Congress as it considers how to treat these Notices of Decision and the application of CRA procedures.

If you have any questions, please contact Shirley A. Jones, Managing Associate General Counsel, or Charlie McKiver, Assistant General Counsel for Appropriations Law.

Sincerely,

EDDA EMMANUELLI PEREZ,
General Counsel.

Congressional Requesters

HON. SHELDON WHITEHOUSE,
Ranking Member, Committee on Environment and Public Works, U.S. Senate
HON. ALEX PADILLA,
U.S. Senate
HON. ADAM B. SCHIFF,
U.S. Senate

Mr. PADILLA. I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mr. SCHIFF. Mr. President, my colleagues, it is getting very late. Indeed, most of our constituents are asleep. But across the U.S. Capitol tonight, the lights remain on.

Over in the House, they burn dimly on the House floor as Republicans try to jam through a ''big, ugly bill'' that would wreak havoc on our families, our communities, and our climate to pay for more tax cuts for wealthy people, that would cut Medicaid and block help for families that will go hungry so that billionaires like Elon Musk get another tax break they simply don't need.

But that is not what I am here to talk about this evening. I am here at this hour, or this morning, because right here, right now, in the dead of night, Republicans in the Senate are hard at work on another objective, an unprecedented and previously unimaginable effort to abandon their own standards, their own precedent, their previous very public statements, the very rules of this body, to make our air less clean.

To do so is complicated. It requires a lot of parliamentary maneuvers. Why?

Because to make the air dirtier requires 60 votes, and they don't have 60 votes, or it requires Republicans to break their word, to eliminate the filibuster so they can do the bidding of those who would pollute our air.

Now, I don't blame my Republican colleagues for wanting to shroud what they have set out to do tonight in secrecy. I don't blame them for trying to hide it. It was just a few short weeks ago the Republican leader assured this body that he would never do any such thing, but that was then.

But hide or not, the blame will lay squarely on my Republican colleagues for the impact of what is done here tonight because tonight is a turning point, a moment in which the majority gave up yet another guardrail, where they chose to go nuclear, to violate the filibuster, to overturn the Parliamentarian in order to gratify the wishes of Big Oil over the need of our constituents for cleaner air.

The GOP wasn't always this way. Republican administrations didn't always demonstrate such hostility to the environment. At a different moment in our history, there was a very different kind of Republican Party.

So I would like to begin tonight by reading verbatim a message from President Ronald Reagan. The date was July 14, 1984. The then-President turned on a microphone in a studio here in Washington and took to the Nation's airwaves to deliver an address. This is part of what Ronald Reagan said:

My fellow Americans:

I'd like to talk to you today about our environment. But as I mentioned earlier this week, in doing so, I might be letting you in on a little secret—as a matter of fact, one of the best-kept secrets in Washington.

More than 15 years ago, the State of California decided that we needed to take action to combat the smog that was choking the beautiful cities of my home State. Out of that concern was born the first serious program to require manufacturers to build cleaner cars and help control air pollution. The auto industry had to build two kinds of cars—one that would be for sale in the other 49 States and one that would meet the stiff antipollution standards required in California.

We had other concerns in California, such as protecting our magnificent and unique coastline. And we took the lead in that area as well. It took the rest of the Nation a few years to catch on, but in 1970 the Congress followed California's lead and enacted the Clean Air Act. Other laws to protect and clean up the Nation's lakes and rivers were passed, and America got on with the job of protecting the environment.

Part of the secret I mentioned is that I happened to have been Governor of California back when much of this was being done. Now, obviously, neither the problems in California nor those nationally have been solved, but I'm proud of having been one of the first to recognize that States and the Federal Government have a duty to protect our natural resources from the damaging effects of pollution that can accompany industrial development.

Now, if you are just tuning in, this is a speech from Ronald Reagan.

The other part of the well-kept secret—

The former President had to say—

has to do with the environmental record of our administration, which is one of achievement in parks, wilderness land, and wildlife refuges. According to studies by the Environmental Protection Agency, the quality of our air and water has continued to improve during our administration.

In many big cities, the number of days on which pollution alerts are declared has gone down. And if you live near a river, you may have noticed that the signs have been coming down that used to warn people not to fish or swim.

We came to Washington committed to respect the great bounty and beauty of God's creation. We believe very strongly—

Reagan said—

in the concept of stewardship, caring for the resources we have so they can be shared and used productively for generations to come. And we've put that philosophy to work, correcting deficiencies of past policies and advancing long-overdue initiatives.

Let me give you some facts that our critics never seem to remember. When we took office in 1980, we faced a dusty shelf of reports which pointed out our predecessors had been so busy spending money on new lands for parks that they seriously neglected basic upkeep of the magnificent parks we had. So, we temporarily put off acquiring new parkland and started a new billion-dollar, 5-year program to repair and modernize facilities at our national parks and wildlife refuges. If you've been to just about any national park lately, you've probably seen the results.

We've nearly finished repairing the damage from years of neglect, and I've asked the Congress for almost $160 million to resume buying lands to round out our national park and refuge systems. We also took the lead in developing a new approach to protecting some 700 miles of undeveloped coastal areas—the dunes, beaches, and barrier islands that are some of our most beautiful and productive natural resources.

Now—

Reagan said—

there are some who want you to believe that commitment to protecting the environment can be measured by comparing the budgets of EPA under the previous administration with those proposed and approved by the Congress under my administration. But they deliberately ignore that the major Federal environmental laws are designed to be carried out by the States in partnership with EPA.

By the time the clean air, clean water, and other big programs put in place in the early 1970's moved into their second decade, the States had largely taken over the job formerly performed by the Federal Government. With the successful delegation to the States, EPA, under the leadership of Bill Ruckelshaus, has been freed to move on to the challenges of the 1980's—such as cleaning up abandoned toxic waste dumps.

Under our administration, funding for the Superfund cleanup program will have increased from just over a hundred million dollars in 1981 to $620 million in 1985.

And by the way, under this ''big, ugly bill,'' the cuts to Superfund cleanup will be enormous. It will move the country exactly the opposite direction that Ronald Reagan moved the country back in 1981.

By the end of this year—

Reagan said—

EPA expects to have undertaken more than 400 emergency actions to remove and contain public health hazards. And because we recognize that we need to do more cleanup work than the current law provides, I'm committed to seeking an extension of the Superfund program.

As I said, our progress on protecting the environment is one of the best-kept secrets in Washington. But it's not, by far, the only secret. And I'll have more on that in the months ahead.

Until next week, thanks for listening, and God bless you.

That was Ronald Reagan. The Republican Party wasn't always like it is today. There was a time when the environment and clean water and clean air were a priority of this party.

Now, this isn't the first time I have noted on the Senate floor that Ronald Reagan must be spinning in his grave. It is certainly true of our treatment of Ukraine and our giving in to the Kremlin. But that President, who was looked to as a portrait of the American conservative movement, watching as the party of Lincoln and Teddy Roosevelt and Reagan completes its transformation into the party of Donald J. Trump, it probably doesn't recognize what it sees.

What happened to ''States' rights''? Because this attack on California's clean air policy is an attack on States' rights.

What happened to ''freedom to innovate''? This will stifle innovation.

What happened to ''family values''?

How is what we are doing here tonight in service of our kids and the air that they breathe?

Now, Ronald Reagan wasn't the only Republican President to believe in clean air and clean water. This is Richard Nixon giving an address January 22, 1970.

I now turn to a subject which, next to our desire for peace, may well become the major concern of the American people in the decade of the seventies.

In the next 10 years we shall increase our wealth by 50 percent. The profound question is: Does this mean we will be 50 percent richer in a real sense, 50 percent better off, 50 percent happier?

Or does it mean that in the year 1980 the President standing in this place will look back on a decade in which 70 percent of our people lived in metropolitan areas choked by traffic, suffocated by smog, poisoned by water, deafened by noise, and terrorized by crime?

These are not the great questions that concern world leaders at summit conferences. But people do not live at the summit. They live in the foothills of everyday experience, and it is time for all of us to concern ourselves with the way real people live in real life.

The great question of the seventies is, shall we surrender to our surroundings, or shall we make our peace with nature and begin to make reparations for the damage we have done to our air, to our land, and to our water?

If you are tuning in, these are the words of Richard Nixon.

Restoring nature to its natural State—

He said—

is a cause beyond party and beyond factions. It has become a common cause of all the people of this country. It is a cause of particular

concern to young Americans, because they more than we will reap the grim consequences of our failure to act on programs which are needed now if we are to prevent disaster later.

Clean air, clean water, open spaces—these should once again be the birthright of every American. If we act now—

Nixon said—

they can be.

We still think of air as free. But clean air is not free, and neither is clean water. The price tag on pollution control is high. Through our years of past carelessness we incurred a debt to nature, and now that debt is being called.

What more profound words for today than that?

Through our years of past carelessness we incurred a debt to nature, and now that debt is being called.

And that debt is called climate change. Those are my words, not Nixon's.

But Nixon went on to say:

The program I shall propose to Congress will be the most comprehensive and costly program in this field in America's history.

This was a Republican President.

It is not a program for just one year. A year's plan in this field is no plan at all. This is a time to look ahead not a year, but 5 years or 10 years—whatever time is required to do the job.

I shall propose to this Congress a $10 billion nationwide clean waters program to put modern municipal waste treatment plants in every place in America where they are needed to make our waters clean again, and do it now. We have the industrial capacity, if we begin now, to build them all within 5 years. This program will get them built within 5 years.

As our cities and suburbs relentlessly expand, those priceless open spaces needed for recreation areas accessible to their people are swallowed up—often forever. Unless we preserve these spaces while they are still available, we will have none to preserve. Therefore—

Nixon said—

I shall propose new financing methods for purchasing open space and parklands now, before they are lost to us.

The automobile—

Nixon said—

is our worst polluter of the air. Adequate control requires further advances in engine design and fuel composition.

Little could he have imagined the electric vehicles of today. But he said:

We shall intensify our research, set increasingly strict standards—

This is Richard Nixon—

and strengthen enforcement procedures—and we shall do it now.

We can no longer afford to consider air and water common property, free to be abused by anyone without regard to the consequences. Instead, we should begin now to treat them as scarce resources, which we are no more free to contaminate than we are free to throw garbage into our neighbor's yard.

This requires comprehensive new regulations. It also requires that, to the extent possible, the price of goods should be made to include the costs of producing and disposing of them without damage to the environment.

Isn't this incredible? Richard Nixon, in the 1970s, talking about requiring that the price of goods should include the cost of producing and disposing of them without damage to the environment.

He went on:

Now, I realize that the argument is often made that there is a fundamental contradiction between economic growth and the quality of life, so that to have one we must forsake the other.

The answer—

He said—

is not to abandon growth, but to redirect it. For example, we should turn toward ending congestion and eliminating smog with the same reservoir of inventive genius that created them in the first place.

Now, Richard Nixon—that was in January of 1970.

This was Richard Nixon in July of the same year, July of 1970, in a special message to the Congress:

To the Congress of the United States: As concern with the condition of our physical environment has intensified, it has become increasingly clear that we need to know more about the total environment—land, water and air. It also has become increasingly clear that only by reorganizing our Federal efforts can we develop that knowledge, and effectively ensure the protection, development and enhancement of the total environment itself.

The Government's environmentally related activities have grown up piecemeal over the years. The time has come to organize them rationally and systematically. As a major step in this direction, I am transmitting today two reorganization plans: one to establish an Environmental Protection Agency, and one to establish, within the Department of Commerce, a National Oceanic and Atmospheric Administration.

This was the work of a Republican President: the EPA and NOAA. And look what is happening to it today.

The Administrator of the EPA Lee Zeldin testified before our committee today. He is calling to cut the EPA in half—cut it by more than half, actually: by 55 percent. This creation of the Nixon administration, he believes more than half of it is a waste. This Agency devoted to what Reagan talked about, what Nixon talked about, devoted to clean air and clean water, is just a waste.

This was the CEO of Ford just a year ago:

If we cannot make money on EVs, we have competitors who have the largest market in the world, who already dominate globally, already setting up their supply chain around the world. If we don't make profitable EVs in the next five years, what is the future? We will just shrink into North America.

What about our competitiveness? Are we walking away from that too? Every step this body takes this week to undermine the growth of what could be America's next great manufacturing powerhouse will be felt not just by the big three but in communities all across America.

A recent study from Princeton University found that if Congress takes action to target these emissions regulations, as they are doing, and the EV tax credits that we passed in the last administration—can you guess the place that will be the most impacted? It will be the same States that supported Donald Trump in the last election. That is because the EV component plants that are being built for this burgeoning sector are happening in Texas and in Tennessee and in Missouri and in South Carolina. The battery factories are being launched in Indiana, Alabama, Georgia, Ohio, and Michigan.

Every signal we send to American industry and to the world that we are throwing in the towel to Chinese EV manufacturers will resonate far longer than I think this Senate realizes this week, and it will hit American families in the exact place it will hurt the most. It will hit them in the wallet. Cutting tax credits, shuttering American electric car manufacturers—these will make the modern commute, the future of family vacation, all that, more expensive as we become all that more reliant on fossil fuels to go anywhere.

It will also hurt the future earnings of our apprentices, our tradespeople, our engineers by killing in the cradle a sector of the American economy to the tune of thousands of good-paying jobs.

That is not to mention, even more significantly, making Americans spend far more on healthcare as they face more sick days and worse health conditions from dirtier air.

Now, I want to talk about that for a moment because I know there are many who take for granted our air, just as we take for granted that the sun will rise or set. While air that we breathe may feel like a given, we cannot lose sight of the fact, for 135 million people—more than 4 in every 10 Americans—they live in a community impacted by unhealthy levels of air pollution; and 24 million Americans—or 1 in every 14 adults—are living with asthma. That rate is even higher in children, with about 1 in every 12 kids living with asthma.

Now, consider for a second that elevated air pollution has been found by the University of Washington, Columbia, and the University of Buffalo to be equivalent on your lungs like a pack of cigarettes.

Why is smog like a pack of cigarettes? Because it has the same effects exactly on our health. Here is what the EPA says on this topic:

[C]onstant exposure to elevated particle pollution will contribute to reduced respiratory function, even in apparently healthy people.

Here is another quote:

Respiratory effects related to active exposure to fine particles include . . . reduction in pulmonary function, increased airway inflammation . . . and can be serious enough to result in emergency department visits and hospital admissions.

That is heart trouble, that is lung trouble, health effects so devastating you could land in the hospital just from constant exposure to smog—smog—something we will see a lot more of once again by repealing these Clean Air Act standards that California has set.

Now, I heard one of my colleagues earlier today say that California was

imposing its standards on everybody else. Now, that is just not the case. For decades now, California has had a right to set its own air quality standards. That right was given by statute.

But other States have chosen to follow California's lead. They weren't required to. They weren't forced to. They chose to. They chose for their constituents to have air as clean as what California was striving to achieve.

And, yes, a lot of States adopted those standards, and some of the other States might not like it. Maybe they are just fine with having dirtier air, and that is their judgment.

But to tell California we can't set our own air standard, to tell California that because other States are following our example, we should lose the opportunity to decide how clean or how dirty we want our own air to be; is that a road we really want to go down?

Now, I know because I have been in the majority before, and when you are in the majority, you feel like you will never be in the minority, but the tables will turn. Do my colleagues want a situation where the Democratic majority can look at rules we don't like in red States and say with a simple vote—majority vote—we are going to get rid of them? we don't like your rule on mifepristone? we don't like your license for natural gas? we don't like something your State likes, and therefore we are going to legislate by CRA? Because that is what is going to happen. You can overturn the Parliamentarian here. We can overturn the Parliamentarian there. I just don't think that is a road we want to go down.

I grew up in California. I have lived there since I was 11 years old. I saw the smog days, and I knew the haze that had come to define our cities and skies for a generation dating back to the first automobile boom of the post-war era. I remember all the smog alerts, days you were warned not to go outside.

It is no surprise that that smog at the time became synonymous with California. Even today, we see some of the most densely populated and at-risk areas in the Nation for air pollution are still in California.

The Los Angeles County area, including the San Fernando and San Gabriel Valleys; the Central Valley, including Bakersfield and Fresno; San Diego County; San Francisco Bay Area—these are all areas that see dense populations facing increasing health risks from smog, which is why California took such a step 60 years ago to become the first State to tackle air pollution caused by automobiles head-on, to take drastic generational action to clean up our air.

But the steps that my colleagues in the Republican Party are taking tonight aren't going to make America healthy again. They are going to make America hazy again. If we go down this road, the future is clear even if our skies won't be.

Americans will pay for this nuclear option with more of their paychecks on hospital bills. They will pay for it with fewer jobs, less success in their communities, fewer years with their loved ones, more cancers, less time to enjoy the quality of life, and less quality of life.

That is not a future I want to see. I want to see a future envisioned, I think, as we heard by Democratic Presidents and Republicans Presidents alike, in which we invest in the technologies that can clean our air and clean our water, in which we get ahead of this tipping point on climate change, in which fire seasons go back to being a few months a year and not yearround, in which we are not constantly seeing our wildlife at risk, and in which we have to wonder what the future will look like for our kids and our grandkids.

It may seem like a small step tonight to get rid of the filibuster, to force California to abandon its standards for its own air, but this step down this road may be the first. It will not be the last. And I want better for my kids and grandkids, and I want better for everyone else's family as well.

I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m., May 22, 2025.

Thereupon, the Senate, at 1:21 a.m., adjourned until Thursday, May 22, 2025, at 10 a.m.