



## Arizona State Senate *Office of the President*

January 30, 2025

Senator Mark Kelly  
Senator Ruben Gallego  
Representative David Schweikert  
Representative Eli Crane  
Representative Yassamin Ansari  
Representative Greg Stanton  
Representative Andy Biggs  
Representative Juan Ciscomani  
Representative Raul Grijalva  
Representative Abe Hamadeh  
Representative Paul Gosar

### **Re: Congressional Disapproval of Radical California Environmental Rules**

Dear Members of Arizona's Congressional Delegation:

As President of the Arizona State Senate, I write to urge you to block radical California rules that ban gas-powered cars and leaf blowers. These policies will harm Arizona families by increasing costs, impacting jobs, and limiting consumer choice. The Congressional Review Act empowers you to reverse the Biden Administration's last-minute approval of these extreme policies, which I encourage you to do.

During the last month of the Biden Administration, EPA granted six waivers to California that allow implementation of environmental rules.<sup>1</sup> One EPA waiver approved California's radical

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<sup>1</sup> See *In-Use Off-Road Diesel Fueled Fleets Notice of Decision*, 90 Fed. Reg. 1996 (Jan. 10, 2025); *Commercial Harbor Craft Regulations Notice of Decision*, 90 Fed. Reg. 1998 (Jan. 10, 2025) (partial grant); *In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets Notice of Decision*, 90 Fed. Reg. 2000 (Jan. 10, 2025) (partial grant); *Small Off-Road Engines Regulations Notice of Decision*, 90 Fed. Reg. 640 (Jan. 6, 2025); *Advanced Clean Cars II Notice of Decision*, 90 Fed. Reg. 642 (Jan. 6, 2025); *The "Omnibus" Low NO<sub>x</sub> Regulation Notice of Decision*, 90 Fed. Reg. 643 (Jan. 6, 2025).

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rules to ban gasoline-only cars by 2035.<sup>2</sup> California's rules will have immediate impact. More than one-third of 2026 models must be electric vehicles, a standard that one automotive manufacturer called "impossible" to meet and that would "limit a customer's choice of the vehicles they want."<sup>3</sup> The National Automobile Dealers Association projects that California's rules will distort the market and increase vehicle purchase costs for consumers outside of California.<sup>4</sup> Another EPA waiver approved California's radical rules to ban gasoline leaf blowers and lawn mowers.<sup>5</sup> Yet another EPA waiver approved California's radical rules to ban bulldozers and mining trucks.<sup>6</sup>

Victims of California's war on fossil fuels include Arizonans who conduct business or make purchases in California. California's radical rules also will indirectly affect Arizonans by increasing the cost, and decreasing the availability, of vehicles and products. Even Governor Katie Hobbs has been forced to recognize that California's extreme policies can negatively impact Arizonans.<sup>7</sup>

California's radical rules raise serious legal concerns relating to equal state sovereignty<sup>8</sup> and the major questions doctrine,<sup>9</sup> among many others. I have asked EPA to submit its approval of California's rules to the Article I branch. If that occurs, Congress can remove these concerns by exercising the Congressional Review Act. According to legal experts, "Congress can quickly disapprove the waivers and send a resolution to the White House for presidential signature. Ballgame over."<sup>10</sup> As those experts note, Congressional Review Act decisions are final and unassailable in court because the Act expressly provides that "[n]o determination, finding, action, or omission under this chapter shall be subject to judicial review."<sup>11</sup>

California Governor Gavin Newsom has erroneously claimed that California's waivers are not subject to the Congressional Review Act.<sup>12</sup> But the U.S. Government Accountability Office,

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<sup>2</sup> David Shepardson, *US EPA approves California plan to ban sale of gas-only cars starting in 2035*, REUTERS (Dec. 18, 2024), <https://www.reuters.com/business/autos-transportation/us-epa-approves-california-plan-ban-gas-only-cars-starting-2035-2024-12-18/>.

<sup>3</sup> Michael Wayland, *Toyota says California-led EV mandates are 'impossible' as states fall short of goal*, CNBC (Nov. 8, 2024), <https://www.cnbc.com/2024/11/08/toyota-california-ev-mandates-impossible.html>.

<sup>4</sup> Public Comment of the National Automobile Dealers Association, EPA-HQ-OAR-2023-0292, Feb. 27, 2024, at 4, <https://www.regulations.gov/comment/EPA-HQ-OAR-2023-0292-0173>.

<sup>5</sup> Blanca Begert, *Biden administration grants California last-minute pollution waivers*, POLITICO (Jan. 3, 2025), <https://www.politico.com/news/2025/01/03/biden-administration-california-pollution-waivers-00196466>.

<sup>6</sup> *Id.*

<sup>7</sup> Wes Venteicher, *Newsom's Arizona problem*, POLITICO (Sept. 10, 2024), <https://www.politico.com/newsletters/california-climate/2024/09/10/newsoms-arizona-problem-00178386>.

<sup>8</sup> Public Comment of Ohio Attorney General Dave Yost and Virginia Attorney General Jason Miyares and 21 other State Attorneys General, EPA-HQ-OAR-2023-0292, Feb. 27, 2024, at 2-8, <https://www.regulations.gov/comment/EPA-HQ-OAR-2023-0292-0172>.

<sup>9</sup> Public Comment of the Illinois Corn Growers Association et al., EPA-HQ-OAR-2023-0292, Feb. 27, 2024, at 26-28, <https://www.regulations.gov/comment/EPA-HQ-OAR-2023-0292-0185>.

<sup>10</sup> Michael Buschbacher and James Conde, *Biden's EPA Tries to Put One Over With EV Mandate*, THE WALL STREET JOURNAL (Jan. 8, 2025), <https://www.wsj.com/opinion/bidens-epa-tries-to-put-one-over-with-ev-mandate-congress-shouldnt-fall-for-it-b4af50f7>.

<sup>11</sup> 5 U.S.C. § 805.

<sup>12</sup> Tony Briscoe, *Trump victory puts California clean air initiatives in jeopardy*, LOS ANGELES TIMES (Nov. 6, 2024), <https://www.latimes.com/environment/story/2024-11-06/california-climate-and-pollution-goals-at-risk>.

the bureaucratic agency upon which Governor Newsom has staked his position, has repeatedly opined that Congress is able to “fully exercise its review and oversight authorities under the [Congressional Review Act]” when an agency submits a rule to Congress.<sup>13</sup> “The purpose that a GAO opinion might serve otherwise [is] superseded” by an agency’s submission of a rule under the Congressional Review Act.<sup>14</sup> Thus, EPA’s submission of the waivers to Congress will supersede the GAO opinion upon which Governor Newsom relies.

Voters gave President Trump “a mandate to implement the promises he made on the campaign trail, including stopping attacks on gas-powered cars.”<sup>15</sup> Arizonans overwhelmingly oppose electric vehicle mandates.<sup>16</sup> Unpopular rules that implement bad policy while hurting jobs and family budgets should be rejected.

If and when EPA submits California’s waivers to Congress, I urge you to sponsor or co-sponsor a joint resolution of disapproval of the waivers under the Congressional Review Act. Please support Arizona families and businesses. Arizonans are counting on you.

Respectfully,

A handwritten signature in black ink, appearing to read "Warren Petersen". The signature is fluid and cursive, written in a professional style.

Warren Petersen  
*President of the Arizona State Senate*

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<sup>13</sup> U.S. GAO, *Internal Revenue Service: Applicability of the Congressional Review Act to Revenue Procedure 2018-38*, B-330376 (Nov. 30, 2018), at 1, <https://www.gao.gov/assets/b-330376.pdf>; see also U.S. GAO, *Request for a Congressional Review Act Opinion on IRS Notice 2020-65*, B-332517 (Sept. 15, 2020), at 1, <https://www.gao.gov/assets/b-332517.pdf>.

<sup>14</sup> B-330376, *supra* note 13, at 3.

<sup>15</sup> Alex Nieves and Mike Lee, *Trump and California draw battle lines around electric cars*, POLITICO (Dec. 19, 2024), <https://www.politico.com/news/2024/12/19/trump-vs-california-future-of-electric-cars-00195251>.

<sup>16</sup> Elizabeth Troutman, *Arizonans Oppose Potential Biden Rule Mandating Electric Vehicles*, AZ FREE NEWS (Mar. 20, 2024), <https://azfreenews.com/2024/03/arizonans-oppose-potential-biden-rule-mandating-electric-vehicles/> (61% of Arizonans oppose, and only 16% support, Biden electric vehicle mandate).