



Arizona State Senate

Office of the President

January 30, 2025

James Payne
Acting Administrator
Environmental Protection Agency
Office of the Administrator, Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Repeal of California’s Radical Environmental Rules

Dear Acting Administrator Payne:

As President of the Arizona State Senate, I write to urge you to prevent California from dictating the country’s energy policy. California’s radical rules will harm Arizona families by increasing costs, impacting jobs, and limiting consumer choice. By taking swift action, EPA can reverse the Biden Administration’s erroneous approval of California’s extreme rules.

On his first day in office, President Trump took significant action to make America the world’s energy leader. President Trump declared a national energy emergency to immediately reverse America’s energy decline. See Executive Order, “Declaring a National Energy Emergency,” Jan. 20, 2025.¹ President Trump also immediately acted to unlock America’s full energy potential. See Executive Order, “Unleashing American Energy,” Jan. 20, 2025.² These important energy steps will help usher in America’s Golden Age.

Within these orders, President Trump declared it the policy of the United States to eliminate the electric vehicle mandate.³ President Trump thus kept his promise to “end the electric

¹ Available at <https://www.whitehouse.gov/presidential-actions/2025/01/declaring-a-national-energy-emergency/>.

² Available at <https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/>.

³ *Id.* at § 2(e).

vehicle mandate on Day 1.”⁴ I fought against the Biden EPA’s electric vehicle mandates,⁵ and I appreciate President Trump ending them as he promised. I stand ready to support EPA in any public comment process or litigation that may be required to formally end EPA’s electric vehicle mandates.

In addition to the electric vehicle mandates that the Biden EPA issued, the Biden EPA also granted waivers to California that impose electric vehicle mandates that will affect the entire country. During the last month of the Biden Administration, EPA granted six waivers to California that allow implementation of environmental rules.⁶ One EPA waiver approved California’s radical rules to ban gasoline-only cars by 2035.⁷

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.”⁸ The National Automobile Dealers Association projects that California’s rules will distort the market and increase vehicle purchase costs for consumers outside of California.⁹ Another EPA waiver approved California’s radical rules to ban gasoline leaf blowers and lawn mowers.¹⁰ Yet another EPA waiver approved California’s radical rules to ban bulldozers and mining trucks.¹¹

The Biden EPA granted other waivers to California in addition to the flurry of last-minute waiver approvals. On at least five other occasions, the Biden EPA granted waivers to California.¹²

⁴ *Trump: ‘I will end the electric vehicle mandate on Day 1,’* NBC NEWS (July 18, 2024), <https://www.nbcnews.com/now/video/trump-vows-to-end-electric-vehicle-mandate-and-revive-u-s-auto-industry-215216709888>.

⁵ Jeff Zymeri, *‘Dire Consequences’: Arizona Lawmakers to Battle the Biden Administration over Electric-Vehicle Push*, NATIONAL REVIEW (June 29, 2023), <https://www.nationalreview.com/news/dire-consequences-arizona-lawmakers-to-battle-the-biden-administration-over-electric-vehicle-rules/>; *Petersen challenges EPA’s electric vehicle mandates in court*, GRAND CANYON TIMES (Oct. 21, 2024), <https://grandcanyontimes.com/stories/665786259-petersen-challenges-epa-s-electric-vehicle-mandates-in-court>.

⁶ 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_x Regulation Notice of Decision*, 90 Fed. Reg. 643 (Jan. 6, 2025).

⁷ 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/>.

⁸ 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>.

⁹ 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>.

¹⁰ 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>.

¹¹ *Id.*

¹² See *Ocean-Going Vessels At-Berth Notice of Decision*, 88 Fed. Reg. 72461 (Oct. 20, 2023); *Large Spark-Ignition Engines Notice of Decision*, 88 Fed. Reg. 24411 (Apr. 20, 2023); *Heavy-Duty Vehicle and Engine Emission Warranty and Maintenance Provisions and Zero-Emission Power Train Certification Notice of Decision*, 88 Fed.

This includes early versions of California’s radical rules for imposing electric car and electric truck mandates. Critics of California’s original electric car mandate claimed it would harm States and consumers without providing any discernable environmental benefits.¹³ The nation’s largest truck manufacturer organization, the Truck and Engine Manufacturers Association, predicted that California’s extreme electric truck mandates “would increase the cost of trucks, pushing buyers to delay making new purchases and leaving older, dirtier vehicles on the road for years.”¹⁴ I fought California’s truck mandates in court to prevent harms to Arizonans.¹⁵

President Trump addressed California’s waivers on Day 1 as well. President Trump declared it our country’s policy to “promote true consumer choice,” including by “by terminating, where appropriate, state emissions waivers that function to limit sales of gasoline-powered automobiles.”¹⁶ President Trump thus kept his promise that “no state in America will be permitted to ban gas powered cars or trucks.”¹⁷

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.¹⁸

California’s radical rules raise serious legal concerns relating to equal state sovereignty¹⁹ and the major questions doctrine,²⁰ among many others. EPA should take immediate action to remove these legal concerns, starting by submitting the approvals for California’s rules to Congress for evaluation under the Congressional Review Act. According to legal experts, “Congress can quickly disapprove the waivers and send a resolution to the White House for

Reg. 20688 (Apr. 6, 2023) (two requests granted); *Advanced Clean Car Program Reconsideration of a Previous Waiver Withdrawal Notice of Decision*, 87 Fed. Reg. 14332 (Mar. 14, 2022).

¹³ Katy Stech Ferek, *EPA Restores California’s Power to Set Tighter Car-Pollution Standards*, THE WALL STREET JOURNAL (Mar. 9, 2022), <https://www.wsj.com/articles/epa-restores-californias-power-to-set-tighter-car-pollution-standards-11646852468>.

¹⁴ See, e.g., Anna Phillips, *Biden will let California lead on electric trucks, despite industry protest*, THE WASHINGTON POST (Mar. 20, 2023), <https://www.washingtonpost.com/climate-solutions/2023/03/20/epa-california-waiver-electric-trucks/>.

¹⁵ *Senate President Petersen challenges Biden’s EPA and California over electric vehicle mandates*, GRAND CANYON TIMES (May 15, 2024), <https://grandcanyontimes.com/stories/659213533-senate-president-petersen-challenges-biden-s-epa-and-california-over-electric-vehicle-mandates>.

¹⁶ *Id.*

¹⁷ Alexandra Ulmer and David Shepardson, *Trump says no state would be allowed to ban gasoline-powered cars if he is elected*, REUTERS (Oct. 4, 2024), <https://www.reuters.com/business/autos-transportation/trump-says-no-state-would-be-allowed-ban-gas-powered-cars-if-he-is-elected-2024-10-03/>; see also Thomas Catenacci, *Trump campaign unleashes on Biden for backing California’s gas car ban*, FOX NEWS (Mar. 28, 2024), <https://www.foxnews.com/politics/trump-campaign-unleashes-on-biden-for-backing-californias-gas-car-ban>.

¹⁸ Wes Venteicher, *Newsom’s Arizona problem*, POLITICO (Sept. 10, 2024), <https://www.politico.com/newsletters/california-climate/2024/09/10/newsoms-arizona-problem-00178386>.

¹⁹ 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>.

²⁰ 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>.

presidential signature. Ballgame over.”²¹ 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.”²²

California Governor Gavin Newsom has erroneously claimed that California’s waivers are not subject to the Congressional Review Act.²³ But the U.S. Government Accountability Office, 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.²⁴ “The purpose that a GAO opinion might serve otherwise [is] superseded” by an agency’s submission of a rule under the Congressional Review Act.²⁵ Thus, EPA’s submission of the waivers to Congress will supersede the GAO opinion upon which Governor Newsom relies.

Like it did during President Trump’s first administration, EPA also should revoke California’s ability to independently regulate greenhouse gases. California’s waiver “improperly abnegate[s] national motor vehicle greenhouse gas policy to Sacramento politicians and bureaucrats with no accountability to the voters of the other 49 states.”²⁶ Our nation’s energy policy should be set by President Trump and his administration, not by radical environmentalists in California.

Voters gave President Trump “a mandate to implement the promises he made on the campaign trail, including stopping attacks on gas-powered cars.”²⁷ Arizonans overwhelmingly oppose electric vehicle mandates.²⁸ Unpopular rules that implement bad policy while hurting jobs and family budgets should be rejected.

EPA should take immediate action to support Arizona families and businesses by submitting the waiver approvals as rules to Congress under the Congressional Review Act and by terminating California’s authority to regulate greenhouse gases. President Trump already is

²¹ 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>.

²² 5 U.S.C. § 805.

²³ 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>.

²⁴ 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>.

²⁵ B-330376, *supra* note 25, at 3.

²⁶ Public Comments by the Urban Air Initiative and Consumer’s Research, EPA-HQ-OAR-2021-0257, July 6, 2021, at 2, <https://www.regulations.gov/comment/EPA-HQ-OAR-2021-0257-0223>.

²⁷ 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>.

²⁸ 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).

delivering on the promises he made to Arizonans. We look forward to EPA ending California's control of America's energy policy.

Respectfully,

A handwritten signature in black ink, appearing to read "Warren Petersen". The signature is fluid and cursive, with a large initial "W" and "P".

Warren Petersen
President of the Arizona State Senate