



ATTORNEY GENERAL OF MISSOURI  
ANDREW BAILEY



April 24, 2025

The Honorable John Thune  
Majority Leader  
United States Senate  
511 Dirksen Senate Office Building  
Washington, D.C. 20510

RE: Repeal of Extreme California Climate Change Rules

Dear Leader Thune:

We, the undersigned Attorneys General of 26 States and the leaders of the Arizona Legislature, write to urge the United States Senate to stop unelected California bureaucrats from ruining the American automotive industry. President Trump has made it a priority to undo California's radical green schemes that will hurt the American economy, consumers, and the States by increasing the costs of cars and trucks. And State Attorneys General sued to stop California's attempted bans, too. Now, the Senate can exercise its lawful authority under the Congressional Review Act to protect Americans by disapproving these rules.

[Public reporting](#) explains that some may try to stop the Senate's fully justified attempt to rein in agency action through Congressional Review Act disapproval. As we will explain, it is our opinion as Attorneys General that the U.S. Government Accountability Office erred (likely in part due to its unprecedented rush to issue its opinion) in finding that the Congressional Review Act cannot be used to revoke the Environmental Protection Agency's waivers to California. And regardless of whether GAO erred, the Senate faces no obstacle to voting to disapprove of the regulation if it wishes to do so.

President Biden's war on gas powered cars and trucks tried to ensure that Americans could not pick the gas-powered vehicles they wanted to drive to work or ship their goods. In the Biden Administration's final hours, the EPA [issued a rule](#) approving California's standards banning gasoline-only cars by 2035. That was after the Biden EPA had [already approved](#) California's rules

to require that half of all heavy-duty trucks be electric by 2035. And now California is trying to increase that mandate to include *all* trucks. The Biden EPA's midnight rules [also included](#) approval for California's rules relating to nitrogen oxide emissions.

The Congressional Review Act empowers Congress to disapprove rules of general applicability adopted by federal agencies. GAO has [opined](#) that the Congressional Review Act “gives agencies the primary responsibility for determining which agency actions meet [the Congressional Review Act’s] definition of a rule.” As GAO [explained](#), “When an agency submits a document to our office under [the Congressional Review Act], we consider that to be the agency’s determination that the document is a rule under [the Congressional Review Act].” Here, EPA has submitted [three rules](#) to Congress for review. Under longstanding GAO’s opinions, the waivers are rules, and the Congressional Review Act has been activated. Traditionally, EPA considered its approvals of California’s standards to be “nationally applicable” because of the inevitable effect on the rest of the country. *See, e.g.*, 71 Fed. Reg. 78190, 78192 (Dec. 28, 2006). Also, Section 177 (allowing the other 49 States to “adopt and enforce” California’s standards) makes that national applicability [real rather than hypothetical](#). That means Congress can disapprove the Rule and free America from California’s green fist.

EPA’s decision to submit rules to Congress for review, and Congress’ decision to review those rules, are not subject to challenge by unelected bureaucrats. Historically, GAO acknowledged it could not obstruct Congress when an agency submitted a rule for review. GAO had [taken the position that](#) “[t]he purpose that a GAO opinion might serve . . . was superseded” when a federal agency submitted a rule to Congress under the Congressional Review Act. So [when an agency submitted a Congressional Review Act notice](#), GAO “consider[ed] it to be a rule for purposes of the [Congressional Review Act], which obviates the need for a GAO opinion.” But in its [recent](#) “observations” GAO abandoned its position. GAO did not attempt to reconcile its multiple prior opinions that an agency’s submission of a rule is determinative.

GAO’s analysis, and how fast that analysis issued, smacks of improper and norms-violating political considerations. The Senate should look to GAO’s consistent opinions in non-political cases 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, as EPA has done here.

Allowing the Senate to decide whether EPA’s rules are subject to the Congressional Review Act is also consistent with Senate tradition. We are not aware of Congress previously considering whether an agency submission under the Congressional Review Act is a “rule” for purposes of the Congressional Review Act. [Accordingly](#), “when the procedural question has not arisen before, and there is no Senate rule or precedent on which to base a

ruling,” any point of order may be submitted directly for the Senate to decide in the first instance. Congressional Research Service, *Points of Order, Rulings, and Appeals in the Senate*, CRS 98-306 (Nov. 15, 2018).

If a senator raises a point of order relating to EPA’s rules, submitting the question to the full Senate to decide is consistent with Senate tradition. Contrary to those desperately trying to salvage California’s radical rules, the Senate considering EPA’s rules under the Congressional Review Act will not affect other important Senate traditions, like cloture or respecting the Senate parliamentarian on matters of Senate procedure and precedent.

Unelected California bureaucrats should not dictate national policy, particularly with lame duck federal approval, without the possibility of congressional review. The Senate must act to protect Americans, the economy, and its own institutional interests by protecting its authority under the Congressional Review Act to disapprove these radical rules.

Sincerely,



Brenna Bird  
Attorney General of Iowa



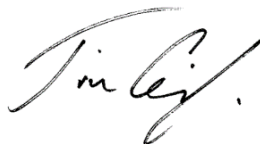
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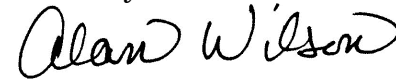
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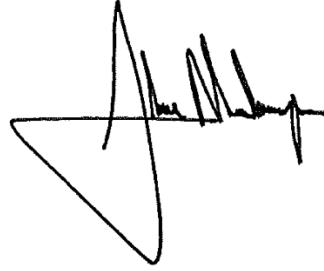
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