

The Honorable John Thune  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Chuck Schumer  
Minority Leader  
United States Senate  
Washington, DC 20510

May 19, 2025

Dear Majority Leader Thune and Minority Leader Schumer:

The undersigned groups urge you in the strongest possible terms to oppose any attempt to use the Congressional Review Act (CRA) in an unprecedented and improper fashion. This includes a resolution to aim to repeal waivers issued during the previous administration by the U.S. Environmental Protection Agency (EPA) to the state of California, which allow California to set protective pollution standards for certain vehicles under the Clean Air Act (CAA) without being preempted by national standards established by EPA.

Our groups are not taking a collective position on the merits of any of these resolutions, nor should this be interpreted as a defense of existing CRA procedures as they stand. Instead, we are warning that the CRA process is being flagrantly abused, resulting in a fundamental unsettling of existing filibuster rules.

According to its defenders, the CRA was enacted to provide Congress with the ability to review, and potentially repeal, recently issued regulatory actions on an expedited basis that bypasses the filibuster in the Senate. Yet, in order for Congress to use the CRA's special set of parliamentary procedures to disapprove, and thus repeal, a particular regulatory action, that action must meet the explicitly defined criteria in the CRA that members of Congress agreed upon when they first enacted the CRA.

Second, the CRA establishes time periods for Congress to use the law to repeal "rules." Once those time periods expire, Congress cannot use the CRA to repeal those rules.

These clear preconditions to using the CRA reflect congressional intent to ensure that use of the CRA to bypass the filibuster is limited and narrow.

Egregious misuse of the CRA, such as its application to agency actions that do not meet the CRA's own definition of a rule, would set a dangerous precedent that could lead to further abuses and non-compliance with the CRA. Ultimately, the ramifications of using the CRA in these specific instances could extend far beyond just the waivers themselves and open a Pandora's Box that will lay the groundwork for future attempts to misuse, expand, and abuse the CRA.

For example, we would expect to see the CRA used to attack other orders, potentially including energy infrastructure permit approvals, approvals of corporate mergers, or approvals of particular drugs. These examples likely only scratch the surface of the possible consequences of ignoring the CRA's procedures with impunity. This means open season on the commonsense safeguards that keep us safe and healthy.

To be sure, disputes among members of Congress regarding the CRA's applicability to agency actions have arisen. In such cases, members have turned to the Government Accountability Office (GAO) as a neutral third party for resolving these disputes. Consistent with this role, the GAO has twice determined that the California waiver is not a "rule." If Congress were to

proceed with using the CRA against the CA waiver, it would also undermine the important role the GAO plays as a neutral third party. And it would rob Congress of a valuable resource for resolving internal disputes.

In addition, on April 4, 2025, the Senate Parliamentarian reaffirmed that Clean Air Act waivers allowing California to implement protective clean vehicle standards are not subject to the Congressional Review Act. Ignoring the Senate Parliamentarian's decision would undermine the Senate's leading interpreter of Senate rules as well as decades of precedent.

Most alarming of all, if Congress does violate the CRA by using it to repeal an agency action that is not subject to the CRA, it will open the door to Congress disregarding the Parliamentarian on other issues such as reconciliation and other safeguards and abusing the law in additional ways that are expressly prohibited under the CRA. It may also encourage agencies to consistently circumvent the CRA's requirements.

For example, Congress could simply refuse to follow the strictly defined time limits for introduction and passage of CRA resolutions, or the time limits on the lookback period that allows Congress to use the CRA on rules that were finalized at the end of the previous administration. This would completely undermine the clear intent of the CRA to apply only to *recently* finalized rules. Or Congress might ignore the plain language of how resolutions are supposed to be crafted and attempt to bundle several agency actions together into a single resolution, as called for in the Midnight Rules Relief Act.

Congress has a choice: it can either choose to follow the intent and plain language of the CRA as it has done since the law was passed, or it can take the unprecedented step of using the CRA on an agency action that is simply not subject to the law, which will stretch the CRA beyond its breaking point, inevitably lead to future attempts to abuse the law, upend decades of precedent, open the door for Senators to continue to attempt to wholly ignore the Senate Parliamentarian, skirt the filibuster on other matters, and pass harmful measures with just a simple majority. And if Congress refuses to follow the CRA's rules, then perhaps it should consider repealing the law altogether. Until that happens, however, we urge you to follow the CRA's clear rules defining the scope of its applicability.

Sincerely,

AFL CIO

AFT, AFL-CIO

Alliance of Nurses for Healthy Environments

American Bird Conservancy

American Council for an Energy-Efficient Economy

American Federation of State, County and Municipal Employees (AFSCME)

Americans for Financial Reform

Americans for Tax Fairness

Appliance Standards Awareness Project

Center for Biological Diversity

Center for Digital Democracy

Center for Economic Justice

Center for Food Safety

Center for Justice & Democracy  
Center for LGBTQ Economic Advancement & Research (CLEAR)  
Center for Media and Democracy  
Center for Progressive Reform  
Center for Science in the Public Interest  
Change the Chamber  
Check My Ads Institute  
Clean Water Action  
Climate Action Campaign  
Climate Hawks Vote  
Coalition for Sensible Safeguards  
Communications Workers of America (CWA)  
Consumer Action  
Consumer Federation of America  
Consumer Reports  
Consumers for Auto Reliability and Safety  
Delaware Community Reinvestment Action Council, Inc.  
Demand Progress  
Earthjustice  
Ecology Center  
Economic Policy Institute  
EDF Action  
Electric Transportation Community Development Corporation  
Electric Vehicle Association  
Endangered Species Coalition  
Essential Information  
FFRF Action Fund  
Free Press Action  
Friends of the Earth  
Genesee Co-op Federal Credit Union  
George Mason University Center for Climate Change Communication  
Government Information Watch  
GreenLatinos  
Greenpeace USA  
Health Care Without Harm  
Informationtrust.org  
Interfaith Center on Corporate Responsibility  
International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW)  
Japanese American Citizens League  
Jobs to Move America  
Kettle Range Conservation Group  
Latino Outdoors  
Lawyers for Good Government  
League of Conservation Voters  
League of United Latin American Citizens (LULAC)

Moms Clean Air Force  
National Association of Consumer Advocates  
National Consumer Law Center (on behalf of its low-income clients)  
National Consumers League  
National Employment Law Project  
National Federation of Federal Employees  
National Health Law Program  
National Partnership for Women & Families  
Natural Resources Defense Council  
Next 100 Coalition  
Ocean Conservation Research  
Oceana  
Oregon Consumer Justice  
Partnership for Policy Integrity  
People Power United  
Physicians for Social Responsibility  
Plastic Pollution Coalition  
Plug In America  
Preserve Montgomery County VA  
Public Citizen  
Rachel Carson Council  
Rise Economy  
Sierra Club  
South Carolina Appleseed Legal Justice Center  
Southern Environmental Law Center  
The Restaurant Opportunities Centers United (ROC United)  
20/20 Vision  
Tzedek DC  
Union of Concerned Scientists  
Waterkeeper Alliance  
Womxn From The Mountain

CC: Members of the U.S. Senate