

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

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

February 3, 2026

Dear Majority Leader Thune and Minority Leader Schumer:

The undersigned groups urge you, in the strongest possible terms, to oppose unprecedented and improper attempts to abuse the Congressional Review Act (CRA) by repealing agency actions that are not subject to the Act. This includes H.J. Res. 140, which recently passed in the House. If passed by the Senate and signed by the President, the resolution would invalidate Public Land Order 7917.

Public Land Order (PLO) 7917, signed in 2023 by the Secretary of the Interior, bans mining in over 200,000 acres of the Superior National Forest for over 20 years. Invalidating this PLO would reopen to mining the area adjacent to and within the same watershed as the Boundary Waters. For the purposes of this letter, the undersigned organizations do not take a position on the substance of this resolution, but write to call attention and urge opposition to the numerous ways it may violate the CRA and circumvent the filibuster.

The CRA was enacted to enable Congress to review and, if it so chooses, repeal recently issued regulatory actions on an expedited basis, limiting debate and bypassing the filibuster. Yet, for Congress to use the CRA's fast-track parliamentary procedures to disapprove, and thus repeal, a particular regulatory action, that action must meet the explicitly defined criteria that members of Congress agreed upon when they first enacted the law.

Specifically, the regulatory action must be a "rule" as defined in the CRA, which largely adopts the definition of "rule" from the Administrative Procedure Act. If a regulatory action is not a "rule" under the CRA, Congress is prohibited from using the law to repeal it. Agency actions that are "Orders" or "Rules of Particular Applicability" have long been recognized as distinct from "Rules" under the CRA and thus exempt from the law. Accordingly, the withdrawal of this PLO, which is not generally applicable but applies only to specific parties and took effect immediately, cannot be repealed under the CRA but must go through the normal legislative process.

This PLO is being challenged under the CRA, despite the fact that no PLO has ever been deemed a "rule" subject to the Act. Instead, statutory requirements for PLOs have always been dictated by the Federal Land Policy and Management Act (FLPMA) of 1976, which includes a Congressional notice requirement. Regarding PLO 7917, Congress received notice as required by the FLPMA upon the signing of the order in 2023. The FLPMA grants the authority for withdrawals like PLO 7917 to the Office of the Secretary of the Interior, and that authority cannot be delegated outside of Senate-confirmed positions, which is why withdrawals are signed as Orders by the Secretary, and do not follow agency rulemaking procedures.

The CRA also establishes time periods for Congress to introduce resolutions of disapproval. Once those time periods expire, Congress cannot use the CRA to repeal those rules. As noted above, no PLO has ever been submitted as a rule under the CRA until the Trump administration submitted PLO 7917 this month. Clearly, the administration submitted it to Congress in a political attempt to invalidate the Biden-era order using the CRA.

The CRA's express preconditions reflect congressional intent that the fast-track procedures are to be narrowly applied and used infrequently. Congress would be choosing to ignore its own law if it allows CRA resolutions against actions beyond the law's reach to move forward. One obvious implication of doing so is to weaken the filibuster. Whether or not one supports the filibuster, it is nevertheless a tool Congress has chosen to keep in place, and lawmakers should not circumvent it by applying the CRA broadly to any agency action they dislike.

Unfortunately, last year Congress took the unprecedented step of violating the CRA to purport to overturn Clean Air Act waivers issued by the U.S. Environmental Protection Agency to the state of California, which the Government Accountability Office had twice determined were not subject to the CRA and which was reaffirmed by the Senate Parliamentarian.

Now, members of Congress are again attempting to use the CRA when it does not apply because they lack the votes needed to overcome the filibuster. Using the CRA to attack these protections creates another reckless precedent that risks allowing Congress to retroactively target virtually any public land action as a "rule."

Each new precedent that this Congress has established for expanding the CRA beyond its intended scope lays the foundation for new types of abuses. If the Senate joins the House in endorsing this resolution, another novel attempt to apply the CRA to an action that does not meet the law's definition of a "rule" is inevitable, as is the likelihood of additional agency actions to circumvent the CRA's requirements. It is long past time to draw a line to prevent future abuses of the CRA.

We urge opposition to this Congressional Review Act resolution and any other efforts to apply the CRA to regulatory actions beyond the law's clearly defined scope.

Sincerely,

Action for Ecology and People Emancipation (AEER)

Alliance of Nurses for Healthy Environments

Center for Biological Diversity

Center for Justice & Democracy

Center for Media and Democracy

Center for Progressive Reform

Coalition for Sensible Safeguards

Consumer Federation of America

Consumers for Auto Reliability and Safety

Earthjustice Action

EDF Action

Electric Vehicle Association

Endangered Species Coalition
Environmental Law & Policy Center
Government Information Watch
GreenLatinos
Housing and Economic Rights Advocates
Jobs to Move America
League of Conservation Voters
League of United Latin American Citizens (LULAC)
New Jersey Institute for Social Justice
Malah Consulting
Next 100 Coalition
Oceana
People Power United
Plug In America
Public Citizen
Rise Economy
Southern Environmental Law Center
Southern Utah Wilderness Alliance
Union of Concerned Scientists (UCS)
Womxn From The Mountain

CC: Members of the U.S. Senate