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IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

DAIMLER TRUCK NORTH AMERICA, LLC; INTERNATIONAL MOTORS, LLC; PACCAR, INC, and VOLVO GROUP NORTH AMERICA, LLC,

Plaintiffs,

and

UNITED STATES OF AMERICA and UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,

Plaintiffs-Intervenors,

v.

CALIFORNIA AIR RESOURCES BOARD STEVEN S. CLIFF, in his official capacity as Executive Office of the California Air Resources Board, GAVIN NEWSOM, in his official capacity as Governor of California.

Defendants.

Case No. 2:25-cv-02255-DC-AC

BRIEF OF ENVIRONMENTAL DEFENSE FUND, NATURAL RESOURCES DEFENSE COUNCIL, AND SIERRA CLUB AS AMICI CURIAE IN SUPPORT OF DEFENDANTS' CROSS-MOTION FOR SUMMARY JUDGMENT AND OPPOSITION TO PLAINTIFFS' MOTIONS FOR SUMMARY JUDGMENT

Hearing Date: August 7, 2026
Time: 1:30 PM
Judge: Hon. Dena Coggins
Courtroom: 10, 13th Floor
Trial Date: Not set
Action Filed: August 11, 2025

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IDENTITY AND INTEREST OF AMICI[1]

Founded in 1967, Environmental Defense Fund (EDF) is a nonprofit organization with more than 320,000 members nationwide, including about 47,000 in California. Employing a staff of scientists, economists, policy experts, and other professionals, EDF works to counter threats to public health by reducing pollution and advancing clean, affordable solutions that strengthen people's ability to thrive in a changing climate. Recognizing California's singularly serious air quality problems and the need to control emissions from the State's vast motor vehicle fleet, EDF has long supported its authority to adopt protective standards. EDF has frequently participated in litigation to defend California's clean air protections. *E.g.*, *Am. Free Ent. Ch. of Comm. v. EPA*, No. 25-106 (9th Cir.) (EDF as movant-intervenor); *Ohio v. EPA*, No. 22-1081 (D.C. Cir) (intervenor); *Union of Conc. Sci. v. NHTSA*, No. 19-1230 (D.C. Cir.) (petitioner).

Founded in 1970, Natural Resources Defense Council (NRDC) is a national non-profit membership organization whose mission includes ensuring the rights of all people to clean air, clean water, and healthy communities. NRDC has a longstanding organizational commitment to protect the interests of its members and to reduce all sources of air pollution, including emissions of harmful smog-forming pollutants and greenhouse gases from motor vehicles. *See, e.g.*, *Natural Resources Defense Council, Inc. v. EPA*, 655 F.2d 318 (D.C. Cir. 1981); *Natural Resources Defense Council, Inc. v. EPA*, 22 F.3d 1125 (D.C. Cir. 1994); *Union of Conc. Sci. v NHTSA*, No. 19-1230 (D.C. Cir.). NRDC has over 32,000 members who reside in California who will suffer from increased air pollution due to Defendants' actions challenged in this case.

[1] No counsel for any party authored this brief in whole or in part and no entity or person, aside from amici and their counsel, contributed funds toward the preparation or submission of this brief.

Founded in 1892, Sierra Club is the Nation's oldest and largest grassroots environmental group, with over 598,000 dues-paying members, including over 125,000 in California—people whose health is adversely affected by vehicular pollution subject to regulation by the California standards at issue in this case. Sierra Club's mission is to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives. Sierra Club works on behalf of its members, who rely upon the organization to advocate for their interests in front of state, local and federal entities, including EPA, and in the courts. Sierra Club has a long history of advocacy and litigation for vehicle regulations aimed at reducing the many harmful and toxic pollutants vehicles emit and at lessening our dependence on oil as a transportation fuel. Sierra Club is currently involved in several cases to defend California's waivers. *See Am. Free Ent. Ch. of Comm. v. EPA*, No. 25-106 (9th Cir.) (ACC II); *Am. Free Ent. Ch. of Comm. v. EPA*, No. 25-89 (9th Cir.) (Omnibus); *Am. Fuel & Petr. Mfrs v. EPA*, No. 25-1614 (9th Cir.) (TRU).

INTRODUCTION AND SUMMARY OF ARGUMENT

Plaintiffs ask this Court to enjoin the implementation and enforcement of critically important California clean air measures on the basis of congressional resolutions purporting to use the streamlined legislative procedures of the Congressional Review Act (CRA), 5 U.S.C. §§ 801 et seq. to disapprove EPA's grant of preemption waivers to California under Section 209(b) of the Clean Air Act. 42 U.S.C. § 7543(b). Amici submit this brief in support of Defendants' demonstration that those federal enactments depart from the CRA's plain text and decades of consistent practice and are at odds with the respect due States under our federal system. We also

explain the serious harm that these lawless acts visit upon California's ability to protect its people's health and its environment.

The CRA "resolutions of disapproval" are unprecedented and substantively and procedurally extraordinary. Deft. SJ Mem. (Doc. 147-1) at 7-13, 21-27. Never before have the CRA's expedited procedures been applied to an *adjudication*—and that statute's plain text precludes doing so. Nor have preemption waivers under Clean Air Act Section 209(b)—the targets of the Resolutions here—ever been deemed to be anything other than adjudications. That conclusion was universally acknowledged—including by fervent opponents of California's policies—until industry advocates and the Trump Administration concluded that adopting an unprecedented reinterpretation of the CRA was the only way to achieve a desired policy objective.

Moreover, the type of adjudication in the EPA waiver grants at issue here is no ordinary one. It involves core police powers of a State, to address extraordinary and compelling local conditions within its borders. By sleight of hand, the Resolutions purported to render inoperative state law and function to accord the Executive plenary power, unmoored from the statutory standards Congress wrote into law to constrain executive discretion and protect California's longstanding authority. Contrary to the regime operating when the waiver applications were submitted to EPA, under the improvised new procedure, California had no opportunity to be heard or petition for judicial review.

California began regulating vehicular pollution long before the federal government did, and the state has contributed to many of the key advances in understanding vehicular air pollution and the technological and regulatory means to abate it. In the Clean Air Act, Congress recognized California's established role by granting the State the unique authority to obtain waivers of preemption for its emission standards. EPA's waiver decisions are fact-bound

exercises of adjudicatory authority, with the relevant review standards established by Congress deliberately favoring California's authority to adopt its own, more protective standards. The extraordinary events which resulted in the Resolutions provided none of those constraints.

The state measures Plaintiffs seek to enjoin address some of the most virulent and deadly forms of air pollution. Emissions from the diesel-powered heavy-duty motor vehicles cause enormous harm to millions of Californians, and account for an outsized share of California's chronic air quality problems and the state's difficulties in meeting mandatory, health-based national air quality standards. Without the emissions standards covered by the waivers, many more Californians will die prematurely, suffer cardiac events and asthma attacks, and visit emergency rooms than under the statutory framework that has governed for decade. The Court should deny Plaintiffs' motions for summary judgment and grant Defendants' cross-motion.

ARGUMENT

Plaintiffs' case rests on congressional resolutions that abuse the statutory process they purport to follow and disregard basic federalism principles. As Defendants demonstrate, the Resolutions reflect an egregious misuse of the CRA, which authorizes Congress to disapprove only federal "rules" of general applicability issued by federal agencies, not to invalidate agency orders like those granting Section 209(b) preemption waivers.[2] As all the relevant stakeholders, CRA experts, and even congressional opponents of California emissions regulation consistently recognized, waiver proceedings under Section 209(b) are not subject to the CRA. *See* Deft. SJ Mem. 10. The CRA does not empower Congress to involve itself in review of *adjudications*, nor did (or could) Congress confer on the Executive authority to initiate such a congressional

[2] *See* 5 U.S.C. §§ 801(a)(1)(A), 804(3); *see also* Deft. SJ Mem. 9-10, 20-21.

"review" by ipse dixit. The California standards in the Advanced Clean Trucks, Omnibus Low NOx and Advanced Clean Cars II programs were developed and submitted for EPA approval under these settled understandings under the statute's narrowly circumscribed, deferential waiver criteria. And the California submissions were adjudicated, correctly, under that framework (which provides aggrieved parties the right, *see* 42 U.S.C. § 7607(b), to seek judicial review).

The flagrant misuse of the CRA here disrespects the role of States in our constitutional system. Designed as a brake on *federal agency rulemaking*, the CRA by its terms targets only major federal rules and was never intended to authorize Congress to override core exercises of *state police power*. A congressional power to veto state laws was advocated for, but decisively rejected, at the Constitutional Convention.[3]

The offense to federalism principles has particularly severe consequences for human health and welfare: California's vehicle emissions regulations reflect the exercise of core police powers that have protected Californians' lives for more than half a century. They protect California's people from harmful pollution that, as explained below, has proven to be an especially serious scourge.[4] The effect of the Resolutions on which Plaintiffs' case relies is to disable state air

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[3] *See* Derek A. Webb, *The Original Meaning of Civility: Democratic Deliberation at the Philadelphia Constitutional Convention*, 64 S.C. L. Rev. 183, 201-02 (2012) (noting that James Madison initially supported a congressional power to veto state laws "but later conceded that the Convention had 'justly abandoned' it"); *see also Notes of Rufus King in the Federal Convention of 1787,* in DOCUMENTS ILLUSTRATIVE OF THE FORMATION OF THE UNION OF THE AMERICAN STATES 844, 855-56 (1927) (Convention rejected, by 7 to 3 vote (with one delegation divided), proposals to allow Congress to "negative" state laws); 5 J. ELLIOT, DEBATES ON THE ADOPTION OF THE FEDERAL CONSTITUTION 127, 171-74, 319-22 (Philadelphia 1845) (same).

[4] "Legislation designed to free from pollution the very air that people breathe clearly falls within the exercise of even the most traditional concept of what is compendiously known as the police power." *Huron Portland Cement Co. v. City of Detroit*, 362 U.S. 440, 442 (1960); *see also Pac. Merch. Shipping Ass'n v. Goldstene*, 639 F.3d 1154, 1167 (9th Cir. 2011) ("Congress itself

pollution standards intended to protect Californians from those serious harms, disrupt years of state air quality planning, and obstruct California's ability even to fulfill its obligations to attain the Clean Air Act's health-based ambient air quality standards. Disabling the California regulations means more air pollution and shortened lives for Californians.

As explained below, over decades, Congress itself has repeatedly affirmed California's valid interest in adopting its own, more protective vehicle emissions standards and established carefully circumscribed criteria for EPA to review preemption waiver applications (and federal courts' review of EPA's resulting adjudicatory decisions). In purporting to nullify the Clean Air Act waivers "under the CRA," Congress has exceeded the powers granted to it by that statute.

I. IN RESPONSE TO SERIOUS PUBLIC HEALTH CHALLENGES, CALIFORNIA DEVELOPED A SUCCESSFUL EMISSIONS CONTROL PROGRAM WHICH CONGRESS PRESERVED IN THE CLEAN AIR ACT

A. Motor Vehicle Emissions Harm Public Health and the Environment.

Internal-combustion engines are among the largest sources of air pollution that poses a range of hazards to human health. Motor vehicles emit nitrogen oxides and volatile organic compounds, which interact with sunlight to produce ground-level ozone, known as smog.[5] Ground-level ozone causes impaired lung function and cardiovascular stress and leads to additional emergency room visits and premature deaths.[6] People with respiratory conditions,

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contemplated that the states would retain leading roles in regulating air quality when it passed the Clean Air Act."); *Exxon Mobil Corp. v. US EPA*, 217 F.3d 1246, 1255 (9th Cir. 2000).

[5] *See* Daniela Nuvolone, Davide Petri & Fabio Voller, *The Effects of Ozone on Human Health*, 25 ENV'T SCI. AND POLLUTION RSCH. 8074, 8074 (2018); EPA, *Ground-Level Ozone Basics*, https://www.epa.gov/ground-level-ozone-pollution/ground-level-ozone-basics.

[6] Jennifer Stowell et al., *The Impact Of Climate Change and Emissions Control On Future Ozone Levels: Implications For Human Health*, 108 ENV'T INT'L 41, 41 (2017); Junfeng (Jim) Zhang, Yongjie Wei & Zhangfu Fang, *Ozone Pollution: A Major Health Hazard Worldwide*, 10 FRONTIERS IN IMMUNOLOGY at 1, 2 (Oct. 31, 2019).

children, pregnant women, elderly people, and those who work outdoors are particularly vulnerable.[7] Despite making up only about four percent of vehicles on the road,[8] heavy-duty vehicles are the largest contributors to ozone-forming NOx emissions.[9]

Motor vehicles are also significant sources of particulate matter, an "air-suspended mixture of solid and liquid particles that vary in number, size, shape, surface area, chemical composition, solubility, and origin."[10] Fine particulate matter (PM2.5) can penetrate deep into the lungs and enter the bloodstream, and "is associated with the greatest proportion of adverse health effects related to air pollution,"[11] including exacerbated symptoms and premature mortality in people with heart or lung disease; increased risk of cardiovascular illness; and decreased lung function.[12]

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[7] See Am. Lung Ass'n, *Ozone*, https://www.lung.org/clean-air/outdoors/what-makes-air-unhealthy/ozone; EPA, *Health Effects of Ozone in the General Population*, https://www.epa.gov/ozone-pollution-and-your-patients-health/health-effects-ozone-general-population#symptoms.Ozone is a particular risk for children with asthma. EPA, *Health Effects of Ozone in Patients with Asthma and Other Chronic Diseases* (May 20, 2026), https://www.epa.gov/ozone-pollution-and-your-patients-health/health-effects-ozone-patients-asthma-and-other-chronic.

[8] *See* H. Christopher Frey, *Trends in Onroad Transportation Energy and Emissions*, 68 J. OF AIR & WASTE MGT. ASSOC. 514, 518 tbl. 1 (2018) (trucks were 4.3 percent of all vehicles).

[9] EPA, EPA EFFORTS TO REDUCE NOX EMISSIONS FROM HEAVY-DUTY ONROAD VEHICLES, https://www.epa.gov/sites/default/files/2019-08/documents/cti-sae-govt-ind-2019-04-04.pdf.

[10] *See* C. Arden Pope III & Douglas W. Dockery, *Health Effects of Fine Particulate Air Pollution: Lines That Connect*, 56 J. OF AIR & WASTE MGMT. ASS'N 709, 710 (2006); *see also* California Air Resources Board, *Inhalable Particulate Matter and Health (PM2.5 and PM10)*, https://ww2.arb.ca.gov/resources/inhalable-particulate-matter-and-health.

[11] EPA, *Particulate Matter (PM) Basics*, https://www.epa.gov/pm-pollution/particulate-matter-pm-basics.

[12] See *id.*; CARB, *Inhalable Particulate Matter*, *supra*, note 10 (noting that "older adults with chronic heart or lung disease, children and asthmatics" are among the groups most likely to suffer health effects from particulate-matter exposure); Pope & Dockery, *supra*, note 10, at 31–32.

Particulate pollution from the diesel engines used in most heavy-duty vehicles poses special health risks. Diesel engines emit mixture of air pollutants, including diesel particulate matter, which contains carbon particles and numerous organic compounds and is especially harmful because it can be breathed deep into the lungs.[13] As the California Air Resources Board (CARB) has explained, diesel particulate matter (DPM)

> is small enough to be inhaled into the lungs ... [and] deposits in the deepest regions of the lungs where the lung is most susceptible to injury. In 1998, CARB identified DPM as a toxic air contaminant based on published evidence of a relationship between diesel exhaust exposure and lung cancer and other adverse health effects... Because it is part of PM2.5, DPM also contributes to the same non-cancer health effects as PM2.5 exposure. These effects include premature death, hospitalizations and emergency department visits for exacerbated chronic heart and lung disease, including asthma, increased respiratory symptoms, and decreased lung function in children.[14]

Diesel exhaust also contains other gaseous pollutants, including ozone-forming volatile organic compounds and oxides of nitrogen (NO_x). and contains "over 40 known cancer-causing organic substances."[15] In 2012, the World Health Organization announced a global consensus that diesel exhaust is a known human carcinogen—a cause of lung cancer and associated with an increased risk of bladder cancer.[16]

Diesel emissions account for a vast share of California's overall pollution burdens and health risks – "about 70% of California's estimated known cancer risk" from toxic pollution and 8% of

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[13] *See id.*

[14] California Air Resources Board, *Overview: Diesel Exhaust and Health*, https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health.

[15] *Id.*

[16] World Health Organization, International Agency for Research on Cancer, *Diesel Engine Exhaust Carcinogenic*, IARC Monographs Vol. 105 Press Release (June 12, 2012), https://www.iarc.who.int/wp-content/uploads/2018/07/BackgrounderMono-105-01.pdf.

PM2.5, contributing to an estimated 1,400 premature deaths annually.[17] Evidence shows that school-aged children are especially vulnerable to the health-harming impacts of diesel pollution and that it can have long-term consequences.[18] There is no known safe level of exposure to diesel exhaust for children, especially those with respiratory illness.

Motor vehicles contribute massively to the carbon dioxide pollution that causes climate change, endangering public health by, among other things, increasing heat-related deaths, increasing incidence and intensity of droughts and wildfires, and exacerbating "criteria" air pollution such as smog and particulate matter.[19] Heavy-duty vehicles are the second-largest contributor of carbon dioxide pollution within the motor vehicle sector.[20] Climate change

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[17] California Air Resources Board, *Diesel Particulate Matter Health Impacts* (footnotes and citations omitted), https://ww2.arb.ca.gov/resources/summary-diesel-particulate-matter-health-impacts. *See also* EPA, *Impacts of Diesel Emissions*, https://www.epa.gov/dera/learn-about-impacts-diesel-exhaust-and-diesel-emissions-reduction-act.

[18] *See* Norrice M. Liu et al., *Diesel, Children and Respiratory Disease*. 2 BMJ PAEDIATR OPEN. 1 (2017), https://bmjpaedsopen.bmj.com/content/bmjpo/2/1/e000210.full.pdf; T.K.M Beatty et al., *School Buses, Diesel Emissions, and Respiratory Health*, 4 J. Health Econ., 987 (2011), https://www.sciencedirect.com/science/article/abs/pii/ S0167629611000701.

[19] *See, e.g.*, Drew Shindell, et al., *Temporal and Spatial Distribution of Health, Labor, and Crop Benefits of Climate Change Mitigation in the United States*, 118 PROC. OF NAT'L ACAD. OF SCIENCES No. 46, 1-8 (2021); Kim Knowlton et al., *Six Climate Change-Related Events in the United States Accounted for About $14 Billion In Lost Lives and Health Costs*, 30 HEALTH AFF. 2167, 2168 (2011); Patrick L. Kinney, *Climate Change, Air Quality, and Human Health*, 35 AM J. PREV. MED. 459, 459-62 (2008); Tiffany T. Smith et al., *Heat Waves in the United States: Definitions, Patterns, and Trends*, 118 CLIMATIC CHANGE 811, 812–14 (2013).

[20] EPA, *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2022* (Apr. 11, 2024), https://www.epa.gov/system/files/documents/2024-02/us-ghg-inventory-2024-main-text.pdf.

facilitates formation of ground-level ozone,[21] and increases the incidence of inversions and stagnation events that worsen local air pollution.[22]

B. California's Pioneering Contributions to Vehicle Emissions Control.

Because of its distinctive topography, massive population and large motor vehicle fleet, California has long faced especially significant air pollution problems. As the State's population grew, air pollution problems became more severe. In the late 1940s and early 1950s, noting that air pollution was causing crop damage, researchers found that smog resulted in large part from photochemical reactions among pollutants in motor vehicle emissions.[23] This research, and California regulatory actions based upon it, prompted the automobile industry to install positive crankcase ventilation, the nation's first vehicle emission control measure.[24]

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[21] *See* Lu Shen et al., *Impact of Increasing Heat Waves on U.S. Ozone Episodes in the 2050s: Results from a Multimodel Analysis Using Extreme Value Theory*, 43 GEOPHYSICAL RES. LETTERS 7 (2016); Clara Nussbaumer & Ronald Cohen, *The Role of Temperature and NOx in Ozone Trends in the Los Angeles Basin*, 54 ENVTL. SCI. & TECH. 15652, 15652 (2020).

[22] *See* Sam Iacobellis et al., *Impact of Climate Change on the Frequency and Intensity of Low-Level Temperature Inversions in California* 25 FINAL REP. TO CAL. AIR RES. BD., PROJECT 06-319 (2010), https://ww2.arb.ca.gov/sites/default/files/classic/research/apr/past/06-319.pdf; John H. Tibbetts, *Air Quality and Climate Change: A Delicate Balance*, 123 ENV'L HEALTH PERSP. A148, A151 (2015); Daniel E. Horton et al., *Occurrence and Persistence of Future Atmospheric Stagnation Events*, 4 NATURE CLIMATE CHANGE 698, 698 (2014).

[23] Arie J. Haagen-Smit, *The chemistry and physiology of Los Angeles smog*, 44 INDUSTRIAL & ENGINEERING CHEMISTRY 1342 (1952); Peter Brimblecombe, *Arie Jan Haagen-Smit and the History of Smog*, *Royal Society of Chemistry Environmental Chemistry Group Bulletin* (Jan. 2012), https://www.envchemgroup.com/arie-jan-haagen-smit-and-the-history-of-smog.html.

[24] Douglas Smith, *Fifty Years of Clearing the Skies*, CALTECH NEWS, (April 15, 2013) https://www.caltech.edu/about/news/fifty-years-clearing-skies-39248; Sarah Gardner, *LA Smog: the Battle against Air Pollution*, MARKETPLACE (July 14, 2014), https://www.marketplace.org/story /2014/07/14/la-smog-battle-against-air-pollution. In 1968, Governor Ronald Reagan appointed Haagen-Smit as the first Chairman of the newly created CARB.

California undertook the Nation's first comprehensive efforts to control vehicular air pollution. As the D.C. Circuit has explained, California's

> interest in pollution control from motor vehicles dates to 1946. Comprehensive statewide efforts began in 1957, when the State granted county air pollution control boards the authority to prescribe standards for emission control devices and to prohibit the sale of unapproved devices. This was followed by the authorization for the establishment of statewide standards.

Motor & Equip. Mfrs. Ass'n v. EPA, 627 F.2d 1095, 1109 n.26 (D.C. Cir. 1979) (*MEMA I*) (citations omitted).

In the 1960 Motor Vehicle Pollution Control Act, California established a Motor Vehicle Pollution Control Board (later replaced by the Air Resources Board) and directed it to identify means of controlling air pollution and then establish emissions standards.[25] Soon after, California established requirements for vehicle emission control technology including positive crankshaft ventilation beginning in Model Year 1963 and various types of catalytic converters in Model Year 1964.[26] California soon thereafter adopted the first standards for vehicular emissions of hydrocarbons and carbon monoxide, applicable to new Model Year 1966 vehicles—the first tailpipe emission standards in the Nation.[27] California's pioneering actions built upon the state

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[25] *See* W. Christopher Brestel, Jr., *The California Motor Vehicle Pollution Control Law*, 50 CALIFORNIA L. REV. 121 (1962) (citing former Cal. Health & Safety Code Secs. 24378-24398); Thomas C. Austin, *The California Vehicle Emission Control Program – Past, Present and Future*, 90 SAE Transactions 3824, 3926-27 (1981).

[26] *See* Austin, *supra*, note 25, 90 SAE Transactions at 3926-27; *see also* S. Rep. No. 98-192 at 5 (1965) (LA's "acute smog problem … forced the control of exhaust carbon monoxide and hydrocarbons and crankcase emissions").

[27] *See* California Air Resources Board, *History*, https://ww2.arb.ca.gov/about/history; S. Kent Hoekman and J. Steve Welstand, *Vehicle Emissions and Air Quality: The Early Years (1940s–1950s)*, 12 ATMOSPHERE 1354 (2021); J.A. Maga and J.S. Haas, *The Development of Motor Vehicle Exhaust Emission Standards in California*, 10 J. AIR POLL. CONTROL. ASSOC. 393 (1960).

legislature's recognition that "the pollution of the air by the discharge of air pollutants from the exhausts of motor vehicles constitutes one of the most serious threats to the health of the people of this State."[28]

C. The Clean Air Act Waiver Provision Preserved California's Lead Role.

When Congress undertook to regulate air pollution at the national level, California's program was already well established. Indeed, federal legislators recognized that California "le[d] in the establishment of standards for regulation of automotive pollutant emissions." S. Rep. No. 89-192 at 5 (1965). The 1967 Clean Air Act Amendments provided for federal emission standards and generally preempted state standards. Pub. L. No. 90-148, § 208(a), 81 Stat. 485, 501 (1967). However, the Act also specified that, except in narrow circumstances, EPA "shall" waive preemption for California. *Id*. § 208(b); *see also Engine Mfrs. Ass'n v. EPA*, 88 F.3d 1075, 1079 n.9 (D.C. Cir. 1996). This design embodied a "compromise" between States' traditional pollution-control authority and automakers' fears of "having to meet fifty-one separate sets of emissions control requirements." *See MEMA I*, 627 F.2d at 1109 (*citing* S. Rep. No. 90-403, at 81 (1967)). It allowed California to keep serving as a "laboratory for innovation," *id* at 1111, and reflected Congress's recognition that California's program responded to a uniquely "harsh reality" of chronic air pollution. *See* H.R. Rep. No. 90-728, at 96-97 (1967); *see also* S. Rep. No. 90-403, at 33 (1967). In enacting this carefully structured framework—(by votes of 362-0 in the House, 113 Cong. Rec. 30,999 (1967), and 88-0 in the Senate, 113 Cong. Rec. 19,186 (1967)—Congress recognized both the "benefits for the Nation" from "new control systems" spurred by California's standards and the "benefits for the people of California … from letting that State

[28] Ch. 200, § 1. Ch. 835, § 1. [1959] Cal. Stats. Reg. Sess. 2091, 2885 (Rees-Richards Act), *see also* California Air Resources Board, *History*, https://ww2.arb.ca.gov/about/history.

improve on its already excellent program of emissions control," *MEMA I*, 627 F.2d at 1109-10 (cleaned up).

This allocation of regulatory authority has remained a central feature of the Clean Air Act's approach to reducing air pollution and safeguarding public health. The 1970 Amendments strengthened EPA's authority to regulate vehicular "emission[s] of any air pollutant," while reaffirming the corresponding breadth of California's entitlement to regulate those emissions. Pub. L. No. 91-604, § 6(a), 84 Stat. at 1690 (amending Section 202); *see also id*. § 8(a), 84 Stat. at 1694 (recodifying the waiver provision as Section 209(b)). The 1970 Amendments also established the modern Act's basic structure, under which States are responsible for adopting plans to meet health-based national standards. *See, e.g., Union Elec. Co. v. EPA,* 427 U.S. 246, 256–57 (1976). California's authority to adopt more-stringent-than-federal vehicle emission standards, combined with EPA's presumptive duty to grant waivers of preemption under Section 209(b), has been a critical part of California's state implementation planning process ever since.

When further amending the Clean Air Act in 1977, Congress noted that EPA had applied the waiver provision deferentially, consistent with Congress's intent "to permit California to proceed with its own regulatory program" for vehicle emissions. H.R. Rep. No. 95-294, at 301 (1977). Congress also "ratif[ied] and strengthen[ed] the California waiver provision," *id*., by removing the prior requirement that *each* individual California pollution standard be "more stringent" than federal standards, *id*. at 302. That amendment permitted California to adopt standards that "will be, in the aggregate, at least as protective" as EPA's, Pub. L. No. 95- 95, § 209(b)(1), 91 Stat. 685, 755 (1977), allowing California to decide which pollutants are its highest priority.[29]

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[29] *MEMA I*, 627 F.2d at 1110 n.32. The provision "afford[ed] California the broadest possible discretion in selecting the best means to protect the health of its citizens and the public welfare." H.R. Rep. No. 95-294, at 301-02 (1977).

The amended waiver provision *requires* EPA to waive preemption when California has determined its standards are, in the aggregate, at least as protective as EPA's, unless EPA finds that (1) California's protectiveness determination is arbitrary and capricious, (2) California "does not need such State standards to meet compelling and extraordinary conditions," or (3) California's standards are not "consistent with" Section 202(a)'s requirements, 42 U.S.C. § 7521(a) (in essence, that the standards are technologically infeasible). *Id.* § 7543(b)(1).[30] If a waiver is denied, California enjoys judicial review rights, *id.* § 7607(b)(1), with, as noted, mandatory deference to its judgments.

Congress made even more clear in amending Section 209(b) that EPA's role is adjudicatory—a limited, deferential review that respects California's authority, expertise, and policy discretion. Under Section 209(b), Congress directs EPA to make an adjudicatory determination either granting or denying the request for a waiver of preemption based upon the specific statutory factors. Congress mandated respect for California's technical judgments, requiring EPA to use the "arbitrary and capricious" standard to review the state's determination that its standards will be, in the aggregate, at least as protective as Federal standards. *See* 42 U.S.C. § 7543(b)(1)(A). Congress intended that EPA "is not to overturn California's judgment lightly," *Motor & Equip. Mfrs. Ass'n v. Nichols*, 142 F.3d 449, 463 (D.C. Cir. 1998) (quoting H.R. Rep. No. 95-294, at 302 (1977)), and "chose to permit California to blaze its own trail with a minimum of federal oversight," *id.* (quoting *Ford Motor Co. v. EPA*, 606 F.2d 1293, 1297 (D.C. Cir. 1979)). Finally, using the obligatory term "shall," the waiver statute *requires* EPA to

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[30] The 1977 amendments also reflected Congress's approval of the preemption waiver in another important way; new Section 177 permitted other States addressing their own pollution problems to adopt California standards "for which a waiver has been granted." 42 U.S.C. § 7507(1).

grant a preemption waiver unless specified factors are present, thereby limiting EPA's grounds for denying a waiver to those specific factors.

The Act's preemption waiver framework has proven to be a critical and enduring feature of pollution control policy. [31] EPA has granted California more than 75 preemption waivers.[32] The California emissions standards connected with these waivers have yielded enormous reductions in pollution even as the state's population and economy have swelled—and have accounted for important public health gains. As a National Research Council review concluded: "California has used its authority as Congress envisioned: to implement more aggressive measures than the rest of the country and to serve as a laboratory for technological innovation."[33]

II. CALIFORNIA STANDARDS HAVE PROVIDED LARGE HEALTH BENEFITS AND PROMPTED INNOVATION IN POLLUTION CONTROL TECHNOLOGY

California's vehicle emissions control program is one of the greatest success stories in the history of pollution control. Prior to the first California tailpipe standards (1966) and the creation of CARB (1967), vehicle emissions were essentially unregulated. Since then, California's vehicle emissions standards have prevented vast amounts of harmful air pollution. Between 1967 and 2024, California's heavy-duty vehicle standards have contributed to emission reductions from California's heavy-duty fleet by an average of 1,900 tons/day for hydrocarbons, more than 8,000 tons/day for NOx, more than 14,000 tons/day for carbon monoxide, and approximately

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[31] When it amended the Act again in 1990, Congress essentially replicated the language and structure of the Section 209(b)(1) waiver provision in the newly written Section 209(e)(2), which was established to cover preemption of "nonroad" vehicles and engines. 42 U.S.C. § 7543(e)(2).

[32] *See* EPA, *Vehicle Emissions California Waivers and Authorizations*, https://www.epa.gov/state-and-local-transportation/vehicle-emissions-california-waivers-and-authorizations.

[33] Nat'l Research Council, *State and Federal Standards for Mobile-Source Emissions* 1, 4 (Nat'l Acads. Press 2006), https://doi.org/10.17226/11586.

1,430 tons/day for particulate matter.[34] By reducing vehicular air pollution, California's heavy-duty vehicle emissions standards have contributed to important improvements in public health.[35]

California's pioneering efforts profoundly shaped the direction of motor vehicle emissions control, contributing major advances that have helped reduce harmful vehicle pollution even as the number of vehicles on the road increased markedly. Many of the most important advances in motor-vehicle air-pollution control debuted in California, including the first leaded-gasoline phase-out requirements; the first emission standards for hydrocarbons, carbon monoxide, diesel particulates, and greenhouse gases; and essential pollution-control technologies like three-way catalytic converters, onboard diagnostic systems, fuel injection, zero-emission technologies, carbon canisters, exhaust gas recirculation, oxidation catalysts, and more.[36]

California policies have prompted important advances in controlling heavy-duty vehicle emissions, significantly reducing the associated health impacts. For example, California adopted the United States' first heavy-duty vehicle particulate standards in 1982.[37] In 1998, California designated diesel as a toxic air contaminant, and then adopted the Diesel Risk Reduction Plan in 2000, which established a goal to reduce California's diesel PM emissions by 85% by 2020.[38]

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[34] *See* Envtl. Def. Fund, *Emission Reductions from California On-Road Vehicle Programs* 1-2 (2026), https://library.edf.org/AssetLink/anw1470gl618q12hvslyvwn7r315f522.pdf.

[35] *E.g.*, W. James Gauderman et al., *Association of Improved Air Quality with Lung Development in Children*, 372 N. ENGL. J. MED. 905, 905-13 (2015).

[36] *See* Carrie Jenks et al., *California Transportation Policy Leadership: How California Led the World Toward Cleaner, Advanced Vehicles* (M.J. Bradley & Co. 2018); National Research Council, *State and Federal Standards*, *supra* note 33, at 4, 94–96 tbl. 3-4, 264 (discussing California's "pioneering role in setting mobile-source emissions standards").

[37] *See* California Air Resources Board, "History," https://ww2.arb.ca.gov/about/history; *see also* Ann Carlson, *Smog and Sunshine: The Surprising Story of How Los Angeles Cleaned Up its Air* 171-73 (2026) (discussing California's leadership in regulating diesel emissions).

[38] TransportationPolicy.Net, *Diesel Risk Reduction Plan*, https://www.transportpolicy.net/standard/california-diesel-risk-reduction-plan/; CARB, *Risk*

CARB's policies spurred the development and commercialization of emissions control technologies, including wall-flow ceramic Diesel Particulate Filters (DPFs).[39] CARB also pioneered Heavy Duty On-Board Diagnostics (HD-OBD), which continuously monitor emissions and provide prompt alerts if emissions exceed regulatory thresholds.[40]

III. CALIFORNIA'S AUTHORITY TO ADOPT ITS OWN STANDARDS REMAINS INDISPENSIBLE TO PROTECTING CALIFORNIANS' HEALTH AND MEETING FEDERAL AIR-QUALITY OBLIGATIONS

While California's pioneering air pollution control programs have contributed to major reductions in air pollution, the State's air pollution challenges remain significant, and its ability to address those challenges by adopting its own emission standards remains vital. The state's topography of large, air-trapping basins, its vast population centers, and its unmatched number of motor vehicles help create the most severe ozone pollution problems in the country. California is home to the United States' three metropolitan areas with the worst ozone pollution (Los Angeles-Long Beach, Visalia, and Bakersfield-Solano).[41] EPA classifies 15 regions in California as ozone nonattainment areas, more than any other state.[42] California has the nation's only "extreme" ozone nonattainment areas, *see* 42 U.S.C. § 7511.[43] Most Californians—nearly 35 million—are

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Reduction Plan to Reduce Particulate Matter Emissions from Diesel-Fueled Vehicles and Engines (2000), https://ww2.arb.ca.gov/sites/default/files/ classic/ diesel/documents/rrpfinal.pdf.

[39] Chris Ruehl, et al., *Evaluation of Heavy-Duty Vehicle Emission Controls with a Decade of California Real-World Observations*, 71 J. AIR & WASTE MGT. ASS'N 1277, 1277-78 (2021).

[40] David A. Kolman, *Onboard Diagnostics for Emission Control Systems*, FLEET MAINTENANCE (Feb. 6, 2012), https://www.fleetmaintenance.com/in-the-bay/diagnostic-and-repair/article/10613994/onboard-diagnostics-for-emission-control-systems.

[41] Am. Lung Ass'n, *Most Polluted Cities* (2026), https://www.lung.org/research/sota/city-rankings/most-polluted-cities.

[42] *See* U.S. Envtl. Prot. Agency, *Summary Nonattainment Area Report*, https://www3.epa.gov/airquality/greenbook/popexp.html (current as of Dec. 31, 2025).

[43] U.S. Envtl. Prot. Agency, *8-Hour Ozone (2015) Designated Area/State Information*, https://www3.epa.gov/airquality/greenbook/jbct.html (current as of May 31, 2026).

exposed to ozone levels exceeding federal health standards.[44] Three of the five metropolitan areas with the worst year-round particle pollution in the United States are located in California.[45]

Diesel particulate matter, in particular, "has a significant impact on California's population," causing "about 70% of total known cancer risk related to air toxics in California" and hundreds of premature non-cancer fatalities.[46] The health impacts from diesel pollution are unevenly distributed. Commercial diesel trucks impose an especially heavy pollution burden on neighborhoods along their routes. EPA has estimated that, nationwide, 72 million people live within 200 meters of a truck freight route, and relative to the rest of the population, people of color and those with lower incomes are more likely to live near truck routes. *See* 89 Fed. Reg. 29440, 29455 (Apr. 22, 2024). Large trucks are the greatest contributors to black carbon emissions near major roadways.[47] A study in Oakland, California found that transportation-related air pollution (including black carbon and NOx) was much higher—in some cases double—on a freeway that is a designated truck route compared to another freeway in the same city where trucks are prohibited.[48]

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[44] *See Summary Nonattainment Area Report*, *supra* n. 42.

[45] *See* American Lung Ass'n, *Most Polluted Cities* (2026) (1. Bakersfield, 4. Fresno, and 5. Visalia), https://www.lung.org/research/sota/city-rankings/most-polluted-cities.

[46] California Air Resources Board, *Overview: Diesel Exhaust & Health*, https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health (estimating 730 annual cardiopulmonary deaths in California).

[47] *See* Jonathan M. Wang et al., *Near-Road Air Pollution Measurements; Accounting for Inter-Site Variability Using Emission Factors*, 52 ENV'T SCI. & TECH. 9495 (2018), http:/dx.doi.org/10.1021/acs.est.8b01914.

[48] Joshua S. Apte et al., *High-Resolution Air Pollution Mapping with Google Street View Cars: Exploiting Big Data*, 51 Env't Sci. & Tech. 6999 (2017), https://pubs.acs.org/doi/10.1021/acs.est.7b00891.

Moreover, California is particularly vulnerable to climate-change impacts. Its geography and population distribution make the state susceptible to damaging wildfires.[49] Warming and extended droughts deplete Sierra snowpack, on which the State's water supply and agricultural production depends.[50] Increased temperatures contribute to stagnant air conditions that exacerbate California's persistent smog problem.[51] Studies project California will experience some of the highest ground-level ozone escalation over current levels in the United States.[52] Climate change is also expected to exacerbate some forms of particulate pollution, including by creating conditions for wildfires.[53]

California's ability to adopt its own, more stringent vehicle emission standards is vital to protecting public health and meeting federal air quality standards. California cannot attain those national standards merely by tightening state-law emission standards for stationary sources of NOx precursors or particulate matter,[54] or relying on less stringent federal vehicle emissions standards alone—putting aside the fact that EPA is proposing to dramatically weaken those

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[49] *See* Scott L. Stephens et al., *Prehistoric Fire Area and Emissions from California's Forests, Woodlands, Shrublands and Grasslands*, 251 Forest Ecology and Mgmt. 205 (2007).

[50] *See* Leah Fisher et al., *California's 4th Climate Assessment Summary Report* 56-57 (2018).

[51] *Climate Change Makes Air Pollution Worse*, YALE CLIMATE CONNECTIONS (Apr. 2019).

[52] Neal Fann et al., *The Geographic Distribution and Economic Value of Climate Change-Related Ozone Health Impacts in the U.S. in 2030*, 65 J. Air & Waste Mgmt. Ass'n 570, 574 (2015).

[53] *See* Christopher G. Nolte et al., IMPACTS, RISKS, AND ADAPTATION IN THE UNITED STATES: FOURTH NATIONAL CLIMATE ASSESSMENT, Vol. II, U.S. Glob. Change Rsch. Program 512 (2018).

[54] "The only viable pathway to achieve the [2015 ozone] standard requires a transformation to zero emissions technology where feasible across all sectors." S. Coast Air Quality Mgmt. Dist., 2022 Air Quality Management Plan, Ch. 4: *Control Strategy and Implementation* at 4-2 (2022).

standards.[55] To address the problem, California will need to substantially decrease air pollution, especially from motor vehicles, the largest source category. And these programs are central to California's comprehensive air quality plans, which represent years of painstaking policy development and analysis, and are critical to California's ability to attain air quality standards.[56]

The State heavy-duty emissions standards at issue will improve health and save thousands of lives. The Omnibus Low NOx regulation is expected to reduce pollution by 2050 in amounts that will result in about 3,000-4,800 fewer Californians dying prematurely, as well as fewer hospitalizations, and ER visits.[57] The Advanced Clean Trucks Rule is estimated to result, by 2040, in 470-734 fewer Californians dying prematurely, and to fewer hospitalizations and ER visits.[58] Each of these programs would save billions in avoided health expenses.[59]

CONCLUSION

The Court should deny Plaintiffs' motions for summary judgment and grant Defendants' cross-motion.

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[55] *See, e.g.*, 90 Fed. Reg. 36,288, 36,288 (Aug. 1, 2025) (proposal to "repeal all greenhouse gas (GHG) emission standards for light-duty, medium-duty, and heavy-duty vehicles and engines").

[56] *See* California Air Resources Board, *2022 State Strategy for the State Implementation Plan* 55, 65 (Sept. 22, 2022), https://ww2.arb.ca.gov/sites/default/files/202208/2022_State_SIP_Strategy.pdf; *id.* at 4 ("However, more NOx emissions reductions from sources under local, State, and federal jurisdiction will be needed to attain the 70 ppb ozone standard, especially in the South Coast."); S. Coast Air Quality Mgmt. Dist., 2022 Air Quality Mgt. Plan, Ch. 4: *Control Strategy and Implementation* at 4-2 (2022) ("The only viable pathway to achieve the [2015 Ozone] standard requires a transformation to zero emissions technology where feasible across all sectors.").

[57] *See Emission Reductions*, *supra* note 34, at 3.

[58] *See id*. at 2.

[59] *See id.* at 2-3.

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