



*April 17, 2025*

**To:** Legislative and Communications Committee

**From:** Darrell E. Johnson, Chief Executive Officer

*For*  
*[Signature]*

**Subject:** Federal Legislative Status Report

### **Overview**

The Orange County Transportation Authority regularly updates the Legislative and Communications Committee on policy and regulatory issues directly impacting the agency's programs, projects, and operations. This report includes an update on Environmental Protection Agency actions related to the endangerment finding for greenhouse gas emissions and waivers granted to California to enforce air quality regulations, a summary on the confirmation of the Administrator of the Federal Transit Administration and a summary of the Secretary of Transportation Sean Duffy's participation in a Senate Environment and Public Works Committee hearing on transportation reauthorization.

### **Recommendation**

Receive and file as an information item.

### **Discussion**

Update on Environmental Protection Agency Congressional Review Act Process for California Waivers

Recent discussions within the Environmental Protection Agency (EPA) have centered on revising various air quality standards, including the potential repeal of the "Endangerment and Cause or Contribute Findings for Greenhouse Gases (GHG) Under Section 202(a) of the Clean Air Act," Final Rule, 74 FR 66496 (December 15, 2009 [2009 Endangerment Finding]), which serves as the legal basis for regulating GHG emissions under the Clean Air Act. This development follows President Trump's issuance of Executive Order 14154, titled "Unleashing American Energy," which directs the EPA Administrator to evaluate the legality and continued applicability of the 2009 Endangerment Finding. Repealing the Endangerment Finding could pave the way for the rollback of several federal regulations on GHG emissions, creating some uncertainty for how such emissions would be taken into account. This includes potential implications for state-level regulations. A repeal could trigger legal and policy challenges over

whether or how states, such as California, would regulate GHG emissions independently of federal standards.

On March 12, 2025, the EPA announced a process to formally reconsider the 2009 Endangerment Finding, including the rules that stem from the finding. This process is to be done in coordination with the Office of Management and Budget and other federal agencies and include opportunities for public comment.

Under authority established in the 1960s, California has historically been able to set more stringent air quality standards by being granted waivers from the EPA. Waivers have been granted more than 50 times since the Orange County Transportation Authority (OCTA) was created. Separate authority allows other states to adopt the California standards, which 18 states have chosen to do, at least partially. Towards the end of the Biden Administration, three new waivers were approved: Heavy-Duty Omnibus low nitrous oxides regulation, the Advanced Clean Trucks rule, and the Advanced Clean Cars II Program.

As part of President Trump's Executive Order, "Unleashing American Energy," the Administration directed that state emission waivers that function to limit gas-powered vehicles should be terminated. As a result of this directive, there has been renewed attention on the Congressional Review Act (CRA) and its potential role in reversing recent EPA actions. The CRA allows Congress to nullify recently finalized federal regulations through a simple majority vote and is not subject to the Senate filibuster, making it a powerful tool for incoming majorities. However, the CRA only applies to actions classified as "rules" under the Administrative Procedure Act (APA).

The Trump Administration has indicated that it intends to submit these waivers to Congress to consider using the CRA to overturn them. If successful, overturning these waivers could undermine California's ability to implement key components of its air quality and climate plans, disrupt compliance pathways for manufacturers, and potentially jeopardize federal air quality attainment in regions that rely on the reductions these regulations are projected to deliver.

Recently, the Government Accountability Office (GAO), for a second time, opined that California waiver approvals are not subject to the CRA. According to the GAO, the waivers do not constitute rules and are therefore outside the CRA's reach. However, this determination has drawn criticism from some lawmakers. House Oversight Chair James Comer (R-KY) and Energy and Commerce Chair Brett Guthrie (R-KY) recently sent a letter to the GAO questioning the timing and motivations behind its conclusion. The lawmakers argued that the very act of the EPA submitting the waivers to Congress implies they are subject to CRA review and accused GAO of exceeding its traditional advisory role by issuing a contrary opinion after the waivers were submitted. Despite the GAO's position, Senate Republicans introduced CRA resolutions on April 4 to overturn California's vehicle emissions waivers, an action taken just hours after Senate

Parliamentarian Elizabeth MacDonough advised that such waivers are not subject to CRA review, reaffirming the GAO's stance.

If Congress were to reinterpret such waivers as rules and attempt disapproval under the CRA, it could set a new precedent. This shift would challenge California's longstanding authority under the Clean Air Act. Staff continues to monitor these developments for their potential impact on California's regulatory authority and any Clean Air Act waivers that may be relevant to OCTA.

#### **Marcus Molinaro (R-NY) Confirmed by Senate Committee for Federal Transit Administration Role**

On April 3, 2025, former U.S. Representative Marcus Molinaro was confirmed by the Senate Committee on Banking, Housing, and Urban Affairs (Committee) as the nominee for Federal Transit Administrator, advancing his appointment to a full Senate vote. The committee approved his nomination with a 20-4 vote, with opposition from four Democratic Senators. If confirmed by the full Senate, Molinaro will officially lead the Federal Transit Administration (FTA).

During his March 27 nomination hearing, Molinaro received bipartisan support and used his testimony to outline a forward-looking agenda for the FTA. He emphasized the importance of modernizing transit systems through innovative technologies, streamlining the permitting process, and ensuring accountability and transparency in project delivery. Molinaro also committed to ensuring the timely disbursement of contracted and obligated awards under the Infrastructure Investment and Jobs Act (IIJA), recognizing the urgency many agencies face in moving projects forward.

Drawing on his experience as Dutchess County Executive, Molinaro highlighted his ThinkDIFFERENTLY initiative as a model for inclusive, action-driven leadership. The program reshaped how local government served people with physical, developmental, and intellectual disabilities, embedding universal accessibility as a core value. That same commitment, he said, would guide his work at the FTA. Molinaro described transit as "the shared circulatory system of our economy," pledging to make accessibility, innovation, and locally driven solutions central to his leadership. Molinaro also, in response to various questions from Committee members, emphasized the need for flexibility for each region and transit agency to decide how to prioritize their funding, and also affirmed his respect for the expertise of career staff at FTA.

With support from both sides of the aisle, Molinaro is expected to be confirmed by the full Senate in the coming weeks.

## Summary of Senate Committee on Environment and Public Works Hearing on Constructing the Surface Transportation Reauthorization Bill

On April 2, 2025, the Senate Committee on Environment and Public Works held a hearing titled "Constructing the Surface Transportation Reauthorization Bill: United States Secretary of Transportation's Perspective." The hearing featured testimony from U.S. Secretary of Transportation Sean Duffy and focused on administration priorities for the upcoming surface transportation reauthorization legislation. The hearing focused on project delivery challenges, infrastructure investment strategies, and lessons learned from the implementation of the IIJA.

Chairman Shelly Moore Capito (R-WV) called for targeted investments to improve safety and reliability, reforms to reduce red tape, and flexibility for states to meet their unique infrastructure needs. Ranking Member Sheldon Whitehouse (D-RI) emphasized continued permitting delays and urged progress in regulatory reform, while warning against political interference in project funding.

Secretary Duffy outlined the Department of Transportation's (DOT) priorities, naming safety, modernization, and efficiency as top goals. He described current efforts to improve project delivery, including streamlining environmental reviews and revising outdated fuel economy standards. A major topic of discussion was a backlog of over 3,200 awarded projects that have not yet reached signed grant agreements—many stemming from last-minute approvals under the prior administration. Duffy confirmed that the DOT is working through the backlog and emphasized that most projects are viable but delayed due to National Environmental Policy Act clearance or lack of readiness.

Senator Alex Padilla (D-CA) stressed the importance of federal support for the 2028 Los Angeles Olympic Games (LA28), citing the need to improve transportation infrastructure to accommodate an anticipated 15 million ticketholders. He asked for a dedicated line item in the President's budget to support LA28 and future Olympic events. Secretary Duffy responded that the DOT is actively involved in a federal Olympics task force and is committed to supporting preparations in a timely and coordinated manner. Senator Adam Schiff (D-CA) raised concerns about California projects still awaiting decisions under programs like the National Infrastructure Project Assistance Program (also known as the Mega Program), the Nationally Significant Multimodal Freight and Highway Projects program (also known as INFRA), and other grants under the purview of the federal agencies such as the Federal Highway Administration. He warned that these delays risk jeopardizing project viability. Secretary Duffy noted that the DOT is preparing to move forward on several California projects—including a project in Madera County and a project at the Otay Mesa Port of Entry—and clarified that delays are due to the high volume of projects rather than staff shortages.

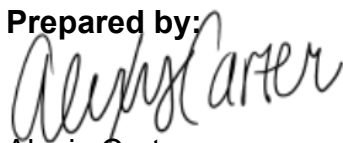
Members also discussed the need to institutionalize faster project delivery processes and reduce unnecessary regulatory burdens. Secretary Duffy committed to advancing reforms under the One Federal Decision policy framework and revising guidance for programs like the National Electric Vehicle Infrastructure Program to better align with evolving needs. The hearing closed with bipartisan agreement on the importance of streamlining project approvals, supporting infrastructure in both urban and rural communities, and maintaining consistent federal leadership to help states build projects more efficiently.

**Summary**

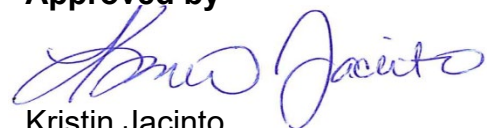
A summary is provided on the Federal Transit Administrator nomination hearing and an update on Environmental Protection Agency discussions that may impact California's emissions waivers under the Congressional Review Act. A summary is provided on the Senate Environment and Public Works Committee hearing on surface transportation reauthorization with testimony from U.S. Secretary of Transportation Sean Duffy.

**Attachment**

A. Potomac Partners DC, Monthly Legislative Report – March 2025

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