As I have previously written, the Trump Administration is attempting an end run around the administrative process it is supposed to follow if it intends to revoke the waiver California received for three important programs to cut air pollutants from cars and trucks. You can find the details about this end run around — using an obscure statute called the Congressional Review Act — here. The problem for the Trump Administration in using the CRA is that the statute doesn't apply to waiver decisions. The statute on its face is clear about that and the Governmental Accountability Office has twice made that clear. Nevertheless, just yesterday House Republicans introduced three resolutions to repeal the waivers under the CRA.

But their efforts were just dealt a big blow. The Senate Parliamentarian has issued a decision that the CRA does not cover the California waivers.

Under normal circumstances, her decision should end the CRA shenanigans. But these are not, of course, normal times. Although the Senate virtually always respects the decisions of the Parliamentarian, recent news reports make clear that Senate Republicans are attempting to bypass her role as the institution's "referee" in their attempt to extend multi-billion-dollar tax cuts for the rich while claiming the tax cuts will not increase the deficit.

There is a big difference, though, in the underhanded tactics Republicans are using for the tax bill and the waiver situation. They are attempting to avoid a formal determination by the Parliamentarian altogether by claiming that Senate Budget Chair Lindsey Graham can make the determination, not Parliamentarian Elizabeth

MacDonough.  With the California waivers, that option is now unavailable. MacDonough has weighed in with her decision and the Republicans would have to overrule her decision to repeal the California waivers via the CRA.  They seem reluctant to do so to extend the tax cuts; instead, they are avoiding her altogether. Given that EPA has other mechanisms to overturn the California waivers (even if legally weak), the decision today means the CRA option is much less likely to succeed.