

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202/463-5310

November 17, 2015

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Upton and Ranking Member Pallone:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, strongly supports and urges the Committee to favorably report two resolutions of disapproval under the Congressional Review Act to prohibit a regulation that goes beyond the statutory and legal authority of the Clean Air Act in order to protect consumers and industry from economically damaging greenhouse gas regulations on new and existing power plants.

The resolutions—H.J. Res. 71, regarding “Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units” (NSPS CRA), and H.J. Res. 72, regarding “Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units” (ESPS CRA)—would provide precisely the kind of protection from excessive and overreaching regulations that the Congressional Review Act was designed to achieve.

It is widely agreed that the Clean Air Act was never intended to regulate carbon dioxide, and it remains poorly designed for such a task. Nonetheless, the Environmental Protection Agency (EPA) has recently finalized its first-ever greenhouse gas regulations on new power plants and concurrently finalized a dramatic reconfiguration of the nation's electric power sector in the form of the EPA's regulation of carbon emissions from existing power plants. These final rules are the very latest in a string of already issued rules targeted at many of the nation's most affordable and reliable electric generation facilities. The impact these rules will have on power prices means that they will inevitably have negative implications extending to nearly every segment of the economy.

First, the NSPS CRA would invalidate the EPA rule that mandates strict limits on carbon emissions from newly built power plants and requires that all new coal-fired power plants include carbon capture and sequestration (CCS) systems. However, despite Clean Air Act requirements that such mandated technologies be “adequately demonstrated,” CCS is nowhere

near commercial viability due to financial, technological, and other hurdles. Accordingly, EPA's designation of CCS as the best system for compliance under this rule amounts to nothing more than a regulatory euphemism for what is plainly a ban on the construction of new coal-fired power plants. The NSPS CRA would appropriately invalidate the EPA final rule that seeks to eliminate the ability to construct new, state-of-the-art coal-fired power plants anywhere in the nation.

Second, the ESPS CRA would serve to invalidate the EPA's final rule dictating an unprecedented restructuring of the nation's electric system under the ostensible authority of a seldom-used provision of the Clean Air Act. Not only does the EPA's existing power plant rule dictate what types of electric generation can be considered by individual states to meet their current and future electricity needs, but the rule incredibly sets standards of performance for existing fossil-fueled electric power generating units that are stricter than those finalized by EPA as applicable to new electric generating facilities.

Twenty-seven states and scores of business and industry associations, along with numerous other entities, have already sought to stop this rule through the appropriate legal avenues due to the harm this rule poses to the availability of affordable and reliable electricity. The ESPS CRA would ensure that the nation is able to avert the irreversible damage to the nation's economic competitiveness that will otherwise follow from the EPA's full implementation of its carbon regulations for existing power plants.

These resolutions would protect the countless benefits that affordable and abundant domestic energy resources provide to the nation's economic development and security. Both the NSPS CRA and the ESPS CRA are essential to uphold the spirit and intent of the Clean Air Act and prevent disruption to the affordable and reliable electricity that is the backbone of the American economy. The Chamber commends Chairman Whitfield and Ranking Member Rush for thoroughly examining the above issues in the Subcommittee on Energy and Power and for preparing these resolutions for consideration by the full Committee. The Chamber strongly supports H.J. Res. 71 and H.J. Res. 72 and urges the Committee to favorably report these important resolutions.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten", written in a cursive style.

R. Bruce Josten

cc: Members of the Committee on Energy and Commerce