



October 16, 2019

## **Key Vote NO on the Affordable Clean Energy Rule CRA Resolution of Disapproval**

On behalf of FreedomWorks' activist community, I urge you to contact your senators and ask them to vote NO on the Affordable Clean Energy (ACE) Rule CRA Resolution of Disapproval. This resolution would provide for congressional disapproval to undo the ACE Rule -- the Trump Administration's replacement of the Obama Administration's Clean Power Plan (CPP) -- and reinstate the disastrous and ineffectual Obama-era rule.

First unveiled by the Obama administration in 2014, the Clean Power Plan was a textbook example of regulatory overreach by the Environmental Protection Agency (EPA). The Obama-era rules sought to reduce carbon emissions by 32 percent before 2030 by mandating states produce a plan of action subject to EPA approval. As if this weren't enough top-down regulatory overreach, the Clean Power Plan also granted the EPA sole authority to govern emissions reduction, including the power to unilaterally impose a federal plan upon any state whose plan did not meet the Administration's arbitrary standards.

Beyond simply the ideological arguments against the CPP, reverting back to the Clean Power Plan would be economically devastating. Analysis by the Heritage Foundation underlines just how disastrous the Obama-era rule would be if it were to go into effect.<sup>1</sup> Along with an extra \$400 billion in additional energy expenses every year, the CPP would directly result in the loss of around 500,000 manufacturing jobs. Most significantly, the plan would cause per capita income to drop by an estimated \$7,000. That drop is a staggering 14.5 percent of the average American's income. Clearly, if we care about economic prosperity, the CPP is not the right direction.

The Obama-era Clean Power Plan, for which this resolution is effectively advocating, was an unmitigated disaster that should not be returned to. Not only did Congress initially express its

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<sup>1</sup> Kevin Dayaratna, "The Economic Impact of the Clean Power Plan," The Heritage Foundation, June 24, 2015  
<https://www.heritage.org/testimony/the-economic-impact-the-clean-power-plan>

vehement disapproval for the plan through a resolution of disapproval that passed both houses only to be vetoed by President Obama, but the courts also demonstrated their objections. Ten days after the final rule was announced, 27 states had already signed onto a petition to halt the implementation of the rule. The various cases surrounding the Clean Power Plan eventually resulted in a historic Supreme Court decision that stayed the regulation while the lower D.C. Circuit Court heard constitutional arguments.

Though these cases never truly reached a definitive decision -- in no small part due to the Trump administration's repeal of the plan in late 2017 -- they demonstrate the degree to which the Obama plan was fraught with confusion, questions of constitutionality, and extreme regulatory overreach. Voting to overrule the repeal and replacement of the Clean Power Plan would only serve to reinvigorate litigation that is likely to result in the overturning of the rule anyway.

Finally, many members of Congress might be tempted to stray from principle and support this resolution in the belief that President Trump's plan would result in greater environmental degradation. These fears are unfounded. The Affordable Clean Energy Rule -- the Trump administration's replacement for the Clean Power Plan -- is market-based and tackles many of the same issues that the Obama administration was also concerned with.

Yet, unlike the Clean Power Plan, the Affordable Clean Energy Rule is based around incentives rather than mandates -- carrots, rather than sticks. It is also important to note that, according to the EPA, "CO<sub>2</sub> emissions from the electric sector [are expected to] fall by as much as 35% below 2005 levels in 2030,"<sup>2</sup> under the new Affordable Clean Energy Rule. These projections are similar, maybe even better, to those under the Clean Power Plan but without as much government interventionism and regulatory overreach.

Acceptance of the Clean Power Plan amounts to acceptance of governmental paternalism and rejection of our founding principles of federalism. Though imperfect, the Trump administration's willingness to reject the Clean Power Plan in favor of market-based solutions presents a major opportunity for positive policymaking. At the very least, it put an end to the Clean Power Plan, and that should not be reversed.

For these reasons, I urge you to contact your representative and ask him or her to vote NO on the Affordable Clean Energy Rule CRA Resolution of Disapproval. FreedomWorks will count the vote for the resolution on our 2018 Congressional Scorecard. The scorecard is used to determine

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<sup>2</sup> Environmental Protection Agency, "EPA Finalizes Affordable Clean Energy Rule, Ensuring Reliable, Diversified Energy Resources while Protecting our Environment," June 19, 2019  
<https://www.epa.gov/newsreleases/epa-finalizes-affordable-clean-energy-rule-ensuring-reliable-diversified-energy>

eligibility for the FreedomFighter Award, which recognizes Members of the House and Senate who consistently vote to support economic freedom and individual liberty.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Brandon".

Adam Brandon  
President, FreedomWorks