

COALITION FOR SENSIBLE SAFEGUARDS

February 14, 2014

Dear Senator:

The Coalition for Sensible Safeguards urges you to oppose the Congressional Review Act (CRA) resolution of disapproval, S.J. Res. 30, recently filed by Senator Mitch McConnell (R-KY). This attempt to circumvent established CRA procedures is aimed at voiding *proposed* standards to limit carbon pollution from new power plants and would set a sweeping precedent designed to wreak havoc on our nation's regulatory system.

The CRA does not and should not apply to proposed rules. The Act intentionally creates a very limited process by which only final, binding rules or actions may be voided. If this effort were successful, every agency's standard-setting and enforcement capabilities would be on the chopping block. Our nation's health, safety, environmental, financial, and labor safeguards would be in jeopardy if even initial efforts to establish crucial public protections were stopped dead in their tracks.

Legislative attempts—like the REINS Act—to paralyze an administration's ability to implement the laws Congress has passed continue to fail. But the current attempt to use S.Res.30 in this manner amounts to a procedural ploy to create a backdoor path to similarly dismantle the entire regulatory system.

Applying the CRA to proposed rules would allow any Senator to hijack an administration's regulatory agenda before that agenda is set. It would waste resources and time on political games in Congress at the expense of administrative agencies' ability to function. Lastly, and perhaps most troubling of all, allowing these types of CRA resolutions of disapproval to go forward would not only void the proposed rule, but would also poison an agency's ability to re-issue *any* similar rule or proposal.

Moreover, a recent court decision confirms as much. The court held that the proposal to limit carbon pollution from new power plants was not subject to judicial review because it was not a final rule "by which rights or obligations have been determined, or from which legal consequences will flow."¹ Whereas final rules impose obligations on regulated parties,

¹ Per Curiam Order, *Las Brisas Energy Center, LLC v. U.S. EPA*, No. 12-1248 (D.C. Cir. dismissed Dec. 13, 2012)

rulemaking proposals can be changed, or even abandoned.

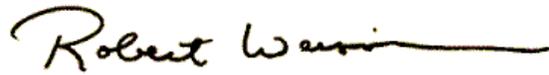
While S.J. 30 is now being used to target an individual environmental proposal, the same process could just as easily be used to obstruct our nation's health, safety, financial, civil rights, and labor safeguards..

We urge you to oppose this unprecedented and dangerous abuse of the CRA.

Sincerely,



Katherine McFate, President and CEO,
Center for Effective Government
Co-chair, Coalition for Sensible Safeguards



Robert Weissman, President,
Public Citizen
Co-chair, Coalition for Sensible Safeguards

The [Coalition for Sensible Safeguards](#) is an alliance of consumer, small business, labor, scientific, research, good government, faith, community, health, environmental, and public interest groups, as well as concerned individuals, joined in the belief that our country's system of regulatory safeguards provides a stable framework that secures our quality of life and paves the way for a sound economy that benefits us all.