

**As Introduced**

**129th General Assembly  
Regular Session  
2011-2012**

**H. C. R. No. 9**

**Representative Thompson**

**Cosponsors: Representatives Landis, Carey, Blessing, Adams, J., Slaby,  
Young, Grossman, Combs, Stebelton, Brenner, Huffman**

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**CONCURRENT RESOLUTION**

To urge the United States Congress, the President of 1  
the United States, and the United States 2  
Environmental Protection Agency to immediately 3  
suspend the Proposed Air Pollution Transport Rule. 4

**BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE  
OF OHIO (THE SENATE CONCURRING):**

WHEREAS, On August 2, 2010, the United States Environmental 5  
Protection Agency (EPA) published its Proposed Air Pollution 6  
Transport Rule (Proposed Transport Rule), 75 Fed. Reg. 45,210; and 7

WHEREAS, Under the Proposed Transport Rule, the EPA proposes 8  
to limit the interstate transport of power plant emissions from 9  
electric generation units within 31 states, including Ohio, plus 10  
the District of Columbia; and 11

WHEREAS, The Proposed Transport Rule is part of a suite of 12  
regulatory actions undertaken by the EPA targeting coal-fired 13  
power plants with the objective of forcing electric utilities to 14  
abandon coal as a fuel source by making it too expensive for 15  
utilities to burn coal; and 16

WHEREAS, The Electric Power Research Institute projects that 17  
the future existence and viability of almost 50% of the nation's 18

coal-fired power plants are at risk due to the Proposed Transport Rule and other EPA regulatory actions; and 19  
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WHEREAS, The Proposed Transport Rule contains numerous factual errors and incorrect assumptions about emission sources in Ohio; and 21  
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WHEREAS, The EPA used incorrect information in the Proposed Transport Rule to model incorrect effects from Ohio emissions sources on downwind states' air quality; and 24  
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WHEREAS, The EPA used the results of its flawed modeling procedures and inputs to propose overly stringent emission limitations for the State of Ohio in the Proposed Transport Rule; and 27  
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WHEREAS, The EPA received numerous requests to extend the public comment period on the Proposed Transport Rule beyond October 1, 2010, but denied those requests; and 31  
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WHEREAS, The EPA must provide an implementation schedule for any proposed regulation that is reasonably achievable, but the Proposed Transport Rule establishes unreasonable compliance deadlines of 2012 and 2014, which do not provide adequate opportunity to install pollution controls or implement fuel switches for plants that are not currently equipped with such controls or burning low sulfur fuel; and 34  
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WHEREAS, The EPA failed to consider the economic implications of numerous plants attempting to implement fuel switches in such a short time frame, including coal shortages, artificial inflation of low sulfur coal and natural gas prices, legal costs in breaching existing long-term coal contracts, and disastrous employment effects on the Ohio coal mining industry; and 41  
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WHEREAS, The EPA failed to consider the economic implications of pollution control equipment installation, such as construction delays due to limited raw materials and skilled workforce when 47  
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completing numerous complicated retrofits, the lack of credit for 50  
pollution control installations already made under the Clean Air 51  
Interstate Rule, the lengthy outages necessary to complete 52  
numerous complicated retrofits, the disincentive for retrofit 53  
given the virtually nonexistent trading provisions in the Proposed 54  
Transport Rule, and the increased cost of electricity to 55  
consumers, when calculating the cost effectiveness of the emission 56  
reductions required in Ohio; and 57

WHEREAS, The EPA failed to protect the reliability of the 58  
electric grid by not adequately considering the impact of outages 59  
necessary to accommodate fuel switches and pollution control 60  
installation within the narrow time frame necessary to comply with 61  
the proposed overly stringent emission limitations; and 62

WHEREAS, The EPA did not adequately consider the cost 63  
effectiveness of downwind states making local emission reductions 64  
within their own state borders, rather than burdening upwind 65  
states with costly emission reductions; and 66

WHEREAS, The EPA fails to allow for significant interstate 67  
trading under the Proposed Transport Rule, which will result in an 68  
increased burden on coal-dependent states like Ohio, even where 69  
facilities operating in Ohio may have adequate credits generated 70  
by out-of-state facilities that could ease the economic and timing 71  
burdens on coal-fired assets in Ohio; and 72

WHEREAS, Individual states should be allowed to fashion a 73  
plan that meets the requirements of law in a manner that, in the 74  
state's judgment, best conforms to the state's preferences and 75  
regulatory policies; and 76

WHEREAS, The EPA's use of a Federal Implementation Plan in 77  
the Proposed Transport Rule undermines the rights of Ohio to 78  
govern the method of its own compliance and is contrary to the 79  
provisions in the Clean Air Act because Ohio's State 80

Implementation Plan has never been disapproved; and 81

WHEREAS, The Proposed Transport Rule and the related EPA 82  
actions appear to be an attempt by the EPA to unilaterally develop 83  
and implement a new nationwide greenhouse gas regulatory scheme 84  
entirely without the involvement or oversight by the elected 85  
leaders of the United States Congress or the involvement of 86  
individual states; and 87

WHEREAS, The EPA's unbalanced and short-sighted actions have 88  
the potential to cause severe economic harm to Ohio and the 89  
country through the destruction of jobs, elimination of entire 90  
industries, and large increases in energy costs across the nation; 91  
now therefore be it 92

RESOLVED, That the members of the 129th General Assembly of 93  
the State of Ohio urge the United States Congress, the President 94  
of the United States, and the EPA to immediately suspend the 95  
Proposed Transport Rule so that the EPA can correct data inputs 96  
and assumptions in order to address the numerous concerns and 97  
incorrect data identified by those commenting on the Proposed 98  
Transport Rule, have an additional comment period on the Proposed 99  
Transport Rule and all supplemental Notices to allow for a full 100  
evaluation of the proposed regulations, conduct a detailed study 101  
of the economic impacts of the Proposed Transport Rule and 102  
alternatives that includes economic impacts on related industries 103  
in Ohio such as the coal industry, and re-assess the cumulative 104  
impact of all pending regulations likely to affect the electric 105  
utility and coal industries to determine a consolidated approach 106  
calculated to maintain the viability of economically sound assets; 107  
and be it further 108

RESOLVED, That the members of the 129th General Assembly of 109  
the State of Ohio urge the United States Congress, the President 110  
of the United States, and the EPA to adequately protect the 111  
thousands of coal-related jobs in the affected upwind states, 112

including Ohio, to avoid further harming the economies of those 113  
states; and be it further 114

RESOLVED, That the Legislative Clerk of the House of 115  
Representatives transmit duly authenticated copies of this 116  
resolution to the President of the United States, the 117  
Administrator of the EPA, the Speaker and Clerk of the United 118  
States House of Representatives, the President Pro Tempore and 119  
Secretary of the United States Senate, the members of the Ohio 120  
Congressional delegation, and the news media of Ohio. 121