

Calendar No. 374

113TH CONGRESS
2^D SESSION**H. R. 3826**

IN THE SENATE OF THE UNITED STATES

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AN ACT

To provide direction to the Administrator of the Environmental Protection Agency regarding the establishment of standards for emissions of any greenhouse gas from fossil fuel-fired electric utility generating units, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Electricity Security
5 and Affordability Act”.

1 **SEC. 2. STANDARDS OF PERFORMANCE FOR NEW FOSSIL**
2 **FUEL-FIRED ELECTRIC UTILITY GENERATING**
3 **UNITS.**

4 (a) **LIMITATION.**—The Administrator of the Environ-
5 mental Protection Agency may not issue, implement, or
6 enforce any proposed or final rule under section 111 of
7 the Clean Air Act (42 U.S.C. 7411) that establishes a
8 standard of performance for emissions of any greenhouse
9 gas from any new source that is a fossil fuel-fired electric
10 utility generating unit unless such rule meets the require-
11 ments under subsections (b) and (c).

12 (b) **REQUIREMENTS.**—In issuing any rule under sec-
13 tion 111 of the Clean Air Act (42 U.S.C. 7411) estab-
14 lishing standards of performance for emissions of any
15 greenhouse gas from new sources that are fossil fuel-fired
16 electric utility generating units, the Administrator of the
17 Environmental Protection Agency (for purposes of estab-
18 lishing such standards)—

19 (1) shall separate sources fueled with coal and
20 natural gas into separate categories; and

21 (2) shall not set a standard based on the best
22 system of emission reduction for new sources within
23 a fossil-fuel category unless—

24 (A) such standard has been achieved on
25 average for at least one continuous 12-month

1 period (excluding planned outages) by each of
2 at least 6 units within such category—

3 (i) each of which is located at a dif-
4 ferent electric generating station in the
5 United States;

6 (ii) which, collectively, are representa-
7 tive of the operating characteristics of elec-
8 tric generation at different locations in the
9 United States; and

10 (iii) each of which is operated for the
11 entire 12-month period on a full commer-
12 cial basis; and

13 (B) no results obtained from any dem-
14 onstration project are used in setting such
15 standard.

16 (c) COAL HAVING A HEAT CONTENT OF 8300 OR
17 LESS BRITISH THERMAL UNITS PER POUND.—

18 (1) SEPARATE SUBCATEGORY.—In carrying out
19 subsection (b)(1), the Administrator of the Environ-
20 mental Protection Agency shall establish a separate
21 subcategory for new sources that are fossil fuel-fired
22 electric utility generating units using coal with an
23 average heat content of 8300 or less British Ther-
24 mal Units per pound.

1 (2) STANDARD.—Notwithstanding subsection
2 (b)(2), in issuing any rule under section 111 of the
3 Clean Air Act (42 U.S.C. 7411) establishing stand-
4 ards of performance for emissions of any greenhouse
5 gas from new sources in such subcategory, the Ad-
6 ministrator of the Environmental Protection Agency
7 shall not set a standard based on the best system of
8 emission reduction unless—

9 (A) such standard has been achieved on
10 average for at least one continuous 12-month
11 period (excluding planned outages) by each of
12 at least 3 units within such subcategory—

13 (i) each of which is located at a dif-
14 ferent electric generating station in the
15 United States;

16 (ii) which, collectively, are representa-
17 tive of the operating characteristics of elec-
18 tric generation at different locations in the
19 United States; and

20 (iii) each of which is operated for the
21 entire 12-month period on a full commer-
22 cial basis; and

23 (B) no results obtained from any dem-
24 onstration project are used in setting such
25 standard.

1 (d) TECHNOLOGIES.—Nothing in this section shall be
2 construed to preclude the issuance, implementation, or en-
3 forcement of a standard of performance that—

4 (1) is based on the use of one or more tech-
5 nologies that are developed in a foreign country, but
6 has been demonstrated to be achievable at fossil
7 fuel-fired electric utility generating units in the
8 United States; and

9 (2) meets the requirements of subsection (b)
10 and (c), as applicable.

11 **SEC. 3. CONGRESS TO SET EFFECTIVE DATE FOR STAND-**
12 **ARDS OF PERFORMANCE FOR EXISTING,**
13 **MODIFIED, AND RECONSTRUCTED FOSSIL**
14 **FUEL-FIRED ELECTRIC UTILITY GENERATING**
15 **UNITS.**

16 (a) APPLICABILITY.—This section applies with re-
17 spect to any rule or guidelines issued by the Administrator
18 of the Environmental Protection Agency under section
19 111 of the Clean Air Act (42 U.S.C. 7411) that—

20 (1) establish any standard of performance for
21 emissions of any greenhouse gas from any modified
22 or reconstructed source that is a fossil fuel-fired
23 electric utility generating unit; or

1 (2) apply to the emissions of any greenhouse
2 gas from an existing source that is a fossil fuel-fired
3 electric utility generating unit.

4 (b) CONGRESS TO SET EFFECTIVE DATE.—A rule
5 or guidelines described in subsection (a) shall not take ef-
6 fect unless a Federal law is enacted specifying such rule’s
7 or guidelines’ effective date.

8 (c) REPORTING.—A rule or guidelines described in
9 subsection (a) shall not take effect unless the Adminis-
10 trator of the Environmental Protection Agency has sub-
11 mitted to Congress a report containing each of the fol-
12 lowing:

13 (1) The text of such rule or guidelines.

14 (2) The economic impacts of such rule or guide-
15 lines, including the potential effects on—

16 (A) economic growth, competitiveness, and
17 jobs in the United States;

18 (B) electricity ratepayers, including low-in-
19 come ratepayers in affected States;

20 (C) required capital investments and pro-
21 jected costs for operation and maintenance of
22 new equipment required to be installed; and

23 (D) the global economic competitiveness of
24 the United States.

1 (3) The amount of greenhouse gas emissions
2 that such rule or guidelines are projected to reduce
3 as compared to overall global greenhouse gas emis-
4 sions.

5 (d) CONSULTATION.—In carrying out subsection (c),
6 the Administrator of the Environmental Protection Agen-
7 cy shall consult with the Administrator of the Energy In-
8 formation Administration, the Comptroller General of the
9 United States, the Director of the National Energy Tech-
10 nology Laboratory, and the Under Secretary of Commerce
11 for Standards and Technology.

12 **SEC. 4. REPEAL OF EARLIER RULES AND GUIDELINES.**

13 The following rules and guidelines shall be of no force
14 or effect, and shall be treated as though such rules and
15 guidelines had never been issued:

16 (1) The proposed rule—

17 (A) entitled “Standards of Performance
18 for Greenhouse Gas Emissions for New Sta-
19 tionary Sources: Electric Utility Generating
20 Units”, published at 77 Fed. Reg. 22392 (April
21 13, 2012); and

22 (B) withdrawn pursuant to the notice enti-
23 tled “Withdrawal of Proposed Standards of
24 Performance for Greenhouse Gas Emissions for
25 New Stationary Sources: Electric Utility Gener-

1 ating Units”, signed by the Administrator of
2 the Environmental Protection Agency on Sep-
3 tember 20, 2013, and identified by docket ID
4 number EPA–HQ–OAR–2011–0660.

5 (2) The proposed rule entitled “Standards of
6 Performance for Greenhouse Gas Emissions from
7 New Stationary Sources: Electric Utility Generating
8 Units”, signed by the Administrator of the Environ-
9 mental Protection Agency on September 20, 2013,
10 and identified by docket ID number EPA–HQ–
11 OAR–2013–0495.

12 (3) With respect to the proposed rule described
13 in paragraph (1), any successor or substantially
14 similar proposed or final rule that—

15 (A) is issued prior to the date of the enact-
16 ment of this Act;

17 (B) is applicable to any new source that is
18 a fossil fuel-fired electric utility generating unit;
19 and

20 (C) does not meet the requirements under
21 subsections (b) and (c) of section 2.

22 (4) Any proposed or final rule or guidelines
23 under section 111 of the Clean Air Act (42 U.S.C.
24 7411) that—

1 (A) are issued prior to the date of the en-
2 actment of this Act; and

3 (B) establish any standard of performance
4 for emissions of any greenhouse gas from any
5 modified or reconstructed source that is a fossil
6 fuel-fired electric utility generating unit or
7 apply to the emissions of any greenhouse gas
8 from an existing source that is a fossil fuel-fired
9 electric utility generating unit.

10 **SEC. 5. DEFINITIONS.**

11 In this Act:

12 (1) DEMONSTRATION PROJECT.—The term
13 “demonstration project” means a project to test or
14 demonstrate the feasibility of carbon capture and
15 storage technologies that has received Federal Gov-
16 ernment funding or financial assistance.

17 (2) EXISTING SOURCE.—The term “existing
18 source” has the meaning given such term in section
19 111(a) of the Clean Air Act (42 U.S.C. 7411(a)),
20 except such term shall not include any modified
21 source.

22 (3) GREENHOUSE GAS.—The term “greenhouse
23 gas” means any of the following:

24 (A) Carbon dioxide.

25 (B) Methane.

- 1 (C) Nitrous oxide.
2 (D) Sulfur hexafluoride.
3 (E) Hydrofluorocarbons.
4 (F) Perfluorocarbons.

5 (4) MODIFICATION.—The term “modification”
6 has the meaning given such term in section 111(a)
7 of the Clean Air Act (42 U.S.C. 7411(a)).

8 (5) MODIFIED SOURCE.—The term “modified
9 source” means any stationary source, the modifica-
10 tion of which is commenced after the date of the en-
11 actment of this Act.

12 (6) NEW SOURCE.—The term “new source” has
13 the meaning given such term in section 111(a) of
14 the Clean Air Act (42 U.S.C. 7411(a)), except that
15 such term shall not include any modified source.

Passed the House of Representatives March 6,
2014.

Attest:

KAREN L. HAAS,

Clerk.

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