

113TH CONGRESS  
2D SESSION

# H. R. 3826

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.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2014

Mr. WHITFIELD (for himself, Mr. ADERHOLT, Mr. BARR, Mr. BARLETTA, Mr. BARROW of Georgia, Mr. BARTON, Mr. BILIRAKIS, Mr. BROOKS of Alabama, Mrs. CAPITO, Mr. CASSIDY, Mr. CONAWAY, Mr. COTTON, Mr. CRAMER, Mr. CRAWFORD, Mr. DAINES, Mr. RODNEY DAVIS of Illinois, Mrs. ELLMERS, Mr. ENYART, Mr. GARDNER, Mr. GRIFFIN of Arkansas, Mr. GRIFFITH of Virginia, Mr. GUTHRIE, Mr. HALL, Mr. HARRIS, Mrs. HARTZLER, Ms. JENKINS, Mr. JOHNSON of Ohio, Mr. LAMBORN, Mr. LATTA, Mr. LONG, Mrs. LUMMIS, Mr. MATHESON, Mr. MCKINLEY, Mr. MURPHY of Pennsylvania, Mr. OLSON, Mr. PETERSON, Mr. PITTS, Mr. POMPEO, Mr. RAHALL, Mr. ROE of Tennessee, Mr. ROGERS of Kentucky, Mr. ROKITA, Mr. ROSS, Mr. ROTHFUS, Mr. SCALISE, Mr. SENSENBRENNER, Ms. SEWELL of Alabama, Mr. SHIMKUS, Mr. SMITH of Nebraska, Mr. SMITH of Missouri, Mr. STIVERS, Mr. TERRY, Mr. THOMPSON of Pennsylvania, Mr. TIBERI, Mrs. WAGNER, Mrs. WALORSKI, Mr. WESTMORELAND, Mr. WOMACK, Mr. YOUNG of Alaska, and Mr. YOUNG of Indiana) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

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”.

6 **SEC. 2. STANDARDS OF PERFORMANCE FOR NEW FOSSIL**  
7                    **FUEL-FIRED ELECTRIC UTILITY GENERATING**  
8                    **UNITS.**

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

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

24                    (1) shall separate sources fueled with coal and  
25                    natural gas into separate categories; and

1           (2) shall not set a standard based on the best  
2           system of emission reduction for new sources within  
3           the coal category unless—

4                   (A) such standard has been achieved on  
5                   average for at least one continuous 12-month  
6                   period (excluding planned outages) by each of  
7                   at least 6 units within such category—

8                           (i) each of which is located at a dif-  
9                           ferent electric generating station in the  
10                          United States;

11                           (ii) which, collectively, are representa-  
12                           tive of the operating characteristics of elec-  
13                           tric generation at different locations in the  
14                          United States; and

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

18                   (B) no results obtained from any dem-  
19                   onstration project are used in setting such  
20                   standard.

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

23                   (1) SEPARATE SUBCATEGORY.—In carrying out  
24                   subsection (b)(1), the Administrator of the Environ-  
25                   mental Protection Agency shall establish a separate

1 subcategory for new sources that are fossil fuel-fired  
2 electric utility generating units using coal with an  
3 average heat content of 8300 or less British Ther-  
4 mal Units per pound.

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

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

17 (i) each of which is located at a dif-  
18 ferent electric generating station in the  
19 United States;

20 (ii) which, collectively, are representa-  
21 tive of the operating characteristics of elec-  
22 tric generation at different locations in the  
23 United States; and

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

4 (B) no results obtained from any dem-  
5 onstration project are used in setting such  
6 standard.

7 **SEC. 3. CONGRESS TO SET EFFECTIVE DATE FOR STAND-**  
8 **ARDS OF PERFORMANCE FOR EXISTING,**  
9 **MODIFIED, AND RECONSTRUCTED FOSSIL**  
10 **FUEL-FIRED ELECTRIC UTILITY GENERATING**  
11 **UNITS.**

12 (a) **APPLICABILITY.**—This section applies with re-  
13 spect to any rule or guidelines issued by the Administrator  
14 of the Environmental Protection Agency under section  
15 111 of the Clean Air Act (42 U.S.C. 7411) that—

16 (1) establish any standard of performance for  
17 emissions of any greenhouse gas from any modified  
18 or reconstructed source that is a fossil fuel-fired  
19 electric utility generating unit; or

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

23 (b) **CONGRESS TO SET EFFECTIVE DATE.**—A rule  
24 or guidelines described in subsection (a) shall not take ef-

1   fect unless a Federal law is enacted specifying such rule’s  
2   or guidelines’ effective date.

3       (c) REPORTING.—A rule or guidelines described in  
4   subsection (a) shall not take effect unless the Adminis-  
5   trator of the Environmental Protection Agency has sub-  
6   mitted to Congress a report containing each of the fol-  
7   lowing:

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

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

11           (A) economic growth, competitiveness, and  
12   jobs in the United States; and

13           (B) electricity ratepayers, including low-in-  
14   come ratepayers in affected States.

15           (3) The amount of greenhouse gas emissions  
16   that such rule or guidelines are projected to reduce  
17   as compared to overall global greenhouse gas emis-  
18   sions.

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

20       The following rules and guidelines shall be of no force  
21   or effect, and shall be treated as though such rules and  
22   guidelines had never been issued:

23           (1) The proposed rule—

24           (A) entitled “Standards of Performance  
25   for Greenhouse Gas Emissions for New Sta-

1           tionary Sources: Electric Utility Generating  
2           Units”, published at 77 Fed. Reg. 22392 (April  
3           13, 2012); and

4                   (B) withdrawn pursuant to the notice enti-  
5           tled “Withdrawal of Proposed Standards of  
6           Performance for Greenhouse Gas Emissions for  
7           New Stationary Sources: Electric Utility Gener-  
8           ating Units”, signed by the Administrator of  
9           the Environmental Protection Agency on Sep-  
10          tember 20, 2013, and identified by docket ID  
11          number EPA–HQ–OAR–2011–0660.

12           (2) The proposed rule entitled “Standards of  
13          Performance for Greenhouse Gas Emissions from  
14          New Stationary Sources: Electric Utility Generating  
15          Units”, signed by the Administrator of the Environ-  
16          mental Protection Agency on September 20, 2013,  
17          and identified by docket ID number EPA–HQ–  
18          OAR–2013–0495.

19           (3) With respect to the proposed rule described  
20          in paragraph (1), any successor or substantially  
21          similar proposed or final rule that—

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

1 (B) is applicable to any new source that is  
2 a fossil fuel-fired electric utility generating unit;  
3 and

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

6 (4) Any proposed or final rule or guidelines  
7 under section 111 of the Clean Air Act (42 U.S.C.  
8 7411) that—

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

11 (B) establish any standard of performance  
12 for emissions of any greenhouse gas from any  
13 modified or reconstructed source that is a fossil  
14 fuel-fired electric utility generating unit or  
15 apply to the emissions of any greenhouse gas  
16 from an existing source that is a fossil fuel-fired  
17 electric utility generating unit.

18 **SEC. 5. DEFINITIONS.**

19 In this Act:

20 (1) **DEMONSTRATION PROJECT.**—The term  
21 “demonstration project” means a project to test or  
22 demonstrate the feasibility of carbon capture and  
23 storage technologies that has received government  
24 funding or financial assistance.



1           (2) EXISTING SOURCE.—The term “existing  
2 source” has the meaning given such term in section  
3 111(a) of the Clean Air Act (42 U.S.C. 7411(a)),  
4 except such term shall not include any modified  
5 source.

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

8                   (A) Carbon dioxide.

9                   (B) Methane.

10                  (C) Nitrous oxide.

11                  (D) Sulfur hexafluoride.

12                  (E) Hydrofluorocarbons.

13                  (F) Perfluorocarbons.

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

17           (5) MODIFIED SOURCE.—The term “modified  
18 source” means any stationary source, the modifica-  
19 tion of which is commenced after the date of the en-  
20 actment of this Act.

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

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