

## Union Calendar No. 340

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3797

[Report No. 114-445]

To establish the bases by which the Administrator of the Environmental Protection Agency shall issue, implement, and enforce certain emission limitations and allocations for existing electric utility steam generating units that convert coal refuse into energy.

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### IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 2015

Mr. ROTHFUS (for himself, Mr. BARLETTA, Mr. THOMPSON of Pennsylvania, and Mr. KELLY of Pennsylvania) introduced the following bill; which was referred to the Committee on Energy and Commerce

MARCH 7, 2016

Additional sponsors: Mr. MCKINLEY, Mr. MURPHY of Pennsylvania, and Mr.  
SESSIONS

MARCH 7, 2016

Committed to the Committee of the Whole House on the State of the Union  
and ordered to be printed

# **A BILL**

To establish the bases by which the Administrator of the Environmental Protection Agency shall issue, implement, and enforce certain emission limitations and allocations for existing electric utility steam generating units that convert coal refuse into energy.

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 “Satisfying Energy  
5 Needs and Saving the Environment Act” or the “SENSE  
6 Act”.

7 **SEC. 2. STANDARDS FOR COAL REFUSE POWER PLANTS.**

8       (a) DEFINITIONS.—In this Act:

9           (1) ADMINISTRATOR.—The term “Adminis-  
10 trator” means the Administrator of the Environ-  
11 mental Protection Agency.

12           (2) BOILER OPERATING DAY.—The term “boiler  
13 operating day” has the meaning given such term in  
14 section 63.10042 of title 40, Code of Federal Regu-  
15 lations, or any successor regulation.

16           (3) COAL REFUSE.—The term “coal refuse”  
17 means any byproduct of coal mining, physical coal  
18 cleaning, or coal preparation operation that contains  
19 coal, matrix material, clay, and other organic and in-  
20 organic material.

21           (4) COAL REFUSE ELECTRIC UTILITY STEAM  
22 GENERATING UNIT.—The term “coal refuse electric  
23 utility steam generating unit” means an electric util-  
24 ity steam generating unit that—

1 (A) is in operation as of the date of enact-  
2 ment of this Act;

3 (B) uses fluidized bed combustion tech-  
4 nology to convert coal refuse into energy; and

5 (C) uses coal refuse as at least 75 percent  
6 of the annual fuel consumed, by heat input, of  
7 the unit.

8 (5) COAL REFUSE-FIRED FACILITY.—The term  
9 “coal refuse-fired facility” means all coal refuse elec-  
10 tric utility steam generating units that are—

11 (A) located on one or more contiguous or  
12 adjacent properties;

13 (B) specified within the same Major Group  
14 (2-digit code), as described in the Standard In-  
15 dustrial Classification Manual (1987); and

16 (C) under common control of the same  
17 person (or persons under common control).

18 (6) CROSS-STATE AIR POLLUTION RULE.—The  
19 terms “Cross-State Air Pollution Rule” and  
20 “CSAPR” mean the regulatory program promul-  
21 gated by the Administrator to address the interstate  
22 transport of air pollution in parts 51, 52, and 97 of  
23 title 40, Code of Federal Regulations, including any  
24 subsequent or successor regulation.

1           (7) ELECTRIC UTILITY STEAM GENERATING  
2           UNIT.—The term “electric utility steam generating  
3           unit” means either or both—

4                   (A) an electric utility steam generating  
5                   unit, as such term is defined in section  
6                   63.10042 of title 40, Code of Federal Regula-  
7                   tions, or any successor regulation; or

8                   (B) an electricity generating unit or elec-  
9                   tric generating unit, as such terms are used in  
10                  CSAPR.

11           (8) PHASE I.—The term “Phase I” means, with  
12           respect to CSAPR, the initial compliance period  
13           under CSAPR, identified for the 2015 and 2016 an-  
14           nual compliance periods.

15           (b) APPLICATION OF CSAPR TO CERTAIN COAL  
16           REFUSE ELECTRIC UTILITY STEAM GENERATING  
17           UNITS.—

18                   (1) COAL REFUSE ELECTRIC UTILITY STEAM  
19                   GENERATING UNITS COMBUSTING BITUMINOUS COAL  
20                   REFUSE.—

21                           (A) APPLICABILITY.—This paragraph ap-  
22                           plies with respect to any coal refuse electric  
23                           utility steam generating unit that—

1 (i) combusts coal refuse derived from  
2 the mining and processing of bituminous  
3 coal; and

4 (ii) is subject to sulfur dioxide allow-  
5 ance surrender provisions pursuant to  
6 CSAPR.

7 (B) CONTINUED APPLICABILITY OF PHASE  
8 I ALLOWANCE ALLOCATIONS.—In carrying out  
9 CSAPR, the Administrator shall provide that,  
10 for any compliance period, the allocation  
11 (whether through a Federal implementation  
12 plan or State implementation plan) of sulfur di-  
13 oxide allowances for a coal refuse electric utility  
14 steam generating unit described in subpara-  
15 graph (A) is equivalent to the allocation of the  
16 unit-specific sulfur dioxide allowance allocation  
17 identified for such unit for Phase I, as ref-  
18 erenced in the notice entitled “Availability of  
19 Data on Allocations of Cross-State Air Pollu-  
20 tion Rule Allowances to Existing Electricity  
21 Generating Units” (79 Fed. Reg. 71674 (De-  
22 cember 3, 2014)).

23 (C) RULES FOR ALLOWANCE ALLOCA-  
24 TIONS.—For any compliance period under  
25 CSAPR that commences on or after January 1,

1           2017, any sulfur dioxide allowance allocation  
2           provided by the Administrator to a coal refuse  
3           electric utility steam generating unit described  
4           in subparagraph (A)—

5                   (i) shall not be transferable for use by  
6                   any other source not located at the same  
7                   coal refuse-fired facility as the relevant  
8                   coal refuse electric utility steam generating  
9                   unit;

10                   (ii) may be transferable for use by an-  
11                   other source located at the same coal  
12                   refuse-fired facility as the relevant coal  
13                   refuse electric utility steam generating  
14                   unit;

15                   (iii) may be banked for application to  
16                   compliance obligations in future compli-  
17                   ance periods under CSAPR; and

18                   (iv) shall be surrendered upon the  
19                   permanent cessation of operation of such  
20                   coal refuse electric utility steam generating  
21                   unit.

22           (2) OTHER SOURCES.—

23                   (A) NO INCREASE IN OVERALL STATE  
24                   BUDGET OF SULFUR DIOXIDE ALLOWANCE AL-  
25                   LOCATIONS.—For purposes of paragraph (1),

1 the Administrator may not, for any compliance  
2 period under CSAPR, increase the total budget  
3 of sulfur dioxide allowance allocations for a  
4 State in which a unit described in paragraph  
5 (1)(A) is located.

6 (B) COMPLIANCE PERIODS 2017 THROUGH  
7 2020.—For any compliance period under  
8 CSAPR that commences on or after January 1,  
9 2017, but before December 31, 2020, the Ad-  
10 ministrator shall carry out subparagraph (A) by  
11 proportionally reducing, as necessary, the unit-  
12 specific sulfur dioxide allowance allocations  
13 from each source that—

14 (i) is located in a State in which a  
15 unit described in paragraph (1)(A) is lo-  
16 cated;

17 (ii) permanently ceases operation, or  
18 converts its primary fuel source from coal  
19 to natural gas, prior to the relevant com-  
20 pliance period; and

21 (iii) otherwise receives an allocation of  
22 sulfur dioxide allowances under CSAPR for  
23 such period.



1 (c) EMISSION LIMITATIONS TO ADDRESS HYDROGEN  
2 CHLORIDE AND SULFUR DIOXIDE AS HAZARDOUS AIR  
3 POLLUTANTS.—

4 (1) APPLICABILITY.—For purposes of regu-  
5 lating emissions of hydrogen chloride or sulfur diox-  
6 ide from a coal refuse electric utility steam gener-  
7 ating unit under section 112 of the Clean Air Act  
8 (42 U.S.C. 7412), the Administrator—

9 (A) shall authorize the operator of such  
10 unit to elect that such unit comply with ei-  
11 ther—

12 (i) an emissions standard for emis-  
13 sions of hydrogen chloride that meets the  
14 requirements of paragraph (2); or

15 (ii) an emission standard for emis-  
16 sions of sulfur dioxide that meets the re-  
17 quirements of paragraph (2); and

18 (B) may not require that such unit comply  
19 with both an emission standard for emissions of  
20 hydrogen chloride and an emission standard for  
21 emissions of sulfur dioxide.

22 (2) RULES FOR EMISSION LIMITATIONS.—

23 (A) IN GENERAL.—The Administrator  
24 shall require an operator of a coal refuse elec-  
25 tric utility steam generating unit to comply, at

1 the election of the operator, with no more than  
2 one of the following emission standards:

3 (i) An emission standard for emissions  
4 of hydrogen chloride from such unit that is  
5 no more stringent than an emission rate of  
6 0.002 pounds per million British thermal  
7 units of heat input.

8 (ii) An emission standard for emis-  
9 sions of hydrogen chloride from such unit  
10 that is no more stringent than an emission  
11 rate of 0.02 pounds per megawatt-hour.

12 (iii) An emission standard for emis-  
13 sions of sulfur dioxide from such unit that  
14 is no more stringent than an emission rate  
15 of 0.20 pounds per million British thermal  
16 units of heat input.

17 (iv) An emission standard for emis-  
18 sions of sulfur dioxide from such unit that  
19 is no more stringent than an emission rate  
20 of 1.5 pounds per megawatt-hour.

21 (v) An emission standard for emis-  
22 sions of sulfur dioxide from such unit that  
23 is no more stringent than capture and con-  
24 trol of 93 percent of sulfur dioxide across

1 the generating unit or group of generating  
2 units, as determined by comparing—

3 (I) the expected sulfur dioxide  
4 generated from combustion of fuels  
5 emissions calculated based upon as-  
6 fired fuel samples; to

7 (II) the actual sulfur dioxide  
8 emissions as measured by a sulfur di-  
9 oxide continuous emission monitoring  
10 system.

11 (B) MEASUREMENT.—An emission stand-  
12 ard described in subparagraph (A) shall be  
13 measured as a 30 boiler operating day rolling  
14 average per coal refuse electric utility steam  
15 generating unit or group of coal refuse electric  
16 utility steam generating units located at a sin-  
17 gle coal refuse-fired facility.

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