

114TH CONGRESS
2D SESSION

H. R. 3797

IN THE SENATE OF THE UNITED STATES

MARCH 16, 2016

Received; read twice and referred to the Committee on Environment and
Public Works

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Satisfying Energy
3 Needs and Saving the Environment Act” or the “SENSE
4 Act”.

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

6 (a) DEFINITIONS.—In this Act:

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

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

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

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

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

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

1 (C) uses coal refuse as at least 75 percent
2 of the annual fuel consumed, by heat input, of
3 the unit.

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

7 (A) located on one or more contiguous or
8 adjacent properties;

9 (B) specified within the same Major Group
10 (2-digit code), as described in the Standard In-
11 dustrial Classification Manual (1987); and

12 (C) under common control of the same
13 person (or persons under common control).

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

21 (7) ELECTRIC UTILITY STEAM GENERATING
22 UNIT.—The term “electric utility steam generating
23 unit” means either or both—

24 (A) an electric utility steam generating
25 unit, as such term is defined in section

1 63.10042 of title 40, Code of Federal Regula-
2 tions, or any successor regulation; or

3 (B) an electricity generating unit or elec-
4 tric generating unit, as such terms are used in
5 CSAPR.

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

10 (b) APPLICATION OF CSAPR TO CERTAIN COAL
11 REFUSE ELECTRIC UTILITY STEAM GENERATING
12 UNITS.—

13 (1) COAL REFUSE ELECTRIC UTILITY STEAM
14 GENERATING UNITS COMBUSTING BITUMINOUS COAL
15 REFUSE.—

16 (A) APPLICABILITY.—This paragraph ap-
17 plies with respect to any coal refuse electric
18 utility steam generating unit that—

19 (i) combusts coal refuse derived from
20 the mining and processing of bituminous
21 coal; and

22 (ii) is subject to sulfur dioxide allow-
23 ance surrender provisions pursuant to
24 CSAPR.

(B) CONTINUED APPLICABILITY OF PHASE I ALLOWANCE ALLOCATIONS.—In carrying out CSAPR, the Administrator shall provide that, for any compliance period, the allocation (whether through a Federal implementation plan or State implementation plan) of sulfur dioxide allowances for a coal refuse electric utility steam generating unit described in subparagraph (A) is equivalent to the allocation of the unit-specific sulfur dioxide allowance allocation identified for such unit for Phase I, as referenced in the notice entitled “Availability of Data on Allocations of Cross-State Air Pollution Rule Allowances to Existing Electricity Generating Units” (79 Fed. Reg. 71674 (December 3, 2014)).

(C) RULES FOR ALLOWANCE ALLOCATIONS.—For any compliance period under CSAPR that commences on or after January 1, 2017, any sulfur dioxide allowance allocation provided by the Administrator to a coal refuse electric utility steam generating unit described in subparagraph (A)—

(i) shall not be transferable for use by any other source not located at the same

1 coal refuse-fired facility as the relevant
2 coal refuse electric utility steam generating
3 unit;

4 (ii) may be transferable for use by an-
5 other source located at the same coal
6 refuse-fired facility as the relevant coal
7 refuse electric utility steam generating
8 unit;

9 (iii) may be banked for application to
10 compliance obligations in future compli-
11 ance periods under CSAPR; and

12 (iv) shall be surrendered upon the
13 permanent cessation of operation of such
14 coal refuse electric utility steam generating
15 unit.

16 (2) OTHER SOURCES.—

17 (A) NO INCREASE IN OVERALL STATE
18 BUDGET OF SULFUR DIOXIDE ALLOWANCE AL-
19 LOCATIONS.—For purposes of paragraph (1),
20 the Administrator may not, for any compliance
21 period under CSAPR, increase the total budget
22 of sulfur dioxide allowance allocations for a
23 State in which a unit described in paragraph
24 (1)(A) is located.

1 (B) COMPLIANCE PERIODS 2017 THROUGH
2 2020.—For any compliance period under
3 CSAPR that commences on or after January 1,
4 2017, but before December 31, 2020, the Ad-
5 ministrator shall carry out subparagraph (A) by
6 proportionally reducing, as necessary, the unit-
7 specific sulfur dioxide allowance allocations
8 from each source that—

9 (i) is located in a State in which a
10 unit described in paragraph (1)(A) is lo-
11 cated;

12 (ii) permanently ceases operation, or
13 converts its primary fuel source from coal
14 to natural gas, prior to the relevant com-
15 pliance period; and

16 (iii) otherwise receives an allocation of
17 sulfur dioxide allowances under CSAPR for
18 such period.

19 (c) EMISSION LIMITATIONS TO ADDRESS HYDROGEN
20 CHLORIDE AND SULFUR DIOXIDE AS HAZARDOUS AIR
21 POLLUTANTS.—

22 (1) APPLICABILITY.—For purposes of regu-
23 lating emissions of hydrogen chloride or sulfur diox-
24 ide from a coal refuse electric utility steam gener-

1 ating unit under section 112 of the Clean Air Act
2 (42 U.S.C. 7412), the Administrator—

3 (A) shall authorize the operator of such
4 unit to elect that such unit comply with ei-
5 ther—

6 (i) an emissions standard for emis-
7 sions of hydrogen chloride that meets the
8 requirements of paragraph (2); or

9 (ii) an emission standard for emis-
10 sions of sulfur dioxide that meets the re-
11 quirements of paragraph (2); and

12 (B) may not require that such unit comply
13 with both an emission standard for emissions of
14 hydrogen chloride and an emission standard for
15 emissions of sulfur dioxide.

16 (2) RULES FOR EMISSION LIMITATIONS.—

17 (A) IN GENERAL.—The Administrator
18 shall require an operator of a coal refuse elec-
19 tric utility steam generating unit to comply, at
20 the election of the operator, with no more than
21 one of the following emission standards:

22 (i) An emission standard for emissions
23 of hydrogen chloride from such unit that is
24 no more stringent than an emission rate of

0.002 pounds per million British thermal units of heat input.

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

(iii) An emission standard for emissions of sulfur dioxide from such unit that is no more stringent than an emission rate of 0.20 pounds per million British thermal units of heat input.

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

(v) An emission standard for emissions of sulfur dioxide from such unit that is no more stringent than capture and control of 93 percent of sulfur dioxide across the generating unit or group of generating units, as determined by comparing—

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

1 (II) the actual sulfur dioxide
2 emissions as measured by a sulfur di-
3 oxide continuous emission monitoring
4 system.

5 (B) MEASUREMENT.—An emission stand-
6 ard described in subparagraph (A) shall be
7 measured as a 30 boiler operating day rolling
8 average per coal refuse electric utility steam
9 generating unit or group of coal refuse electric
10 utility steam generating units located at a sin-
11 gle coal refuse-fired facility.

Passed the House of Representatives March 15,
2016.

Attest:

KAREN L. HAAS,
Clerk.