

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 571
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted
7/22/15
Third Edition Engrossed 8/5/15

Short Title: Implement Clean Power Plan. (Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO REQUIRE STATE AGENCIES, BOARDS, AND COMMISSIONS TO
IMPLEMENT A CLEAN POWER PLAN CONSISTENT WITH THE FEDERAL CLEAN
AIR ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Definitions. – The following definitions apply to this act:

- (1) "Coal-Fired Steam Emission Generating Unit" means a steam generating unit that has a base load rating greater than 73 MW (250 MMBtu/h) heat input of fossil fuel, either alone or in combination with any other fuel, and was constructed for the purpose of supplying one-third or more of its potential electrical output and more than 219,000 MWh net-electric output to a utility distribution system on an annual basis. A steam generating unit includes, and shall not extend beyond, the following systems: (i) a fuel combustion system, including bunker, coal pulverizer, crusher, stoker, and fuel burners; (ii) a combustion air system; (iii) a steam generating system; and (iv) a draft system.
- (2) "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency or the Administrator of the United States Environmental Protection Agency.
- (3) "EPA Clean Power Plan" means the Environmental Protection Agency's regulation of carbon dioxide emissions for existing stationary sources, as published under docket EPA-HQ-OAR-2013-0602, and as subsequently amended by the EPA.
- (4) "Heat rate" means the amount of energy used by an electrical generator or power plant to generate one kilowatt-hour (kWh) of electricity. The United States Energy Information Administration expresses heat rates in British thermal units of energy (Btu) per net kWh generated. Net generation is the amount of electricity a power plant or generator supplies to the power transmission line connected to the power plant. Net generation accounts for all the electricity that the plant itself consumes to operate the generators and other equipment, such as fuel feeding systems, boiler water pumps, cooling equipment, and pollution control devices.
- (5) "State Plan" means the State Plan required under 42 U.S.C. § 7411(d).



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1 **SECTION 2.(a)** Notwithstanding any other provision of law and except as
2 provided by this act, no State agency, board, or commission may adopt rules, expend funds, or
3 take any other action to develop a State Plan, implement the EPA Clean Power Plan, or adopt a
4 carbon dioxide emission reduction plan.

5 **SECTION 2.(b)** The Department of Environment and Natural Resources, in
6 consultation with the Environmental Management Commission, the Utilities Commission, and
7 the Utilities Commission Public Staff shall develop and submit a State Plan that requires only
8 criteria to improve heat rates at affected Coal-Fired Steam Emission Generating Units. Heat
9 rate improvements may only be required in the State Plan if, among other factors required
10 under the Clean Air Act, they are technically achievable and cost-effective considering any
11 additional Clean Air Act requirements that may be triggered by such heat rate improvements.
12 The Department and Commissions shall adopt rules as necessary for the development and
13 submittal of the State Plan.

14 **SECTION 3.(a)** Notwithstanding G.S. 150B-21.3(b1), all rules adopted pursuant to
15 Section 2(b) of this act shall be subject to legislative review during the next regular session of
16 the General Assembly that begins after the date the Rules Review Commission approved the
17 rule or during the regular session that is underway on the date the Commission approved the
18 rule.

19 **SECTION 3.(b)** Notwithstanding G.S. 150B-21.3(b1) and any rule of either house
20 of the General Assembly, any member of the General Assembly may introduce a bill to
21 disapprove any rule adopted pursuant to Section 2(b) of this act that has been approved by the
22 Rules Review Commission and that either has not become effective or has become effective by
23 executive order, as follows: (i) if the Rules Review Commission approves the rule prior to the
24 start of a legislative session, during the first 30 calendar days of the regular session of the
25 General Assembly that begins after the date the Commission approved all rules adopted
26 pursuant to Section 2(b) of this act or (ii) if the Rules Review Commission approves the rule
27 during a legislative session, 30 calendar days from the date the Rules Review Commission
28 approved all rules adopted pursuant to Section 2(b) of this act.

29 **SECTION 3.(c)** Notwithstanding G.S. 150B-21.3(b1) and any rule of either house
30 of the General Assembly, all rules adopted pursuant to Section 2(b) of this act become effective
31 on the earlier of the following:

- 32 (1) If the Rules Review Commission approves all rules adopted pursuant to
33 Section 2(b) of this act prior to the start of a legislative session, the earlier of
34 (i) the 31st calendar day of the regular session of the General Assembly that
35 begins after the date the Commission approved all rules adopted pursuant to
36 Section 2(b) of this act if a bill that specifically disapproves any of these
37 rules has not been introduced in either house of the General Assembly by
38 that date; (ii) if a bill that specifically disapproves a rule is introduced in
39 either house of the General Assembly before the 31st calendar day of that
40 session, the rule becomes effective on the earlier of either the day an
41 unfavorable final action is taken on the bill or the 61st calendar day of that
42 session if by that date a bill that specifically disapproves the rule has not
43 been ratified; or (iii) the day that session of the General Assembly adjourns
44 without ratifying a bill that specifically disapproves the rule.
- 45 (2) If the Rules Review Commission approves all rules adopted pursuant to
46 Section 2(b) of this act during a legislative session, the earlier of (i) the 31st
47 calendar day after the date the Commission approved all rules adopted
48 pursuant to Section 2(b) of this act if a bill that specifically disapproves a
49 rule has not been introduced in either house of the General Assembly by that
50 date; (ii) if a bill that specifically disapproves a rule is introduced in either
51 house of the General Assembly within 30 calendar days of the date that the

1 Commission approved all rules adopted pursuant to Section 2(b) of this act,
2 the rule becomes effective on the earlier of either the day an unfavorable
3 final action is taken on the bill or the 61st day after the date that the
4 Commission approved all rules adopted pursuant to Section 2(b) of this act if
5 by that date a bill that specifically disapproves the rule has not been ratified;
6 or (iii) the day that session of the General Assembly adjourns without
7 ratifying a bill that specifically disapproves the rule.

8 **SECTION 3.(d)** Notwithstanding G.S. 150B-21.9, the Rules Review Commission
9 must review any permanent rule adopted pursuant to Section 2(b) of this act submitted to it by
10 the end of a month by the last day of the next month.

11 **SECTION 3.(e)** Rules adopted pursuant to Section 2(b) of this act are exempt from
12 the provisions of Chapter 150B of the General Statutes that require that a certification be
13 obtained from the Office of State Budget and Management, including requirements under
14 G.S. 150B-19.1(h) and G.S. 150B-21.4, and any requirement for preliminary review by the
15 Office of State Budget and Management pursuant to G.S. 150B-21.26.

16 **SECTION 4.** The Secretary of Environment and Natural Resources shall bring an
17 action in the appropriate federal court or courts to challenge the EPA Clean Power Plan to the
18 extent that the EPA Clean Power Plan is inconsistent with or contrary to the federal Clean Air
19 Act or other federal law.

20 **SECTION 5.** This act is effective when it becomes law.