

**[DISCUSSION DRAFT]**113<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**H. R.** \_\_\_\_\_

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

Mr. WHITFIELD introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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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 “\_\_\_\_\_ Act  
5 of 2013”.

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 the coal 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 **SEC. 3. CONGRESS TO SET EFFECTIVE DATE FOR STAND-**  
2 **ARDS OF PERFORMANCE FOR EXISTING,**  
3 **MODIFIED, AND RECONSTRUCTED FOSSIL**  
4 **FUEL-FIRED ELECTRIC UTILITY GENERATING**  
5 **UNITS.**

6 (a) **APPLICABILITY.**—This section applies with re-  
7 spect to any rule or guidelines issued by the Administrator  
8 of the Environmental Protection Agency under section  
9 111 of the Clean Air Act (42 U.S.C. 7411) that—

10 (1) establish any standard of performance for  
11 emissions of any greenhouse gas from any modified  
12 or reconstructed source that is a fossil fuel-fired  
13 electric utility generating unit; or

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

17 (b) **CONGRESS TO SET EFFECTIVE DATE.**—A rule  
18 or guidelines described in subsection (a) shall not take ef-  
19 fect unless a Federal law is enacted specifying such rule’s  
20 or guidelines’ effective date.

21 (c) **REPORTING.**—A rule or guidelines described in  
22 subsection (a) shall not take effect unless the Adminis-  
23 trator of the Environmental Protection Agency has sub-  
24 mitted to Congress a report containing each of the fol-  
25 lowing:

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

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

3                   (A) economic growth, competitiveness, and  
4 jobs in the United States; and

5                   (B) electricity ratepayers, including low-in-  
6 come ratepayers in affected States.

7           (3) The amount of greenhouse gas emissions  
8 that such rule or guidelines are projected to reduce  
9 as compared to overall global greenhouse gas emis-  
10 sions.

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

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

15           (1) The proposed rule—

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

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

1 the Environmental Protection Agency on Sep-  
2 tember 20, 2013, and identified by docket ID  
3 number EPA–HQ–OAR–2011–0660.

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

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

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

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

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

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

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

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

8 **SEC. 5. DEFINITIONS.**

9 In this Act:

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

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

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

22 (A) Carbon dioxide.

23 (B) Methane.

24 (C) Nitrous oxide.

25 (D) Sulfur hexafluoride.



1 (E) Hydrofluorocarbons.

2 (F) Perfluorocarbons.

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

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

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