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107TH CONGRESS
1ST SESSION

H. R. 1335

To reduce emissions of mercury, carbon dioxide, nitrogen oxides, and sulfur dioxide from fossil fuel-fired electric utility generating units operating in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 2001

Mr. ALLEN (for himself, Mr. SAXTON, Mr. BALDACCI, Mrs. MALONEY of New York, Ms. BALDWIN, Mr. BLUMENAUER, Ms. DEGETTE, Mr. DELAHUNT, Mr. HINCHEY, Mrs. JONES of Ohio, Mr. KUCINICH, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. SANDERS, Mr. THOMPSON of Mississippi, Mr. TIERNEY, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, Financial Services, Transportation and Infrastructure, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To reduce emissions of mercury, carbon dioxide, nitrogen oxides, and sulfur dioxide from fossil fuel-fired electric utility generating units operating in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Clean Power Plant Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the United States is relying increasingly on old, inefficient, and highly polluting power plants to provide electricity;

(2) the pollution from those power plants causes a wide range of health and environmental damage, including—

(A) fine particulate matter that is associated with the deaths of approximately 50,000 Americans annually;

(B) ozone, commonly known as ''smog'', that impairs normal respiratory functions and

is of special concern to individuals afflicted with asthma, emphysema, and other respiratory ailments, and causes property damage;

(C) rural ozone ''smog'' that impairs normal respiratory functions and is of special concern to individuals afflicted with asthma, emphysema, and other respiratory ailments, and obscures visibility, and damages forests, crops, and wildlife;

(D) acid deposition that damages estuaries, lakes, rivers, and streams (and the plants and animals that depend on them for survival) and leaches heavy metals from the soil;

(E) mercury and heavy metal contamination that renders fish unsafe to eat, with especially serious consequences for pregnant women and their fetuses;

(F) eutrophication of estuaries, lakes, rivers, and streams;

(G) global climate change that may fundamentally and irreversibly alter human, animal, and plant life; and

(H) mercury and other hazardous and toxic substances found in fossil fuel combustion wastes which may contaminate ground water.

(3) tax laws and environmental laws—

(A) provide a very strong incentive for electric utilities to keep old, dirty, and inefficient generating units in operation; and

(B) provide a strong disincentive to investing in new, clean, and efficient generating technologies;

(4) fossil fuel-fired power plants, consisting of plants fueled by coal, fuel oil, and natural gas, produce nearly two-thirds of the electricity generated in the United States;

(5) coal-fired power plants are the leading source of mercury emissions in the United States, releasing from their smokestacks an estimated 52 tons of this potent neurotoxin each year;

(6) in 1998, fossil fuel-fired power plants in the United States produced over 2,200,000,000 tons of carbon dioxide, the primary greenhouse gas;

(7) on average—

(A) fossil fuel-fired power plants emit 1,999 pounds of carbon dioxide for every megawatt hour of electricity produced; and

(B) coal-fired power plants emit 2,110 pounds of carbon dioxide for every megawatt hour of electricity produced;

(8) new fossil fuel-fired power plants produce more than 100,000,000 tons per year of fossil-fuel combustion wastes containing hazardous and toxic chemicals, including, but not limited to, mercury, arsenic, barium, cadmium, chromium, nickel, lead, selenium, and vanadium;

(9) the average fossil fuel-fired generating unit in the United States commenced operation in 1964, 6 years before the Clean Air Act (42 U.S.C. 7401 et seq.) was amended to establish requirements for stationary sources;

(10)(A) according to the Department of Energy, only 23 percent of the 1,000 largest emitting units are subject to stringent new source performance standards under section 111 of the Clean Air Act (42 U.S.C. 7411); and

(B) the remaining 77 percent, commonly referred to as ''grandfathered'' power plants, are subject to much less stringent requirements;

(11) pollution from power plants can be reduced through adoption of modern technologies and practices, including—

(A) methods of combusting coal that are intrinsically more efficient and less polluting, such as pressurized fluidized bed combustion

and an integrated gasification combined cycle system;

(B) methods of combusting cleaner fuels, such as gases from fossil and biological resources and combined cycle turbines;

(C) treating flue gases through application of pollution controls;

(D) methods for managing and disposing of fossil-fuel combustion wastes reflecting the hazardous nature of their components;

(E) methods of extracting energy from natural, renewable resources of energy, such as solar and wind sources;

(F) methods of producing electricity and thermal energy from fuels without conventional combustion, such as fuel cells; and

(G) combined heat and power methods of extracting and using heat that would otherwise be wasted, for the purpose of heating or cooling office buildings, providing steam to processing facilities, or otherwise increasing total efficiency;

(12) adopting the technologies and practices described in paragraph (11) would increase competi-

tiveness and productivity, secure employment, save lives, and preserve the future.

(b) PURPOSES.—The purposes of this Act are—

(1) to protect and preserve the environment while safeguarding health by ensuring that each fossil fuel-fired generating unit minimizes pollution to levels that are technologically feasible through modernization and application of pollution controls;

(2) to greatly reduce the quantities of mercury (and other hazardous and toxic chemicals), carbon dioxide, sulfur dioxide, and nitrogen oxides entering the environment from combustion of fossil fuels;

(3) to eliminate the ''grandfather'' loophole in the Clean Air Act relating to sources in operation before the promulgation of standards under section 111 of that Act (42 U.S.C. 7411);

(4) to decrease significantly the threat to human health and the environment posed by mercury and other hazardous chemicals resulting from the combustion of fossil fuels;

(5) to provide worker retraining for workers adversely affected by reduced consumption of coal;

(6) to provide economic development incentives for communities adversely affected by reduced consumption of coal; and

(7) to provide property tax relief for communities whose tax base is significantly affected by any resulting plant retirements.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) GENERATING UNIT.—The term ''generating unit'' means an electric utility generating facility with a nameplate capacity of 15 megawatts or greater that uses a combustion device primarily to generate electricity for sale.

SEC. 4. AIR EMISSION STANDARDS FOR FOSSIL FUEL-FIRED GENERATING UNITS.

Section 111 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

''(k) EMISSION RATES FOR CERTAIN FOSSIL FUEL-FIRED ELECTRIC GENERATING UNITS.—

''(1) IN GENERAL.—In addition to other requirements applicable under this section to such units, emissions of air pollutants from each fossil fuel-fired electric generating unit that is a new source or an existing source for purposes of this section shall not exceed the following:

"(A) MERCURY.—Mercury emissions shall not exceed 10 percent of the mercury otherwise present in the flue gas. Not later than 2 years after the date of enactment of this subsection, the Administrator, in consultation with the Secretary of Energy, shall promulgate methods for determining initial and continuing compliance with this subparagraph and fuel sampling techniques and emission monitoring techniques for use by generating units in calculating mercury emission reductions for the purposes of this subparagraph.

"(B) SULFUR DIOXIDE.—Sulfur dioxide emissions shall not exceed 3.0 pounds per megawatt hour and total annual sulfur dioxide emissions shall not exceed 3.0 pounds multiplied by the average megawatt hours generated by the unit in the calendar years 1998 through 2000.

"(C) NITROGEN OXIDES.—Nitrogen oxide emissions shall not exceed 1.5 pounds per megawatt hour and total annual emissions of nitrogen oxides shall not exceed 1.5 pounds multiplied by the average annual megawatt

hours generated by the unit in the calendar years 1998 through 2000.

''(2) REPORTING.—

''(A) IN GENERAL.—Not less often than quarterly, the owner or operator of each electric utility generating unit shall submit a pollutant-specific emission report for each pollutant covered by this subsection and for carbon dioxide.

''(B) SIGNATURE.—Each report required under subparagraph (A) shall be signed by a responsible official of the generating unit, who shall certify the accuracy of the report.

''(C) PUBLIC REPORTING.—The Administrator shall annually make available to the public, through 1 or more published reports and 1 or more forms of electronic media, facility-specific emission data for each generating unit and pollutant covered by this subsection and for carbon dioxide.

''(D) CONSUMER DISCLOSURE.—Not later than 2 years after the date of enactment of this subsection, the Administrator shall promulgate regulations requiring each owner or operator of each electric utility generating unit to disclose to residential consumers of electricity generated

by the unit, on a regular basis (but not less often than annually) and in a manner convenient to the consumers, data concerning the level of emissions by the generating unit of carbon dioxide and each pollutant covered by this section.

''(3) EFFECTIVE DATE.—This subsection shall take effect on January 1, 2005, and on that date each unit covered by this subsection shall be required to have a permit issued under title V that requires compliance with this subsection.''.

SEC. 5. TONNAGE CAP FOR CARBON DIOXIDE.

(a) GENERATION PERFORMANCE STANDARD.—For each calendar year beginning after December 31, 2004, the Administrator shall calculate a generation performance standard for carbon dioxide from covered fossil fuel-fired electric generating units. The standard shall be equal to 1.914 billion tons divided by the Commission's estimate (under this section) of total electric generation from all such units during that year. The Administrator shall publish such standard (expressed in pounds per megawatt hour) at least 30 days prior to the beginning of the calendar year concerned. For purposes of this section, the term ''covered fossil fuel-fired electric generating unit''

means a fossil fuel-fired electric generating unit with an electric generation capacity greater than 50 megawatts.

(b) ALLOCATION AND TRADING OF ALLOWANCES.—

(1) IN GENERAL.—For each calendar year beginning after December 31, 2004, the Administrator shall allocate allowances for carbon dioxide among covered fossil fuel-fired electric generating units by multiplying the generation performance standard for that calendar year by each unit's electric generation during the calendar year.

(2) CARRYOVER AND TRADING OF ALLOWANCES.—Allowances allocated to any unit for any calendar year that are not used to demonstrate compliance with subsection (c) for that calendar year may be retained and used to demonstrate compliance with such requirements by any person in a subsequent calendar year. Such allowances may be transferred from the unit to which allocated to any other unit. Any person to whom such allowances have been transferred may use the allowances in the calendar year or in a subsequent calendar year to demonstrate compliance with this section or may transfer such allowances to any other person for such purposes.

(c) COMPLIANCE WITH ALLOWANCE LIMITS.—For each calendar year beginning after December 31, 2004, the owner or operator of each covered fossil fuel-fired electric generating unit shall surrender to the Administrator a number of allowances for carbon dioxide equal to the total tonnage of carbon dioxide emitted by that unit during the calendar year. Emissions shall be determined based on continuous monitoring approved by the Administrator. The Administrator may permit the average rate of emissions from a covered fossil fuel-fired electric generating unit over any calendar year to exceed the generation performance standard if the generating plant has a sufficient quantity of emissions credits.

(d) EXCESS EMISSIONS.—The owner or operator of any covered fossil fuel-fired electric generating unit that emits carbon dioxide in any calendar year in excess of the allowances for such air pollutant that the owner or operator holds for use for the unit for the calendar year shall be liable for the payment of an excess emissions penalty, and shall be liable to offset the excess emissions by an equal tonnage amount of such air pollutant in the following calendar year or such other period as the Administrator shall prescribe. The excess emissions penalty shall be calculated on the basis of the number of tons emitted in excess of the total number of allowances held, multiplied

by $100, indexed by inflation under rules promulgated by the Administrator. Excess emissions penalties and offsets shall be determined and administered in accordance with regulations to be promulgated by the Administrator within 6 months after the enactment of this section. The failure or refusal of any person to pay the full amount of any excess emission penalty imposed under this section shall be punishable by a fine of $10,000 for each day during which such failure or refusal continues.

(e) ESTIMATE OF ELECTRIC GENERATION.—For each calendar year beginning after December 31, 2004, the Administrator shall publish the Administrator's estimate of the total electric generation by covered fossil fuel-fired electric generating units. Such estimate shall be computed based on total electric energy generation from all covered fossil fuel-fired electric generating units during the current year or calendar year plus the projected growth (as determined by the Secretary of Energy) in electric energy generation and expected verifiable electric energy conservation for the calendar year. The Administrator shall publish such estimate at least 30 days prior to the beginning of the applicable period for which the estimate is made.

SEC. 6. DISPOSAL OF MERCURY AND OTHER HAZARDOUS WASTES.

(a) CAPTURED OR RECOVERED MERCURY.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations under subtitle C of the Solid Waste Disposal Act and other applicable provisions of law to ensure that mercury or other hazardous wastes captured or recovered through the use of an emission control method, or coal cleaning, or another process associated with the combustion of fossil fuels for the generation of electricity is disposed of in a manner that ensures that—

(1) the hazards from mercury or other hazardous waste are not transferred from one environmental medium to another; and

(2) there is no release of mercury or other hazardous waste into the environment.

(b) SLUDGES AND WASTES CONTAINING MERCURY OR OTHER HAZARDOUS WASTES.—The regulations promulgated by the Administrator under subsection (a) shall ensure that sludges and wastes containing mercury or other hazardous wastes are handled and disposed of in accordance with all applicable Federal and State laws (including regulations).

(c) CERTAIN PROVISIONS NOT APPLICABLE.—Section 3001(b)(3)(A) of the Solid Waste Disposal Act is

shall not apply to wastes generated from the combustion of coal or other fossil fuels in a generating unit.

SEC. 7. RECOGNITION OF PERMANENT EMISSION REDUCTIONS IN FUTURE CLIMATE CHANGE IMPLEMENTATION PROGRAMS.

It is the sense of Congress that—

(1) permanent reductions in emissions of carbon dioxide and nitrogen oxides that are accomplished through the retirement of old generating units and replacement by new generating units that meet the emission standards specified in this Act, or through replacement of old generating units with nonpolluting renewable power generation technologies, should be credited to the utility sector, and to the owner or operator that retires or replaces the old generating unit, in any climate change implementation program enacted by Congress;

(2) the base year for calculating reductions under a program described in paragraph (1) should be the calendar year preceding the calendar year in which this Act is enacted; and

(3) a reasonable portion of any monetary value that may accrue from the crediting described in paragraph (1) should be passed on to utility customers.

SEC. 8. EVALUATION OF IMPLEMENTATION OF THIS ACT AND OTHER STATUTES.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Energy, in consultation with the Chairman of the Federal Energy Regulatory Commission and the Administrator, shall submit to Congress a report on the implementation of this Act.

(b) IDENTIFICATION OF CONFLICTING LAW.—The report shall identify any provision of the Energy Policy Act of 1992 (Public Law 102–486), the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.), the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.), or the Solid Waste Disposal Act (42 U.S.C 6901 et seq.), or the amendments made by those Acts, that conflicts with the intent or efficient implementation of this Act.

(c) RECOMMENDATIONS.—The report shall include recommendations from the Secretary of Energy, the Chairman of the Federal Energy Regulatory Commission, and the Administrator for legislative or administrative measures to harmonize and streamline the statutes specified in subsection (b) and the regulations implementing those statutes.

SEC. 9. ASSISTANCE FOR WORKERS ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL.

In addition to amounts made available under any other law, there is authorized to be appropriated $75,000,000 for each of fiscal years 2002 through 2016 to provide assistance, under the economic dislocation and worker adjustment assistance program of the Department of Labor authorized by title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.), to coal and oil industry workers who are terminated from employment as a result of reduced consumption of oil and coal by the electric power generation industry.

SEC. 10. COMMUNITY ECONOMIC DEVELOPMENT INCENTIVES FOR COMMUNITIES ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL.

In addition to amounts made available under any other law, there is authorized to be appropriated $75,000,000 for each of fiscal years 2002 through 2016 to provide assistance, under the economic adjustment program of the Department of Commerce authorized by the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), to assist communities adversely affected by reduced consumption of coal by the electric power generation industry.

SEC. 11. CARBON SEQUESTRATION.

(a) CARBON SEQUESTRATION STRATEGY.—In addition to amounts made available under any other law, there is authorized to be appropriated to the Environmental Protection Agency and the Department of Energy for each of fiscal years 2002 through 2004 a total of $15,000,000 to conduct research and development activities in basic and applied science in support of development by September 30, 2004, of a carbon sequestration strategy that is designed to offset all growth in carbon dioxide emissions in the United States after 2010.

(b) METHODS FOR BIOLOGICALLY SEQUESTERING CARBON DIOXIDE.—In addition to amounts made available under any other law, there is authorized to be appropriated to the Environmental Protection Agency and the Department of Agriculture for each of fiscal years 2002 through 2011 a total of $30,000,000 to carry out soil restoration, tree planting, wetland protection, and other methods of biologically sequestering carbon dioxide.

SEC. 12. PROPERTY TAX RELIEF.

The Administrator shall make grants to each municipality in which there is located one or more fossil fuel-fired electric generating units that—

(1) provide 10 percent or more of the municipality's annual property tax revenue in the munici-

pality's last fiscal year ending before the enactment of this Act, and

(2) cease operation after the enactment of this Act.

Such grants shall be made only for the 3 taxable years following the year in which the unit ceases operation and shall not exceed 50 percent of the total real property taxes paid to such municipalities by the owners or operators of such units in the taxable year prior to the taxable year in which the unit ceased operation.

SEC. 13. HAZARDOUS AIR POLLUTANTS FROM ELECTRIC UTILITY STEAM GENERATING UNITS.

Section 112 of the Clean Air Act is amended as follows:

(1) By repealing the last sentence of section 112(n)(1)(A).

(2) By amending paragraph (1) of subsection (c) by inserting after the first sentence the following: ''Within 12 months after the enactment of the Clean Power Plant Act of 2001, such list shall be revised to include electric utility steam generating units.''.

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