



# ***The Committee on Energy and Commerce***

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## **Memorandum**

January 10, 2014

TO: Members, Subcommittee on Energy and Power

FROM: Committee Majority Staff

RE: Subcommittee Markup of H.R. 3826, the Electricity Security and Affordability Act

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The Subcommittee on Energy and Power will meet in open markup session on Monday, January 13, 2014, at 4:00 p.m. in 2123 Rayburn House Office Building for opening statements on H.R. 3826, the “Electricity Security and Affordability Act.”

The Subcommittee will reconvene on Tuesday, January 14, 2014, at 10:00 a.m. in 2123 Rayburn House Office Building in open markup session on the legislation. A summary of the legislation to be considered is below.

In keeping with Chairman Upton’s announced policy, Members must submit any amendments they may have two hours before they are offered during this markup. Members may submit amendments by email to [peter.kielty@mail.house.gov](mailto:peter.kielty@mail.house.gov). Any information with respect to an amendment’s parliamentary standing (e.g., its germaneness) should be submitted at this time as well.

### **I. H.R. 3826, Electricity Security and Affordability Act**

On October 29, 2013, Chairman Ed Whitfield and Senator Joe Manchin released a discussion draft of H.R. 3826, and on November 14, 2013, the Subcommittee on Energy and Power held a legislative hearing on the bill. On January 9, 2014, Chairman Whitfield (R-KY) and 59 co-sponsors introduced H.R. 3826, the “Electricity Security and Affordability Act.”

Specific provisions include the following:

#### **Section 1. Short Title**

This section provides the short title of “Electricity Security and Affordability Act.”

#### **Section 2. Standards of Performance for New Fossil Fuel-Fired Electric Utility Generating Units**

This section provides direction relating to the establishment of standards for new fossil fuel-fired electricity generating units (EGUs).

Section 2(a) provides that the Administrator of the Environmental Protection Agency (EPA) may not issue, implement, or enforce any proposed or final rule under section 111 of the

Clean Air Act (CAA) that establishes greenhouse gas (GHG) emissions standards for new fossil fuel-fired EGUs unless the Administrator meets the requirements of subsections (b) and (c).

Section 2(b) provides that the Administrator must establish separate source categories for new EGUs fueled with coal and natural gas. This section provides that for the coal category, the Administrator may not set a standard unless it has been achieved for a continuous 12-month period by at least 6 EGUs located at different power plants in the United States, which collectively are representative of the operating characteristics of EGUs at different locations in the U.S., and which have operated for the entire 12-month period on a full commercial basis.

Section 2(c) further provides for the coal category that the Administrator must establish a subcategory for new EGUs fueled by lignite coal, and may not set a standard for that subcategory unless it has been achieved for a continuous 12-month period by at least 3 EGUs located at different power plants in the United States, which collectively are representative of the operating characteristics of EGUs at different locations in the U.S., and which have operated for the entire 12-month period on a full commercial basis.

Sections 2(b) and (c) also provide that in establishing standards for the coal category, the Administrator may not set the standards based on results from a demonstration project.

### Section 3. Congress to Set Effective Date for Standards of Performance for Existing, Modified, and Reconstructed Fossil Fuel-Fired Electric Utility Generating Units

This section provides that any rules or guidelines issued by the Administrator establishing standards of performance under CAA section 111 for modified or reconstructed fossil fuel-fired EGUs, or guidelines for existing fossil fuel-fired EGUs, will not take effect unless a Federal law is enacted specifying such rule's or guidelines' effective date. The section further provides that such rules or guidelines may not take effect unless the Administrator has submitted to Congress a report containing (1) the text of such rule or guidelines; (2) the economic impacts of such rule or guidelines, including potential effects on economic growth, competitiveness and jobs, and on electricity ratepayers; and (3) the amount of GHG emissions that such rule or guidelines are projected to reduce as compared to overall GHG emissions.

### Section 4. Repeal of Earlier Rules and Guidelines

This section provides that the EPA's proposed standards for new fossil fuel-fired EGUs, and any substantially similar rules that do not meet the requirements of section 2 of this Act, are of no force and effect. The section further provides that any rules or guidelines for modified, reconstructed, or existing fossil fuel-fired EGUs promulgated prior to enactment of the Act are also of no force and effect.

### Section 5. Definitions

This section contains the following definitions:

1. “Demonstration project” means a project to test or demonstrate the feasibility of carbon capture and storage technologies that has received government funding or financial assistance.
2. “Existing source” has the meaning given such term in CAA section 111(a), except that such term shall not include any modified source.
3. “Greenhouse gas” means any of the following: carbon dioxide, methane, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons, or perfluorocarbons.
4. “Modification” has the meaning given such term in CAA section 111(a).
5. “Modified source” means any stationary source, the modification of which is commenced after the date of enactment of the Act.
6. “New source” has the meaning given such term in CAA section 111(a), except that such term shall not include any modified source.

## **II. STAFF CONTACTS**

If you have questions regarding H.R. 3826, please contact Tom Hassenboehler or Mary Neumayr at (202) 225-2927.