

114TH CONGRESS  
1ST SESSION

# H. R. 3797

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.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 2015

Mr. ROTHFUS (for himself, Mr. BARLETTA, Mr. THOMPSON of Pennsylvania, and Mr. KELLY of Pennsylvania) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

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

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

2 (a) DEFINITIONS.—In this Act:

3 (1) ADMINISTRATOR.—The term “Adminis-  
4 trator” means the Administrator of the Environ-  
5 mental Protection Agency.

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

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

15 (4) COAL REFUSE ELECTRIC UTILITY STEAM  
16 GENERATING UNIT.—The term “coal refuse electric  
17 utility steam generating unit” means an electric util-  
18 ity steam generating unit that—

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

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

23 (C) uses coal refuse as at least 75 percent  
24 of the annual fuel consumed, by heat input, of  
25 the unit.

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

4           (A) located on one or more contiguous or  
5 adjacent properties;

6           (B) specified within the same Major Group  
7 (2-digit code), as described in the Standard In-  
8 dustrial Classification Manual (1987); and

9           (C) under common control of the same  
10 person (or persons under common control).

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

18          (7) ELECTRIC UTILITY STEAM GENERATING  
19 UNIT.—The term “electric utility steam generating  
20 unit” means either or both—

21           (A) an electric utility steam generating  
22 unit, as such term is defined in section  
23 63.10042 of title 40, Code of Federal Regula-  
24 tions, or any successor regulation; or

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

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

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

11 (1) COAL REFUSE ELECTRIC UTILITY STEAM  
12 GENERATING UNITS COMBUSTING BITUMINOUS COAL  
13 REFUSE.—

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

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

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

23 (B) CONTINUED APPLICABILITY OF PHASE  
24 I ALLOWANCE ALLOCATIONS.—In carrying out  
25 CSAPR, the Administrator shall provide that,

1 for any compliance period, the allocation  
2 (whether through a Federal implementation  
3 plan or State implementation plan) of sulfur di-  
4 oxide allowances for a coal refuse electric utility  
5 steam generating unit described in subpara-  
6 graph (A) is equivalent to the allocation of the  
7 unit-specific sulfur dioxide allowance allocation  
8 identified for such unit for Phase I, as ref-  
9 erenced in the notice entitled “Availability of  
10 Data on Allocations of Cross-State Air Pollu-  
11 tion Rule Allowances to Existing Electricity  
12 Generating Units” (79 Fed. Reg. 71674 (De-  
13 cember 3, 2014)).

14 (C) RULES FOR ALLOWANCE ALLOCA-  
15 TIONS.—For any compliance period under  
16 CSAPR that commences on or after January 1,  
17 2017, any sulfur dioxide allowance allocation  
18 provided by the Administrator to a coal refuse  
19 electric utility steam generating unit described  
20 in subparagraph (A)—

21 (i) shall not be transferable for use by  
22 any other source not located at the same  
23 coal refuse-fired facility as the relevant  
24 coal refuse electric utility steam generating  
25 unit;

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

6 (iii) may be banked for application to  
7 compliance obligations in future compli-  
8 ance periods under CSAPR; and

9 (iv) shall be surrendered upon the  
10 permanent cessation of operation of such  
11 coal refuse electric utility steam generating  
12 unit.

13 (2) OTHER SOURCES.—

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

22 (B) COMPLIANCE PERIODS 2017 THROUGH  
23 2020.—For any compliance period under  
24 CSAPR that commences on or after January 1,  
25 2017, but before December 31, 2020, the Ad-

1            administrator shall carry out subparagraph (A) by  
2            proportionally reducing, as necessary, the unit-  
3            specific sulfur dioxide allowance allocations  
4            from each source that—

5                    (i) is located in a State in which a  
6                    unit described in paragraph (1)(A) is lo-  
7                    cated;

8                    (ii) permanently ceases operation, or  
9                    converts its primary fuel source from coal  
10                   to natural gas, prior to the relevant com-  
11                   pliance period; and

12                   (iii) otherwise receives an allocation of  
13                   sulfur dioxide allowances under CSAPR for  
14                   such period.

15            (c) EMISSION LIMITATIONS TO ADDRESS HYDROGEN  
16            CHLORIDE AND SULFUR DIOXIDE AS HAZARDOUS AIR  
17            POLLUTANTS.—

18                    (1) APPLICABILITY.—For purposes of regu-  
19                    lating emissions of hydrogen chloride or sulfur diox-  
20                    ide from a coal refuse electric utility steam gener-  
21                    ating unit under section 112 of the Clean Air Act  
22                    (42 U.S.C. 7412), the Administrator—

23                    (A) shall authorize the operator of such  
24                    unit to elect that such unit comply with ei-  
25                    ther—

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

4 (ii) an emission standard for emis-  
5 sions of sulfur dioxide that meets the re-  
6 quirements of paragraph (2); and

7 (B) may not require that such unit comply  
8 with both an emission standard for emissions of  
9 hydrogen chloride and an emission standard for  
10 emissions of sulfur dioxide.

11 (2) RULES FOR EMISSION LIMITATIONS.—

12 (A) IN GENERAL.—The Administrator  
13 shall require an operator of a coal refuse elec-  
14 tric utility steam generating unit to comply, at  
15 the election of the operator, with no more than  
16 one of the following emission standards:

17 (i) An emission standard for emissions  
18 of hydrogen chloride from such unit that is  
19 no more stringent than an emission rate of  
20 0.002 pounds per million British thermal  
21 units of heat input.

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



1 (iii) An emission standard for emis-  
2 sions of sulfur dioxide from such unit that  
3 is no more stringent than an emission rate  
4 of 0.20 pounds per million British thermal  
5 units of heat input.

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

10 (v) An emission standard for emis-  
11 sions of sulfur dioxide from such unit that  
12 is no more stringent than capture and con-  
13 trol of 93 percent of sulfur dioxide across  
14 the generating unit or group of generating  
15 units, as determined by comparing—

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

20 (II) the actual sulfur dioxide  
21 emissions as measured by a sulfur di-  
22 oxide continuous emission monitoring  
23 system.

24 (B) MEASUREMENT.—An emission stand-  
25 ard described in subparagraph (A) shall be

1 measured as a 30 boiler operating day rolling  
2 average per coal refuse electric utility steam  
3 generating unit or group of coal refuse electric  
4 utility steam generating units located at a sin-  
5 gle coal refuse-fired facility.

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