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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

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Clean Power Plant Act of 2001”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.
- Sec. 4. Air emission standards for fossil fuel-fired generating units.
- Sec. 5. Tonnage cap for carbon dioxide.
- Sec. 6. Disposal of mercury and other hazardous wastes.
- Sec. 7. Recognition of permanent emission reductions in future climate change implementation programs.
- Sec. 8. Evaluation of implementation of this Act and other statutes.
- Sec. 9. Assistance for workers adversely affected by reduced consumption of coal.
- Sec. 10. Community economic development incentives for communities adversely affected by reduced consumption of coal.
- Sec. 11. Carbon sequestration.
- Sec. 12. Property tax relief.
- Sec. 13. Hazardous air pollutants from electric utility steam generating units.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

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

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

14 (A) fine particulate matter that is associ-
15 ated with the deaths of approximately 50,000
16 Americans annually;

17 (B) ozone, commonly known as “smog”,
18 that impairs normal respiratory functions and

1 is of special concern to individuals afflicted with
2 asthma, emphysema, and other respiratory ail-
3 ments, and causes property damage;

4 (C) rural ozone “smog” that impairs nor-
5 mal respiratory functions and is of special con-
6 cern to individuals afflicted with asthma, em-
7 physema, and other respiratory ailments, and
8 obscures visibility, and damages forests, crops,
9 and wildlife;

10 (D) acid deposition that damages estu-
11 aries, lakes, rivers, and streams (and the plants
12 and animals that depend on them for survival)
13 and leaches heavy metals from the soil;

14 (E) mercury and heavy metal contamina-
15 tion that renders fish unsafe to eat, with espe-
16 cially serious consequences for pregnant women
17 and their fetuses;

18 (F) eutrophication of estuaries, lakes, riv-
19 ers, and streams;

20 (G) global climate change that may fun-
21 damentally and irreversibly alter human, ani-
22 mal, and plant life; and

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

1 (3) tax laws and environmental laws—

2 (A) provide a very strong incentive for
3 electric utilities to keep old, dirty, and ineffi-
4 cient generating units in operation; and

5 (B) provide a strong disincentive to invest-
6 ing in new, clean, and efficient generating tech-
7 nologies;

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

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

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

19 (7) on average—

20 (A) fossil fuel-fired power plants emit
21 1,999 pounds of carbon dioxide for every mega-
22 watt hour of electricity produced; and

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

1 (8) new fossil fuel-fired power plants produce
2 more than 100,000,000 tons per year of fossil-fuel
3 combustion wastes containing hazardous and toxic
4 chemicals, including, but not limited to, mercury, ar-
5 senic, barium, cadmium, chromium, nickel, lead, se-
6 lenium, and vanadium;

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

12 (10)(A) according to the Department of En-
13 ergy, only 23 percent of the 1,000 largest emitting
14 units are subject to stringent new source perform-
15 ance standards under section 111 of the Clean Air
16 Act (42 U.S.C. 7411); and

17 (B) the remaining 77 percent, commonly re-
18 ferred to as “grandfathered” power plants, are sub-
19 ject to much less stringent requirements;

20 (11) pollution from power plants can be re-
21 duced through adoption of modern technologies and
22 practices, including—

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

1 and an integrated gasification combined cycle
2 system;

3 (B) methods of combusting cleaner fuels,
4 such as gases from fossil and biological re-
5 sources and combined cycle turbines;

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

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

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

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

17 (G) combined heat and power methods of
18 extracting and using heat that would otherwise
19 be wasted, for the purpose of heating or cooling
20 office buildings, providing steam to processing
21 facilities, or otherwise increasing total effi-
22 ciency;

23 (12) adopting the technologies and practices de-
24 scribed in paragraph (11) would increase competi-

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

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

4 (1) to protect and preserve the environment
5 while safeguarding health by ensuring that each fos-
6 sil fuel-fired generating unit minimizes pollution to
7 levels that are technologically feasible through mod-
8 ernization and application of pollution controls;

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

13 (3) to eliminate the “grandfather” loophole in
14 the Clean Air Act relating to sources in operation
15 before the promulgation of standards under section
16 111 of that Act (42 U.S.C. 7411);

17 (4) to decrease significantly the threat to
18 human health and the environment posed by mer-
19 cury and other hazardous chemicals resulting from
20 the combustion of fossil fuels;

21 (5) to provide worker retraining for workers ad-
22 versely affected by reduced consumption of coal;

23 (6) to provide economic development incentives
24 for communities adversely affected by reduced con-
25 sumption of coal; and

1 (7) to provide property tax relief for commu-
2 nities whose tax base is significantly affected by any
3 resulting plant retirements.

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 (1) ADMINISTRATOR.—The term “Adminis-
7 trator” means the Administrator of the Environ-
8 mental Protection Agency.

9 (2) GENERATING UNIT.—The term “generating
10 unit” means an electric utility generating facility
11 with a nameplate capacity of 15 megawatts or great-
12 er that uses a combustion device primarily to gen-
13 erate electricity for sale.

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

16 Section 111 of the Clean Air Act is amended by add-
17 ing the following new subsection at the end thereof:

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

20 “(1) IN GENERAL.—In addition to other re-
21 quirements applicable under this section to such
22 units, emissions of air pollutants from each fossil
23 fuel-fired electric generating unit that is a new
24 source or an existing source for purposes of this sec-
25 tion shall not exceed the following:

1 “(A) MERCURY.—Mercury emissions shall
2 not exceed 10 percent of the mercury otherwise
3 present in the flue gas. Not later than 2 years
4 after the date of enactment of this subsection,
5 the Administrator, in consultation with the Sec-
6 retary of Energy, shall promulgate methods for
7 determining initial and continuing compliance
8 with this subparagraph and fuel sampling tech-
9 niques and emission monitoring techniques for
10 use by generating units in calculating mercury
11 emission reductions for the purposes of this
12 subparagraph.

13 “(B) SULFUR DIOXIDE.—Sulfur dioxide
14 emissions shall not exceed 3.0 pounds per
15 megawatt hour and total annual sulfur dioxide
16 emissions shall not exceed 3.0 pounds multi-
17 plied by the average megawatt hours generated
18 by the unit in the calendar years 1998 through
19 2000.

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

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

3 “(2) REPORTING.—

4 “(A) IN GENERAL.—Not less often than
5 quarterly, the owner or operator of each electric
6 utility generating unit shall submit a pollutant-
7 specific emission report for each pollutant cov-
8 ered by this subsection and for carbon dioxide.

9 “(B) SIGNATURE.—Each report required
10 under subparagraph (A) shall be signed by a re-
11 sponsible official of the generating unit, who
12 shall certify the accuracy of the report.

13 “(C) PUBLIC REPORTING.—The Adminis-
14 trator shall annually make available to the pub-
15 lic, through 1 or more published reports and 1
16 or more forms of electronic media, facility-spe-
17 cific emission data for each generating unit and
18 pollutant covered by this subsection and for
19 carbon dioxide.

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

1 by the unit, on a regular basis (but not less
2 often than annually) and in a manner conven-
3 ient to the consumers, data concerning the level
4 of emissions by the generating unit of carbon
5 dioxide and each pollutant covered by this sec-
6 tion.

7 “(3) EFFECTIVE DATE.—This subsection shall
8 take effect on January 1, 2005, and on that date
9 each unit covered by this subsection shall be re-
10 quired to have a permit issued under title V that re-
11 quires compliance with this subsection.”.

12 **SEC. 5. TONNAGE CAP FOR CARBON DIOXIDE.**

13 (a) GENERATION PERFORMANCE STANDARD.—For
14 each calendar year beginning after December 31, 2004,
15 the Administrator shall calculate a generation perform-
16 ance standard for carbon dioxide from covered fossil fuel-
17 fired electric generating units. The standard shall be equal
18 to 1.914 billion tons divided by the Commission’s estimate
19 (under this section) of total electric generation from all
20 such units during that year. The Administrator shall pub-
21 lish such standard (expressed in pounds per megawatt
22 hour) at least 30 days prior to the beginning of the cal-
23 endar year concerned. For purposes of this section, the
24 term “covered fossil fuel-fired electric generating unit”

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

3 (b) ALLOCATION AND TRADING OF ALLOWANCES.—

4 (1) IN GENERAL.—For each calendar year be-
5 ginning after December 31, 2004, the Administrator
6 shall allocate allowances for carbon dioxide among
7 covered fossil fuel-fired electric generating units by
8 multiplying the generation performance standard for
9 that calendar year by each unit’s electric generation
10 during the calendar year.

11 (2) CARRYOVER AND TRADING OF ALLOW-
12 ANCES.—Allowances allocated to any unit for any
13 calendar year that are not used to demonstrate com-
14 pliance with subsection (c) for that calendar year
15 may be retained and used to demonstrate compliance
16 with such requirements by any person in a subse-
17 quent calendar year. Such allowances may be trans-
18 ferred from the unit to which allocated to any other
19 unit. Any person to whom such allowances have been
20 transferred may use the allowances in the calendar
21 year or in a subsequent calendar year to dem-
22 onstrate compliance with this section or may trans-
23 fer such allowances to any other person for such
24 purposes.

1 (c) COMPLIANCE WITH ALLOWANCE LIMITS.—For
2 each calendar year beginning after December 31, 2004,
3 the owner or operator of each covered fossil fuel-fired elec-
4 tric generating unit shall surrender to the Administrator
5 a number of allowances for carbon dioxide equal to the
6 total tonnage of carbon dioxide emitted by that unit dur-
7 ing the calendar year. Emissions shall be determined
8 based on continuous monitoring approved by the Adminis-
9 trator. The Administrator may permit the average rate of
10 emissions from a covered fossil fuel-fired electric gener-
11 ating unit over any calendar year to exceed the generation
12 performance standard if the generating plant has a suffi-
13 cient quantity of emissions credits.

14 (d) EXCESS EMISSIONS.—The owner or operator of
15 any covered fossil fuel-fired electric generating unit that
16 emits carbon dioxide in any calendar year in excess of the
17 allowances for such air pollutant that the owner or oper-
18 ator holds for use for the unit for the calendar year shall
19 be liable for the payment of an excess emissions penalty,
20 and shall be liable to offset the excess emissions by an
21 equal tonnage amount of such air pollutant in the fol-
22 lowing calendar year or such other period as the Adminis-
23 trator shall prescribe. The excess emissions penalty shall
24 be calculated on the basis of the number of tons emitted
25 in excess of the total number of allowances held, multiplied

1 by \$100, indexed by inflation under rules promulgated by
2 the Administrator. Excess emissions penalties and offsets
3 shall be determined and administered in accordance with
4 regulations to be promulgated by the Administrator within
5 6 months after the enactment of this section. The failure
6 or refusal of any person to pay the full amount of any
7 excess emission penalty imposed under this section shall
8 be punishable by a fine of \$10,000 for each day during
9 which such failure or refusal continues.

10 (e) ESTIMATE OF ELECTRIC GENERATION.—For
11 each calendar year beginning after December 31, 2004,
12 the Administrator shall publish the Administrator’s esti-
13 mate of the total electric generation by covered fossil fuel-
14 fired electric generating units. Such estimate shall be com-
15 puted based on total electric energy generation from all
16 covered fossil fuel-fired electric generating units during
17 the current year or calendar year plus the projected
18 growth (as determined by the Secretary of Energy) in elec-
19 tric energy generation and expected verifiable electric en-
20 ergy conservation for the calendar year. The Adminis-
21 trator shall publish such estimate at least 30 days prior
22 to the beginning of the applicable period for which the es-
23 timate is made.

1 **SEC. 6. DISPOSAL OF MERCURY AND OTHER HAZARDOUS**
2 **WASTES.**

3 (a) CAPTURED OR RECOVERED MERCURY.—Not
4 later than 2 years after the date of enactment of this Act,
5 the Administrator shall promulgate regulations under sub-
6 title C of the Solid Waste Disposal Act and other applica-
7 ble provisions of law to ensure that mercury or other haz-
8 ardous wastes captured or recovered through the use of
9 an emission control method, or coal cleaning, or another
10 process associated with the combustion of fossil fuels for
11 the generation of electricity is disposed of in a manner
12 that ensures that—

13 (1) the hazards from mercury or other haz-
14 ardous waste are not transferred from one environ-
15 mental medium to another; and

16 (2) there is no release of mercury or other haz-
17 ardous waste into the environment.

18 (b) SLUDGES AND WASTES CONTAINING MERCURY
19 OR OTHER HAZARDOUS WASTES.—The regulations pro-
20 mulgated by the Administrator under subsection (a) shall
21 ensure that sludges and wastes containing mercury or
22 other hazardous wastes are handled and disposed of in ac-
23 cordance with all applicable Federal and State laws (in-
24 cluding regulations).

25 (c) CERTAIN PROVISIONS NOT APPLICABLE.—Sec-
26 tion 3001(b)(3)(A) of the Solid Waste Disposal Act is

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

3 **SEC. 7. RECOGNITION OF PERMANENT EMISSION REDUC-**
4 **TIONS IN FUTURE CLIMATE CHANGE IMPLE-**
5 **MENTATION PROGRAMS.**

6 It is the sense of Congress that—

7 (1) permanent reductions in emissions of car-
8 bon dioxide and nitrogen oxides that are accom-
9 plished through the retirement of old generating
10 units and replacement by new generating units that
11 meet the emission standards specified in this Act, or
12 through replacement of old generating units with
13 nonpolluting renewable power generation tech-
14 nologies, should be credited to the utility sector, and
15 to the owner or operator that retires or replaces the
16 old generating unit, in any climate change imple-
17 mentation program enacted by Congress;

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

22 (3) a reasonable portion of any monetary value
23 that may accrue from the crediting described in
24 paragraph (1) should be passed on to utility cus-
25 tomers.

1 **SEC. 8. EVALUATION OF IMPLEMENTATION OF THIS ACT**
2 **AND OTHER STATUTES.**

3 (a) **IN GENERAL.**—Not later than 2 years after the
4 date of enactment of this Act, the Secretary of Energy,
5 in consultation with the Chairman of the Federal Energy
6 Regulatory Commission and the Administrator, shall sub-
7 mit to Congress a report on the implementation of this
8 Act.

9 (b) **IDENTIFICATION OF CONFLICTING LAW.**—The
10 report shall identify any provision of the Energy Policy
11 Act of 1992 (Public Law 102–486), the Energy Supply
12 and Environmental Coordination Act of 1974 (15 U.S.C.
13 791 et seq.), the Public Utility Regulatory Policies Act
14 of 1978 (16 U.S.C. 2601 et seq.), the Powerplant and In-
15 dustrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.),
16 or the Solid Waste Disposal Act (42 U.S.C 6901 et seq.),
17 or the amendments made by those Acts, that conflicts with
18 the intent or efficient implementation of this Act.

19 (c) **RECOMMENDATIONS.**—The report shall include
20 recommendations from the Secretary of Energy, the
21 Chairman of the Federal Energy Regulatory Commission,
22 and the Administrator for legislative or administrative
23 measures to harmonize and streamline the statutes speci-
24 fied in subsection (b) and the regulations implementing
25 those statutes.

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

3 In addition to amounts made available under any
4 other law, there is authorized to be appropriated
5 \$75,000,000 for each of fiscal years 2002 through 2016
6 to provide assistance, under the economic dislocation and
7 worker adjustment assistance program of the Department
8 of Labor authorized by title III of the Job Training Part-
9 nership Act (29 U.S.C. 1651 et seq.), to coal and oil in-
10 dustry workers who are terminated from employment as
11 a result of reduced consumption of oil and coal by the elec-
12 tric power generation industry.

13 **SEC. 10. COMMUNITY ECONOMIC DEVELOPMENT INCEN-**
14 **TIVES FOR COMMUNITIES ADVERSELY AF-**
15 **FECTED BY REDUCED CONSUMPTION OF**
16 **COAL.**

17 In addition to amounts made available under any
18 other law, there is authorized to be appropriated
19 \$75,000,000 for each of fiscal years 2002 through 2016
20 to provide assistance, under the economic adjustment pro-
21 gram of the Department of Commerce authorized by the
22 Public Works and Economic Development Act of 1965 (42
23 U.S.C. 3121 et seq.), to assist communities adversely af-
24 fected by reduced consumption of coal by the electric
25 power generation industry.

1 **SEC. 11. CARBON SEQUESTRATION.**

2 (a) CARBON SEQUESTRATION STRATEGY.—In addi-
3 tion to amounts made available under any other law, there
4 is authorized to be appropriated to the Environmental
5 Protection Agency and the Department of Energy for each
6 of fiscal years 2002 through 2004 a total of \$15,000,000
7 to conduct research and development activities in basic
8 and applied science in support of development by Sep-
9 tember 30, 2004, of a carbon sequestration strategy that
10 is designed to offset all growth in carbon dioxide emissions
11 in the United States after 2010.

12 (b) METHODS FOR BIOLOGICALLY SEQUESTERING
13 CARBON DIOXIDE.—In addition to amounts made avail-
14 able under any other law, there is authorized to be appro-
15 priated to the Environmental Protection Agency and the
16 Department of Agriculture for each of fiscal years 2002
17 through 2011 a total of \$30,000,000 to carry out soil res-
18 toration, tree planting, wetland protection, and other
19 methods of biologically sequestering carbon dioxide.

20 **SEC. 12. PROPERTY TAX RELIEF.**

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

24 (1) provide 10 percent or more of the munic-
25 ipality's annual property tax revenue in the munic-

1 pality’s last fiscal year ending before the enactment
2 of this Act, and

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

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

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

13 Section 112 of the Clean Air Act is amended as fol-
14 lows:

15 (1) By repealing the last sentence of section
16 112(n)(1)(A).

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

○