State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

147V0710

HOUSE CONCURRENT RESOLUTION NO. 1022

Introduced by: Representatives Craig, Anderson, Bolin, Cammack, Campbell, Cronin, Duvall, Ecklund, Erickson, Gosch, Greenfield, Haggar (Don), Haggar (Jenna), Heinemann (Leslie), Hickey, Hoffman, Johns, Kaiser, Kopp, Langer, Latterell, Magstadt, May, Mickelson, Nelson, Olson (Betty), Qualm, Rasmussen, Rozum, Schaefer, Schoenfish, Sly, Solum, Stalzer, Steele, Stevens, Tulson, Westra, Wick, and Wink and Senators Rampelberg, Brown, Ewing, Holien, Lederman, Maher, Rave, Rhoden, and Solano

A CONCURRENT RESOLUTION, Concerning U.S. EPA-proposed greenhouse gas emission standards for new and existing fossil-fueled power plants.

WHEREAS, on June 25, 2013, the President issued a memorandum to the U.S. EPA administrator directing the EPA to propose new source performance standards for greenhouse gases that establish limits for carbon dioxide (CO2) emissions from new fossil-fuel fired electric generating units, which the administrator did on September 20, 2013; and by the same memorandum directed the administrator to:

(1) Issue proposed carbon pollution standards, regulations, or guidelines, as appropriate, for modified, reconstructed, and existing power plants by no later than June 1, 2014;

(2) Issue final standards, regulations, or guidelines, as appropriate for modified, reconstructed, and existing power plants by no later than June 1, 2015;

(3) Include in the guidelines addressing existing power plants a requirement that states

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submit to the U.S. EPA the implementation plans required under Section 111(d) of the Clean Air Act and its implementing regulations by no later than June 30, 2016; and

WHEREAS, the President instructed the EPA, in its efforts to address carbon emissions from modified, reconstructed, and existing power plants to engage directly with states, and expressly recognized that states "will play a central role in establishing and implementing standards for existing power plants"; and

WHEREAS, the President instructed the EPA to work with state agencies to "promote the reliable and affordable provision of electric power through the continued development and deployment of cleaner technologies and by increasing energy efficiency, including through stronger appliance efficiency standards and other measures"; and

WHEREAS, EPA is proposing two standards for new fuel-fired utility boilers and IGCC units of 1,100 pounds of CO2 per gross megawatt-hour over a twelve-operating month period or 1,000-1,050 lbs CO2/MWh gross over an eighty-four-operating month period, both of which would require new coal units to employ at least partial carbon capture and storage (CCS) technology; and

WHEREAS, EPA is proposing two standards for new natural gas-fired stationary combustion units of 1,000 lbs CO2/MWh gross for units greater than 850 million British thermal units per hour and 1,100 lbs Co2/MWh gross for units less than or equal to 850 mmBtu/hr, neither of which would require the use of any CCS technology; and

WHEREAS, the August 2010 report of President Obama's Interagency Task Force on Carbon Capture and Storage determined that CCS technologies "are not ready for widespread implementation primarily because they have not been demonstrated at the scale necessary to establish confidence for power plant application"; and

WHEREAS, EPA has failed to establish the CCS is the best system of emission reduction that has been adequately demonstrated, as required by the Clean Air Act and its implementing regulations; and

WHEREAS, the U.S. Department of Energy's National Energy Laboratory has found that the application of currently researched CCS technology to new coal-fired power plants could increase the cost of electricity produced by such plants by eighty percent, which would severely impact industrial, commercial, and especially residential consumers; and

WHEREAS, the most efficient coal-fired power plants, such as those that use the commercially available ultra-supercritical and supercritical technologies represent the best system of emission reduction that has been adequately demonstrated, but alone would be insufficient to achieve EPA's proposed performance standard; and

WHEREAS, South Dakota strongly supports a diversified energy mix in an "all-of-the-above" energy strategy and not an "all-but-one" approach that restricts the future use of coal to generate affordable electricity; and

WHEREAS, the new proposal does not correct deficiencies in the standards originally proposed by U.S. EPA in April 2012; and

WHEREAS, in 2012 CO2 emissions from U.S. coal-based electric generation were twenty-three percent below 2005 levels according to the U.S. EPA Clean Air Markets Acid Rain Program database; and

WHEREAS, currently a large percentage of electricity in the United States is produced by coal-based load power plants, and CO2 emissions from electric generation are continuing to decrease due to retirements of units that are uneconomic to retrofit to comply with other EPA regulations and operate due to market conditions; and

WHEREAS, total CO2 emissions for the U.S. have been decreasing and are on track to meet

the administration's nonbinding target of seventeen percent below 2005 levels by 2020; and

WHEREAS, EPA's proposed requirements do not sufficiently recognize that accumulation of greenhouse gases in the atmosphere is a global issue and global action is required to address it; and

WHEREAS, Section 111(d) and its implementing regulations define roles, authority, and discretion for EPA and the states, and EPA is required to establish a procedure so that states are able to use their full authority and discretion to develop performance standards and implementation plans for existing plants based on all flexibility mechanisms available under the Clear Air Act and its implementing regulations; and

WHEREAS, Section 111(d) and EPA's current implementing regulations expressly authorize states to take into account factors as the "unreasonable cost of control resulting from plant age, location, or basic process design," "physical impossibility of installing necessary control equipment," and "any other factors specific to the facility or class of facilities that make application of a less stringent standard or final compliance time significantly more reasonable" when making determinations on the application of the appropriate standard of performance to a particular existing source; and

WHEREAS, states already have the authority conferred by the Clean Air Act and its implementing regulations to decide and to demonstrate the application of less stringent emission standards or longer compliance schedules than those provided in applicable rules or emission guidelines; and

WHEREAS, the states rely on EPA to issue a procedure under Section 111(d) and its implementing regulations that reflects the best system of direct emission reductions at affected facilities taking into account the cost of achieving such reduction and any non-air quality health and environmental impact and energy requirements; and

WHEREAS, states have jurisdiction over integrated resource planning and other resource adequacy decisions, processes which ultimately determine the mixes of fuels in state generation portfolios, which differ from state to state; and

WHEREAS, states have different mixes of fuels and resources in their existing generation portfolios; and

WHEREAS, coal provides affordable and reliable electricity to forty-eight states, including the twenty-nine states that rely on coal to provide more than twenty-five percent of their electric generation and the fifteen states that rely on coal to provide more than fifty percent of their electricity generation; and

WHEREAS, states have achieved different levels of CO2 reductions, have diverse economies and energy needs, and face different economic conditions, including states with energy intensive manufacturing industries that provide goods for the entire nation; and

WHEREAS, Section 111(d) and its implementing regulations provide discretion for states to maintain the operation of coal-based electricity generating plants through the end of their useful lives that meet environmental performance requirements for conventional and hazardous air pollutants:

NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Eighty-Ninth Legislature of the State of South Dakota, the Senate concurring therein, that the South Dakota Legislature urges the Administration and Congress with input from federal agencies to establish a national energy policy that encourages access to and removal of impediments to all available domestic sources of energy so that it is affordable and reliable; and

BE IT FURTHER RESOLVED, that the policy should not infringe upon states' authority already provided by the Clean Air Act and its implementing regulations that allows states individually or regionally to take into account the different makeup of existing power generation

and resource mix in each state and region and using current regulations that provide for states to be able to demonstrate less stringent emission standards and longer compliance schedules for affected facilities; and

BE IT FURTHER RESOLVED, that the policy should recognize state and regional variations in the provision of affordable and reliable electricity so that each state can minimize compliance costs to ratepayers and maintain reliability.