

118TH CONGRESS
1ST SESSION

S. 1923

To prohibit the Environmental Protection Agency from finalizing, implementing, or enforcing a proposed rule with respect to new source performance standards from certain stationary sources, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 12, 2023

Mrs. CAPITO (for herself and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To prohibit the Environmental Protection Agency from finalizing, implementing, or enforcing a proposed rule with respect to new source performance standards from certain stationary sources, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protect Our Power
5 Plants Act of 2023” or the “POPP Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the decision of the Supreme Court of the
2 United States in *West Virginia v. Environmental*
3 *Protection Agency* (2022) states that Congress must
4 speak clearly if Congress wishes to assign to an
5 agency decisions of vast economic and political sig-
6 nificance;

7 (2) Congress has not provided the Environ-
8 mental Protection Agency with authorization for the
9 proposed rule of the Environmental Protection
10 Agency entitled “New Source Performance Stand-
11 ards for Greenhouse Gas Emissions From New,
12 Modified, and Reconstructed Fossil Fuel-Fired Elec-
13 tric Generating Units; Emission Guidelines for
14 Greenhouse Gas Emissions From Existing Fossil
15 Fuel-Fired Electric Generating Units; and Repeal of
16 the Affordable Clean Energy Rule” (88 Fed. Reg.
17 33240 (May 23, 2023)), a proposed rule that is in-
18 tended to completely reshape the electricity grid and
19 therefore has vast economic and political signifi-
20 cance;

21 (3) section 111 of the Clean Air Act (42 U.S.C.
22 7411) requires the best system of emission reduction
23 to be adequately demonstrated;

24 (4) the carbon capture and clean hydrogen
25 technologies proposed as the best system of emission

1 reduction have not been commercially utilized, are
2 not cost-effective, and are not feasible, and are
3 therefore not adequately demonstrated; and

4 (5) the proposed rule described in paragraph
5 (2) is an illegal interpretation of section 111 of the
6 Clean Air Act (42 U.S.C. 7411) and has not been
7 authorized by that section or any other provision of
8 Federal law.

9 **SEC. 3. PROPOSED NEW SOURCE PERFORMANCE STAND-**
10 **ARDS AND EMISSIONS GUIDELINES FOR**
11 **GREENHOUSE GAS EMISSIONS FROM CER-**
12 **TAIN STATIONARY SOURCES.**

13 The Administrator of the Environmental Protection
14 Agency may not finalize, implement, or enforce the pro-
15 posed rule of the Environmental Protection Agency enti-
16 tled “New Source Performance Standards for Greenhouse
17 Gas Emissions From New, Modified, and Reconstructed
18 Fossil Fuel-Fired Electric Generating Units; Emission
19 Guidelines for Greenhouse Gas Emissions From Existing
20 Fossil Fuel-Fired Electric Generating Units; and Repeal
21 of the Affordable Clean Energy Rule” (88 Fed. Reg.
22 33240 (May 23, 2023)) or a substantially similar rule.

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