

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE DRH20194-SB-9 (03/06)

Short Title: Implementation of Carbon Dioxide Regulations. (Public)

Sponsors: Representatives McGrady, Hager, and Robinson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL  
3 RESOURCES TO DEVELOP A STATE IMPLEMENTATION PLAN IN COMPLIANCE  
4 WITH THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S  
5 REGULATION OF CARBON DIOXIDE EMISSIONS FOR EXISTING STATIONARY  
6 SOURCES.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Definitions. – The following definitions apply to this act:

- 9 (1) "Department" means the Department of Environment and Natural Resources.  
10 (2) "Electric generating unit" means a steam generating unit, an integrated  
11 gasification combined cycle facility, or a stationary combustion turbine  
12 regulated under the EPA Clean Power Plan.  
13 (3) "Electric power supplier" means a public utility, an electric membership  
14 corporation, or a municipality that sells electric power to the retail electric  
15 power customers in the State.  
16 (4) "Environmental Protection Agency" or "EPA" means the United States  
17 Environmental Protection Agency or the Administrator of the United States  
18 Environmental Protection Agency.  
19 (5) "EPA Clean Power Plan" means the Environmental Protection Agency's  
20 regulation of carbon dioxide emissions for existing stationary sources, as  
21 published under docket EPA-HQ-OAR-2013-0602, and as subsequently  
22 amended by the EPA.  
23 (6) "State Plan" means the State Plan authorized by the EPA Clean Power Plan.

24 **SECTION 2.** In accordance with the requirements of the Environmental Protection  
25 Agency's regulation of carbon dioxide emissions for existing stationary sources, as published  
26 under docket EPA-HQ-OAR-2013-0602, and as subsequently amended by the EPA, the  
27 Department of Environment and Natural Resources shall develop a State Plan for compliance  
28 with the EPA Clean Power Plan. In developing the State Plan, the Department shall do all of  
29 the following:

- 30 (1) Develop the State Plan in consultation with the Environmental Management  
31 Commission and the Utilities Commission.  
32 (2) Establish a State Plan Advisory Board to assist it with the development of  
33 the State Plan. The State Plan Advisory Board shall consist of all of the  
34 following:



- 1 a. Representatives of other State agencies with expertise related to the  
2 development of the State Plan or responsibility for implementing the  
3 State Plan, including the Governor's Office.
- 4 b. Representatives of electric power consumers, including the Public  
5 Staff of the Utilities Commission.
- 6 c. Representatives of electric power suppliers.
- 7 d. Representatives of nongovernmental environmental protection and  
8 conservation organizations.
- 9 e. Representatives of businesses that provide renewable energy or  
10 renewable energy equipment and infrastructure.
- 11 f. Representatives of scientific, academic, or research institutions with  
12 expertise in electric power generation and supply, the regulation and  
13 management of carbon dioxide emissions, and the public health  
14 effects of carbon dioxide emissions.
- 15 g. Persons or representatives of any other entities that the Department  
16 determines could provide assistance in the development of the State  
17 Plan.
- 18 (3) Hold at least three public hearings no later than February 1, 2016, for the  
19 purpose of obtaining evidence and information regarding the development of  
20 the State Plan. The Department shall have the power to subpoena witnesses  
21 for such purposes. One of these public hearings shall be held in the mountain  
22 region of the State, one in the central region of the State, and one in the  
23 coastal region of the State. The Department may hold additional public  
24 hearings for the purpose of obtaining evidence and information regarding the  
25 development of the State Plan. The Department shall accept and consider all  
26 oral testimony received regarding the development of the State Plan.
- 27 (4) Establish a Web site capable of receiving written testimony regarding the  
28 development of the State Plan and to inform the public of the Department's  
29 progress in implementing this act. The Department shall accept and consider  
30 all written testimony submitted regarding the development of the State Plan.
- 31 (5) Determine how much credit the State will receive toward meeting carbon  
32 dioxide reduction goal set out in the EPA Clean Power Plan based on actions  
33 the State has already taken to encourage the development of renewable  
34 energy sources and to reduce emissions from electric generating units.
- 35 (6) Consider all of the following in the development of the State Plan:
  - 36 a. Whether to rely on measures the Environmental Protection Agency  
37 used to calculate the carbon dioxide reduction goal, as well as other  
38 measures that were not part of the Environmental Protection  
39 Agency's goal-setting process.
  - 40 b. Whether the State should participate in multistate carbon dioxide  
41 reduction programs that already exist, or whether a new multistate  
42 carbon dioxide reduction program should be established.
  - 43 c. Whether the State should collaborate with one or more other states  
44 for purposes of compliance with the EPA Clean Power Plan.
  - 45 d. Whether the State should invest in energy efficiency programs to  
46 assist in complying with the EPA Clean Power Plan.
  - 47 e. When individual electric generating units must make reductions.
  - 48 f. How to provide flexibility to electric power suppliers in complying  
49 with the State Plan.
  - 50 g. The extent to which any of the following should be included in the  
51 State Plan:

1. Demand-side energy efficiency programs.
  2. Renewable energy standards.
  3. Efficiency improvements at existing electric generating units.
  4. Cofiring or switching to natural gas, transmission efficiency improvements, and energy storage technologies, to the extent the EPA allows these measures for compliance with the EPA Clean Power Plan.
  5. The retirement or deactivation of existing electric generating units.
  6. The expansion of nonremitting sources, such as nuclear power.
  7. Market-based trading.
  8. Other energy conservation programs.
  9. Other methods of compliance.
- h. How best to avoid stranded investments in existing electric generating units, including a consideration of the remaining useful life of each electric generating unit.
- (7) Prioritize the components of the State Plan based on a least-cost compliance approach to benefit the retail electric power customers in the State.
  - (8) Consider the necessity and value of having a diverse generation fleet to ensure electric reliability in the State.
  - (9) Consider the feasibility and value of including in the State Plan a process that would allow exceedances of the EPA Clean Power Plan to occur within the State when necessary to ensure reliable electric service, maintain safe operations, or prevent excessive increases in rates. If the Department determines that the State Plan should include such a process, the Department shall work with the Utilities Commission and the State Plan Advisory Board to define excessive increases in rates.
  - (10) Consider whether to request from the Environmental Protection Agency an extension of time from the June 30, 2016, State Plan submission deadline in order to fully consider the factors set out in this act and to allow adequate time for the State to enact or amend applicable State law necessary for establishment of a State Plan that will comply with the requirements of the EPA Clean Power Plan. Notwithstanding this subdivision, the Department shall submit all the information required for initial submittals under the EPA Clean Power Plan.
  - (11) Meet at least monthly with the Environmental Management Commission, the Utilities Commission, and the Advisory Board in the development of the State Plan.

**SECTION 3.** The Department shall provide interim reports on its progress in implementing this act and developing the State Plan to the Environmental Review Commission no later than October 1, 2015, and January 1, 2016. The Department shall provide a final report on its progress in implementing this act and developing the State Plan to the Environmental Review Commission no later than April 1, 2016.

**SECTION 4.** The State Plan established by the Department pursuant to this act or any other State or federal law shall have no legal effect if any of the following occurs:

- (1) The Environmental Protection Agency fails to issue or withdraws the EPA Clean Power Plan.
- (2) A court of competent jurisdiction invalidates the EPA Clean Power Plan.

**SECTION 5.** This act is effective when it becomes law.