

ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 571

AMENDMENT NO. A1
(to be filled in by
Principal Clerk)

H571-ASB-79 [v.10]

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Amends Title [YES]
Second Edition

Date _____, 2015

Senator Wade

1 moves to delete the Short Title and substitute "Implement Clean Power Plan"; and
2
3 moves to amend the bill on page 1, line 1 through page 1, line 19,
4 by rewriting the lines to read:
5

6 "A BILL TO BE ENTITLED
7 AN ACT TO REQUIRE STATE AGENCIES, BOARDS, AND COMMISSIONS TO
8 IMPLEMENT A CLEAN POWER PLAN CONSISTENT WITH THE FEDERAL CLEAN
9 AIR ACT.

10 The General Assembly of North Carolina enacts:

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

- 12 (1) "Coal-Fired Steam Emission Generating Unit" means a steam generating
13 unit that has a base load rating greater than 73 MW (250 MMBtu/h) heat
14 input of fossil fuel, either alone or in combination with any other fuel, and
15 was constructed for the purpose of supplying one-third or more of its
16 potential electrical output and more than 219,000 MWh net-electric output to
17 a utility distribution system on an annual basis. A steam generating unit
18 includes, and shall not extend beyond the following systems: (i) a fuel
19 combustion system, including bunker, coal pulverizer, crusher, stoker, and
20 fuel burners; (ii) a combustion air system; (iii) a steam generating system;
21 and (iv) a draft system.
- 22 (2) "Environmental Protection Agency" or "EPA" means the United States
23 Environmental Protection Agency or the Administrator of the United States
24 Environmental Protection Agency.
- 25 (3) "EPA Clean Power Plan" means the Environmental Protection Agency's
26 regulation of carbon dioxide emissions for existing stationary sources, as
27 published under docket EPA-HQ-OAR-2013-0602, and as subsequently
28 amended by the EPA.
- 29 (4) "Heat rate" means the amount of energy used by an electrical generator or
30 power plant to generate one kilowatt-hour (kWh) of electricity. The United
31 States Energy Information Administration expresses heat rates in British
32 thermal units of energy (Btu) per net kWh generated. Net generation is the



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1 amount of electricity a power plant or generator supplies to the power
2 transmission line connected to the power plant. Net generation accounts for
3 all the electricity that the plant itself consumes to operate the generators and
4 other equipment, such as fuel feeding systems, boiler water pumps, cooling
5 equipment, and pollution control devices.

6 (5) "State Plan" means the State Plan required under 42 U.S.C. §7411(d).

7 **SECTION 2.(a)** Notwithstanding any other provision of law and except as
8 provided by this act, no State agency, board, or commission may adopt rules, expend funds, or
9 take any other action to develop a State Plan, implement the EPA Clean Power Plan, or adopt a
10 carbon dioxide emission reduction plan.

11 **SECTION 2.(b)** The Department of Environment and Natural Resources, in
12 consultation with the Environmental Management Commission, the Utilities Commission, and
13 the Utilities Commission Public Staff shall develop and submit a State Plan that requires only
14 criteria to improve heat rates at affected Coal-Fired Steam Emission Generating Units. Heat
15 rate improvements may only be required in the State Plan if, among other factors required
16 under the Clean Air Act, they are technically achievable and cost-effective considering any
17 additional Clean Air Act requirements that may be triggered by such heat rate improvements.
18 The Department and Commissions shall adopt rules as necessary for the development and
19 submittal of the State Plan.

20 **SECTION 3.(a)** Notwithstanding G.S. 150B-21.3(b1), all rules adopted pursuant to
21 Section 2.(b) of this act shall be subject to legislative review during the next regular session of
22 the General Assembly that begins after the date the Rules Review Commission approved the
23 rule or during the regular session that is underway on the date the Commission approved the
24 rule.

25 **SECTION 3.(b)** Notwithstanding G.S. 150B-21.3(b1) and any rule of either house
26 of the General Assembly, any member of the General Assembly may introduce a bill to
27 disapprove any rule adopted pursuant to Section 2.(b) of this act that has been approved by the
28 Rules Review Commission and that either has not become effective or has become effective by
29 executive order, as follows: (i) if the Rules Review Commission approves the rule prior to the
30 start of a legislative session, during the first 30 calendar days of the regular session of the
31 General Assembly that begins after the date the Commission approved all rules adopted
32 pursuant to Section 2.(b) of this act or (ii) if the Rules Review Commission approves the rule
33 during a legislative session, 30 calendar days from the date the Rules Review Commission
34 approved all rules adopted pursuant to Section 2.(b) of this act.

35 **SECTION 3.(c)** Notwithstanding G.S. 150B-21.3(b1) and any rule of either house
36 of the General Assembly, all rules adopted pursuant to Section 2.(b) of this act become
37 effective on the earlier of the following:

38 (1) If the Rules Review Commission approves all rules adopted pursuant to
39 Section 2.(b) of this act prior to the start of a legislative session, the earlier
40 of (i) the 31st calendar day of the regular session of the General Assembly
41 that begins after the date the Commission approved all rules adopted
42 pursuant to Section 2.(b) of this act if a bill that specifically disapproves any
43 of these rules has not been introduced in either house of the General

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1 Assembly by that date; (ii) if a bill that specifically disapproves a rule is
2 introduced in either house of the General Assembly before the 31st calendar
3 day of that session, the rule becomes effective on the earlier of either the day
4 an unfavorable final action is taken on the bill or the 61st calendar day of
5 that session if by that date a bill that specifically disapproves the rule has not
6 been ratified; or (iii) the day that session of the General Assembly adjourns
7 without ratifying a bill that specifically disapproves the rule.

8 (2) If the Rules Review Commission approves all rules adopted pursuant to
9 Section 2.(b) of this act during a legislative session, the earlier of (i) the 31st
10 calendar day after the date the Commission approved all rules adopted
11 pursuant to Section 2.(b) of this act if a bill that specifically disapproves a
12 rule has not been introduced in either house of the General Assembly by that
13 date; (ii) if a bill that specifically disapproves a rule is introduced in either
14 house of the General Assembly within 30 calendar days of the date that the
15 Commission approved all rules adopted pursuant to Section 2.(b) of this act,
16 the rule becomes effective on the earlier of either the day an unfavorable
17 final action is taken on the bill or the 61st day after the date that the
18 Commission approved all rules adopted pursuant to Section 2.(b) of this act
19 if by that date a bill that specifically disapproves the rule has not been
20 ratified; or (iii) the day that session of the General Assembly adjourns
21 without ratifying a bill that specifically disapproves the rule.

22 **SECTION 3.(d)** Notwithstanding G.S. 150B-21.9, the Rules Review Commission
23 must review any permanent rule adopted pursuant to Section 2.(b) of this act submitted to it by
24 the end of a month by the last day of the next month.

25 **SECTION 3.(e)** Rules adopted pursuant to Section 2.(b) of this act are exempt
26 from the provisions of Chapter 150B of the General Statutes that require that a certification be
27 obtained from the Office of State Budget and Management, including requirements under
28 G.S. 150B-19.1(h) and G.S. 150B-21.4, and any requirement for preliminary review by the
29 Office of State Budget and Management pursuant to G.S. 150B-21.26.

30 **SECTION 4.** The Secretary of Environment and Natural Resources shall bring an
31 action in the appropriate federal court or courts to challenge the EPA Clean Power Plan to the
32 extent that the EPA Clean Power Plan is inconsistent with or contrary to the federal Clean Air
33 Act or other federal law.

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

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SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

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and vote information, is available in the
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