

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

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

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

- 8 (1) Issue proposed carbon pollution standards, regulations, or guidelines, as appropriate,
9 for modified, reconstructed, and existing power plants by no later than June 1, 2014;
- 10 (2) Issue final standards, regulations, or guidelines, as appropriate for modified,
11 reconstructed, and existing power plants by no later than June 1, 2015;
- 12 (3) Include in the guidelines addressing existing power plants a requirement that states



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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