



H.R. 3797 — SENSE Act (Rep. Rothfus, R-PA)

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FLOOR SCHEDULE:

Scheduled for consideration on March 15, 2016, under a structured [rule](#)

TOPLINE SUMMARY:

[H.R. 3797](#), the Satisfying Energy Needs and Saving the Environment Act, would prohibit the Environmental Protection Agency (EPA) from reducing the number of emissions allowances for sulfur dioxide for power plants using coal refuse and provide a less stringent hydrogen chloride and sulfur dioxide emissions standard for these plants.

COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 3797 would have an insignificant cost to EPA. Because enacting H.R. 3797 would not affect direct spending or revenues, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 3797 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

H.R. 3797 would require the EPA to provide that the allocation of sulfur dioxide allowances for a coal refuse electric utility steam generating units are equivalent to the allocation of the unit-specific sulfur dioxide allowance allocation during the initial compliance period under the [Cross-State Air Pollution Rule](#) (CSAPR), for 2015 and 2016.

Any sulfur dioxide allowance allocation provided by the EPA after January, 2017: (1) would not be transferable for use by any other source not located at the same coal refuse-fired facility; (2) would be banked for application to compliance obligations in future compliance periods under CSAPR; and (3) would be surrendered upon the permanent cessation of coal refuse electric utility steam generating unit's operation. The EPA would not be authorized to increase the total budget of sulfur dioxide allowance allocations for a state for any compliance period under CSAPR.

The EPA would be authorized to allow the operator of a coal refuse electric utility steam generating unit to comply with emissions standard for hydrogen chloride and sulfur dioxide defined in the bill, that are less stringent than the [Mercury and Air Toxics Standards for Power Plants](#) (MATS).

The term “coal refuse” is defined in the bill as any byproduct of coal mining, physical coal cleaning, or coal preparation operation that contains coal, matrix material, clay, and other organic and inorganic material.

The House report (H. Rept. 114-445) accompanying H.R. 3797 can be found [here](#).

AMENDMENTS MADE IN ORDER:

- [#4 Pallone \(D-NJ\)](#): would strike the section of the bill requiring the EPA to allocate the same number of emissions allowances for sulfur dioxide to plants using coal refuse rather than reducing the number emissions allowances. The amendment would additionally redefine the term “electric utility steam generating unit” to mean an electric utility steam generating unit only and not the definition included in CSAPR.
- [#1 Engel \(D-NY\)](#): would allow the Governor of a state to opt-out of the CSAPR requirements in the bill if the governor were to make a determination that the implementation of the bill would increase the state’s overall compliance costs for CSAPR.
- [#2 Bera \(D-CA\)](#): would require the Government Accountability Office (GAO) to issue a report detailing the increase in emissions of sulfur dioxide and other air pollutants that would result from the bill’s implementation and the effect of such emissions on public health.
- [#3 Peters \(D-CA\)](#): would require the EPA to give notice of the bill’s anticipated effects on air quality to all states, municipalities, towns, tribal governments, or other governmental entities in areas that include or are adjacent to a coal refuse electric utility steam generating unit; or are likely to be affected by air emissions from such a unit.
- [#5 Veasey \(D-TX\)](#): would prohibit the bill from going into effect until the EPA certifies that implementation of H.R. 3797 would not cause or result in an increase of air pollutant emissions that adversely affect public health, including by increasing incidents of respiratory and cardiovascular illnesses and deaths, such as cases of heart attacks, asthma attacks, and bronchitis.

COMMITTEE ACTION:

H.R. 3797 was introduced on October 22, 2015 and was referred to the House Committee on Energy and Commerce. On March 7, 2016, the bill was ordered to be reported by the committee

ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

CONSTITUTIONAL AUTHORITY:

According to the sponsor: “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3 of the U.S. Constitution, “[t]o regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes...”

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