

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature – First Regular Session

COMMITTEE ON ENERGY, ENVIRONMENT AND NATURAL RESOURCES

Report of Regular Meeting
Monday, January 26, 2015
House Hearing Room 1 -- 2:00 p.m.

Convened 2:07 p.m.

Recessed

Reconvened

Adjourned 2:47 p.m.

Members Present

Mrs. Barton
Mrs. Carter
Mr. Clark
Mr. Finchem
Mr. Leach
Mr. Saldate
Ms. Steele
Mr. Bowers, Vice-Chairman
Mr. Pratt, Chairman

Members Absent

Request to Speak

Report – Attachment 1

Presentations

<u>Name</u>	<u>Organization</u>	<u>Attachments</u> <u>(Handouts)</u>
Mark Ourada	American Coalition for Clean Coal Electricity	2

Committee Action

<u>Bill</u>	<u>Action</u>	<u>Vote</u>	<u>Attachments (Summaries,</u> <u>Amendments, Roll Call)</u>
HB2395	DP	9-0-0-0	3, 4



Angela Diaz, Chairman Assistant
January 26, 2015

(Original attachments on file in the Office of the Chief Clerk; video archives available at <http://www.azleg.gov>)

Information Registered on the Request to Speak System

*House Energy, Environment and Natural Resources
(1/26/2015)*

HB2395, weights and measures; biofuels

Support:

Michelle Wilson, Arizona Department Of Weights And Measures; Susie Stevens, Western States Petroleum Association; Amanda Gray, Arizona Petroleum Marketers Association; Trish Hart, AZ FOOD MARKETING ALLIANCE; Mark Ellery, Caljet Of America

All Comments:

Susie Stevens, Western States Petroleum Association: WSPA appreciates the Department working so closely with stakeholders on these rules.; Mark Ellery, Caljet Of America: Expert witness if needed

HB2396, wildlife; guides; firearms

Support:

Elisha Dorfsmith, representing self; Trey Williams, AZ ASSOCIATION OF COUNTIES

HB2399, G&F; hunter harassment

Support:

Thomas Parker, FRATERNAL ORDER OF POLICE (AZ STATE LODGE); Don Isaacson, FRATERNAL ORDER OF POLICE (AZ STATE LODGE)

IMPACTS OF EPA'S CARBON PROPOSAL ON ARIZONA

BACKGROUND

- In 2013, Arizona relied on coal for nearly 40% of its electricity supply, with nuclear providing 29% and natural gas 24%. Hydroelectric power provided 5% of Arizona's electricity, and other renewables 2%.ⁱ Arizona's average electricity price of 10.16 cents/kWh last year was slightly above the national average.ⁱⁱ
- Currently, coal is responsible for 7,640 direct and indirect jobs in Arizona.ⁱⁱⁱ
- Many Arizona families are struggling with high energy costs. The 1.2 million low-income and middle-income families in Arizona -- 52% of the state's households -- spend 18% of their after-tax income on energy.^{iv} In addition, 31% of Arizona households receive Social Security.^v Lower income families and Social Security recipients are especially vulnerable to further increases in energy costs.^{vi}
- Utilities in Arizona have announced the retirement or conversion of three coal units (totaling 647 MW) due to EPA policies. Nationwide, utilities have announced the retirement or conversion of 381 coal units (totaling 60,104 MW) in 36 states due to EPA policies.^{vii}

EPA'S CARBON PROPOSAL

- In June, EPA proposed its "Clean Power Plan" (CPP) to reduce carbon dioxide (CO₂) emissions from existing coal-fired and natural gas-fired power plants in 49 states, including Arizona. EPA plans to finalize the proposal in June of next year.

- Under the EPA proposal, Arizona will be required to reduce the CO₂ emissions rate of its electric generating fleet by 52%, the *second most stringent reduction of any state*.^{viii} EPA's proposal will force Arizona to change the way the state produces electricity, reduce the amount of electricity used by Arizona consumers, and significantly increase the price of electricity.
- EPA *assumed* the following in order to set Arizona's emissions rate:
 - The efficiency of existing coal-fired units can be improved by 6%;^{ix}
 - Electricity generation from natural gas can be increased by 95%;^x
 - Electricity from coal can be eliminated;^{xi}
 - Electricity from non-hydro renewable energy sources can be increased by 115%;^{xii}
 - None of the state's nuclear generation will retire;^{xiii} and
 - Arizona consumers can reduce electricity use by almost 12%.^{xiv}
- This year, the Arizona legislature passed S.C.R. 1022, which supports CO₂ standards based on measures that can be implemented at fossil-fueled power plants ("inside the fence" measures). EPA's proposal conflicts with this resolution. The Arizona Attorney General signed a "white paper" last year opposing the approach that EPA proposed.^{xv} In addition, the Governor of Arizona signed a letter in September stating that EPA does not have the authority to regulate coal plants under section 111(d) of the Clean Air Act.^{xvi} In total, officials from over 30 states, including Arizona, have expressed opposition to the approach EPA included in its proposal. Further, 13 states have joined in litigation challenging EPA's proposal.^{xvii}

SERIOUS ECONOMIC AND RELIABILITY IMPACTS

- Modeling by NERA Economic Consulting projects that the CPP will cause a 14% increase in retail electricity prices for Arizona consumers, with a peak year increase of 15%.^{xviii}

- Another independent study conducted for the National Mining Association estimates similar impacts, including a peak year wholesale electricity price increase of over 40% for Arizona consumers.^{xix}
- NERA also projects double digit electricity price increases in 42 other states, as well as nationwide costs averaging \$41 billion to \$73 billion per year. NERA's projections include \$560 billion that consumers nationwide will have to spend to reduce their electricity use.^{xx}
- Grid operators and electric utilities in many regions of the country are expressing serious concerns about the threat of EPA's proposal to electric reliability.^{xxi}

NO BENEFITS

- In 2013 the U.S. electric sector emitted 2.05 billion metric tons of CO₂, representing approximately 4% of global anthropogenic greenhouse gas emissions.^{xxii}
- Analysis based on another EPA rulemaking shows that the climate effects of the EPA proposal are meaningless. For example, the atmospheric CO₂ concentration would be reduced by less than 0.5%; global average temperature increase would be reduced by less than 2/100^{ths} of a degree Fahrenheit; and sea level rise would be reduced by 1/100th of an inch (the thickness of three sheets of paper).^{xxiii}
- To justify the EPA proposal, its supporters argue the U.S. must show global leadership in reducing CO₂ emissions. However, other countries are abandoning pledges to reduce emissions or increasing emissions regardless of their pledges. According to the *Washington Post*, many industrialized countries are not expected to meet their commitments to reduce CO₂ emissions.^{xxiv}

November 3, 2014

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- ⁱ U.S. Energy Information Administration, *Electric Power Monthly*, February 2014.
- ⁱⁱ *Ibid.*
- ⁱⁱⁱ National Mining Association, <http://www.countoncoal.org/states/>.
- ^{iv} Eugene M. Trisko, *Energy Cost Impacts on Arizona Families*, January 2014.
- ^v *Ibid.*
- ^{vi} *Ibid* and The 60 Plus Association, *Energy Bills Challenge America's Fixed-Income Seniors*, 2014.
- ^{vii} ACCCE, *Coal Unit Shutdowns as of October 23, 2014*. Retirements and conversions are based on public announcements by the coal unit owners.
- ^{viii} The percentage reduction is relative to emission rates in 2012. The Arizona emissions rate goal is from Table 8, pages 346 – 348, of EPA's proposal, and 2012 emission rates are found in EPA's *Goal Computation Technical Support Document*, June 2014. <http://www2.epa.gov/sites/production/files/2014-05/documents/20140602tsd-goal-computation.pdf>.
- ^{ix} EPA, *GHG Abatement Measures* technical support document, June 2014. EPA assumes the heat rate of every coal-fired electric generating unit can be improved by 6%.
- ^x EPA, *Technical Support Document (TSD) for the CAA Section 111(d) Emission Guidelines for Existing Power Plants: Goal Computation Technical Support Document*, June 2014, Appendix 1.
- ^{xi} *Ibid.*
- ^{xii} EPA, *Technical Support Document (TSD) for the CAA Section 111(d) Emission Guidelines for Existing Power Plants: GHG Abatement Measures*, June 2014, Table 4.9.
- ^{xiii} EPA, *Technical Support Document (TSD) for the CAA Section 111(d) Emission Guidelines for Existing Power Plants: Goal Computation Technical Support Document*, June 2014, page 14.
- ^{xiv} EPA, *Regulatory Impact Analysis for the Proposed Carbon Pollution Guidelines for Existing Power Plants and Emission Standards for Modified and Reconstructed Power Plants*, June 2014, Table 3.3.
- ^{xv} *Perspective of 18 States on Greenhouse Gas Emission Performance Standards for Existing Sources under § 111(d) of the Clean Air Act*, signed by 17 Attorneys General and the Commissioner of the Indiana Department of Environmental Management, September 11, 2013.
- ^{xvi} September, 9, 2014 letter signed by 15 Governors to President Obama.
- ^{xvii} Petition for Review, *West Virginia v. EPA*, Case No 14-1146 (D.C. Cir. filed Aug. 1, 2014); Brief of the States of West Virginia, Alabama, Alaska, Kentucky, Nebraska, Ohio, Oklahoma, South Carolina, and Wyoming as *Amici Curiae* in Support of the Petitioner, *In Re: Murray Energy Corporation v. EPA*, Case No. 14-1112, (D.C. Cir. filed June 25, 2014).
- ^{xviii} NERA Economic Consulting, *Potential Impacts of the EPA Clean Power Plan*, October 2014. An annual average increase of 14% means that electricity prices are projected to be 14% higher each year, on average, under EPA's proposal than electricity prices would be in the absence of the proposal.
- ^{xix} *EPA Clean Power Plan: Costs and Impacts on U.S. Energy Markets*, Energy Ventures Analysis, August 2014 <http://www.countoncoal.org/states/>
- ^{xx} NERA Economic Consulting, *Potential Impacts of the EPA Clean Power Plan*, October 2014.
- ^{xxi} Southwest Power Pool, *Grid Reliability and Transmission Buildout Issues*, presentation to Arkansas DEQ Stakeholder Meeting, October 1, 2014; Midwest Independent System Operator, *Clean Power Plan: MISO Analysis Update for ADEQ/APSC Stakeholder Meeting*, October 1, 2014; and American Electric Power, *Transmission Challenges with the Clean Power Plan*, September 2014.
- ^{xxii} IPCC, *Climate Change 2014: Mitigation of Climate Change: Contribution of Working Group III to*

the Fifth Assessment Report of the Intergovernmental Panel on Climate Change; EIA, Monthly Energy Review, February 2014.

^{xxiii} ACCCE, *Climate Effects of EPA's Proposed Carbon Regulations*, June 2014.

^{xxiv} Steven Mufson, All over the planet, countries are completely missing their emissions targets, (September 23, 2014) <http://www.washingtonpost.com/blogs/wonkblog/wp/2014/09/23/all-over-the-planet-countries-are-completely-missing-their-emissions-targets/>

Summary of Federalist Society Paper on 111(d) State Plans

In November 2014, the Federalist Society published a white paper titled “*EPA’s Section 111(d) Carbon Rule: What if States Just Said No?*”ⁱ Citing the high cost of EPA’s proposed Clean Power Plan (CPP), the likelihood the CPP will be reversed by a court, and the enormous challenges states face in developing implementation plans, the paper explains two reasons why states should consider not submitting an implementation plan to EPA, i.e., “just say no” to EPA

First, EPA has no authority to sanction states for failing to submit a plan to implement the CPP. EPA has the authority to impose sanctions regarding non-attainment plans for ambient air quality standards, but not for carbon dioxide under section 111(d). Also, in light of the recent Affordable Care Act decision by the Supreme Court, EPA cannot “require the States to regulate,” for example, by imposing sanctions on states.ⁱⁱ

Second, EPA has limited authority to impose a federal implementation plan under the CPP. EPA lacks authority to impose a federal plan based on “outside-the-fence” measures. As a result, EPA’s federal plan could require only emissions reductions “inside the fence.” In order to meet the emissions rate targets for each state, EPA would have to impose very strict operating limits on existing coal-fired power plants, leaving the state with the problem of how to make up for the loss of electricity. In addition, legal challenges to a federal plan could take place in a more favorable local federal circuit court of appeals, rather than the D.C. Circuit Court of Appeals.

Nonetheless, the paper notes that the outcome of a state refusing to submit a plan is still uncertain. However, the authors conclude that states would be no worse off if they “just say no” by refusing to submit a state plan to EPA.

ⁱ The full paper is available for download here: <http://www.fed-soc.org/publications/detail/epas-section-111d-carbon-rule-what-if-states-just-said-no>

ⁱⁱ *Nat’l Fed’n of Indep. Bus. V. Sebelius*, 132 S. Ct. 2566, 2602 (2012).

State Path Forward on Carbon Emissions
The EPA Clean Power Plan

Arizona Legislature
January 26, 2014

Mark Ourada
Central Region Vice President
American Coalition for Clean Coal Electricity

The Clean Power Plan - Basics

EPA estimates the proposal will achieve a nationwide 30 percent reduction from 2005 levels by 2030.

Summer 2015 ... Final guidelines issued for 111(b), 111(d) and proposed Model FIP

Summer 2016 ... State plans due (with 1 or 2 year extensions)

June 2017 - June 2019 ... EPA approval/disapproval of plans

Supreme Court Cautions EPA about Overreach

UARG v. EPA (tailoring rule case):

EPA's interpretation is also unreasonable because it would bring about an enormous and transformative expansion in EPA's regulatory authority without clear congressional authorization. When an agency claims to discover in a long-extant statute an unheralded power to regulate "a significant portion of the American economy," Brown & Williamson, 529 U. S., at 159, we typically greet its announcement with a measure of skepticism. We expect Congress to speak clearly if it wishes to assign to an agency decisions of vast "economic and political significance."

The Arizona Position

Arizona DEQ

"Arizona believes that the proposed rule exceeds EPA's authority under Section 111(d) ... EPA's outside-the-fence approach is also beyond the Agency's authority because outside-the-fence measures are unenforceable ... The fact that EPA's proposal is in excess of its statutory authority is shown most clearly by the extent EPA's authority intrudes into Arizona's traditional police power, preserved by the Federal Power Act, 16 U.S.C. § 824(a), over electric utility generation resource planning."

Arizona Corporation Commission

"The ACC opposes the Proposed Carbon Rule, and urges EPA to terminate this rulemaking and forego the rule's adoption. Even if EPA were to adopt mitigating measures, the ACC would still oppose adoption of the Proposed Carbon Rule because it is both technically and legally deficient."

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The Clean Power Plan Will Increase Electricity Prices Substantially in Arizona

NERA (for ACCCE) projects an average increase of 14% and a peak year increase of 15% in Arizona retail electricity prices.

Energy Ventures Analysis (for NMA) projects an increase of 40% in Arizona wholesale electricity prices.

Arizona's required reduction in emissions is 52%: the second most stringent reduction of any state

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Many States Have Passed Legislation and Resolutions Opposing EPA

6 states have passed legislation defining the scope of state implementation plans or requiring legislative approval.

14 states have passed resolutions through one or both Houses opposing EPA's proposal or defining the scope of state plans.

Arizona SCR 1022 (2014) That the Members of the Legislature express opposition to the implementation of rules for new or existing EGUs that do not recognize the state's primary role.

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What's the Alternative?



ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - First Regular Session

ROLL CALL VOTE

COMMITTEE ON ENERGY, ENVIRONMENT AND NATURAL RESOURCES BILL NO. HB 2395

DATE January 26, 2015 MOTION: dp

	PASS	AYE	NAY	PRESENT	ABSENT
Mrs. Barton		✓			
Mrs. Carter		✓			
Mr. Clark		✓			
Mr. Finchem		✓			
Mr. Leach		✓			
Mr. Saldate		✓			
Ms. Steele		✓			
Mr. Bowers, Vice-Chairman		✓			
Mr. Pratt, Chairman		✓			
		9	0	0	0

APPROVED:


 FRANKLIN M. PRATT, Chairman
 RUSSELL BOWERS, Vice-Chairman


 COMMITTEE SECRETARY

ATTACHMENT _____



HOUSE OF REPRESENTATIVES

HB 2395

weights and measures; biofuels

Sponsors: Representatives Pratt, Cardenas, Shope, et al.

X Committee on Energy, Environment and Natural Resources

Caucus and COW

House Engrossed

OVERVIEW

HB 2395 adds ethanol flex fuel to the definition of *clean burning fuel*, conforms statutes to the ASTM International (ASTM) standards for ethanol flex fuels and to federal regulations for sulfur content in diesel fuel.

HISTORY

ASTM is a non-governmental organization that sets voluntary standards for a wide variety of industries such as metals, construction, petroleum and consumer products, among others. Industries coordinate with ASTM to develop standards to improve product quality and enhance safety.

ASTM made changes to its E85 fuel specifications originally adopted in 2009. Arizona adopted the 2009 standards, which requires a fuel blend of approximately 15% to 25% gasoline mixed with 75% to 85% ethanol. Additionally, Arizona Cleaner Burning Gasoline (CBG) regulations require gasoline sold within Maricopa County to be oxygenated and reformulated to reduce ozone, carbon monoxide and other toxic pollutants. The requirement of blending CBG with ethanol, based on the 2009 ASTM ethanol blending standard, has resulted in Arizona not meeting seasonal vapor pressure requirements.

To address this issue, as well as nationwide issues with the 2009 E85 standard, ASTM revised the standard, now titled the Standard for Specification for Ethanol Fuel Blends for Flexible-Fuel Ignition Engines. The revised standard lowers the minimum volume of ethanol in the fuel blend to 51%, which will allow blending ethanol with a higher percentage of gasoline.

The United States Environmental Protection Agency adopted standards for diesel fuel in 2006 that require diesel fuel refineries to produce highway use fuel with a sulfur content of no more than 15 parts per million (ppm). The goal of this standard is to reduce emissions of nitrous oxide, particulate matter, carbon monoxide and sulfur dioxide from diesel fueled motor vehicles.

PROVISIONS

1. Adds ethanol flex fuel to the definition of *clean burning fuel* and conforms statute to meet the ASTM specification for ethanol flex fuel.
2. Conforms statute to federal regulations, which prohibit the sale of diesel fuel that contains sulfur content in excess of 15ppm.
 - a. Exempts locomotive and marine diesel fuel from this requirement if the fuel meets federal regulations.
3. Makes technical and conforming changes.

Fifty-second Legislature
First Regular Session

Analyst Initials _____
January 21, 2015