

118TH CONGRESS
1ST SESSION

S. _____

To prohibit the Environmental Protection Agency from finalizing, implementing, or enforcing a proposed rule with respect to new source performance standards from certain stationary sources, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. CAPITO introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To prohibit the Environmental Protection Agency from finalizing, implementing, or enforcing a proposed rule with respect to new source performance standards from certain stationary sources, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protect Our Power
5 Plants Act of 2023” or the “POPP Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the decision of the Supreme Court of the
2 United States in *West Virginia v. Environmental*
3 *Protection Agency* (2022) states that Congress must
4 speak clearly if Congress wishes to assign to an
5 agency decisions of vast economic and political sig-
6 nificance;

7 (2) Congress has not provided the Environ-
8 mental Protection Agency with authorization for the
9 proposed rule of the Environmental Protection
10 Agency entitled “New Source Performance Stand-
11 ards for Greenhouse Gas Emissions From New,
12 Modified, and Reconstructed Fossil Fuel-Fired Elec-
13 tric Generating Units; Emission Guidelines for
14 Greenhouse Gas Emissions From Existing Fossil
15 Fuel-Fired Electric Generating Units; and Repeal of
16 the Affordable Clean Energy Rule” (88 Fed. Reg.
17 33240 (May 23, 2023)), a proposed rule that is in-
18 tended to completely reshape the electricity grid and
19 therefore has vast economic and political signifi-
20 cance;

21 (3) section 111 of the Clean Air Act (42 U.S.C.
22 7411) requires the best system of emission reduction
23 to be adequately demonstrated;

24 (4) the carbon capture and clean hydrogen
25 technologies proposed as the best system of emission

1 reduction have not been commercially utilized, are
2 not cost-effective, and are not feasible, and are
3 therefore not adequately demonstrated; and

4 (5) the proposed rule described in paragraph
5 (2) is an illegal interpretation of section 111 of the
6 Clean Air Act (42 U.S.C. 7411) and has not been
7 authorized by that section or any other provision of
8 Federal law.

9 **SEC. 3. PROPOSED NEW SOURCE PERFORMANCE STAND-**
10 **ARDS AND EMISSIONS GUIDELINES FOR**
11 **GREENHOUSE GAS EMISSIONS FROM CER-**
12 **TAIN STATIONARY SOURCES.**

13 The Administrator of the Environmental Protection
14 Agency may not finalize, implement, or enforce the pro-
15 posed rule of the Environmental Protection Agency enti-
16 tled “New Source Performance Standards for Greenhouse
17 Gas Emissions From New, Modified, and Reconstructed
18 Fossil Fuel-Fired Electric Generating Units; Emission
19 Guidelines for Greenhouse Gas Emissions From Existing
20 Fossil Fuel-Fired Electric Generating Units; and Repeal
21 of the Affordable Clean Energy Rule” (88 Fed. Reg.
22 33240 (May 23, 2023)) or a substantially similar rule.