



LEGISLATIVE PRIMER: COAL-RELATED LEGISLATION IN THE UNITED STATES 2017



Introduction

The May 2017 Edition of the Legislative Primer: Coal Related Legislation in the United States is designed to serve as a resource that highlights recently enacted coal legislation from 2015 to 2017 relating to extraction, resource utilization, fiscal issues, technology development, grid reliability, and emissions concerns as well as incentives for carbon dioxide (CO₂) capture and storage and CO₂-enhanced oil recovery technology deployment. At the time of publication, many state legislatures remained in session with pending legislation on these issues.

This document is not meant to be an exhaustive guide to all legislation referencing coal, nor is it a guide to all state legislative efforts to work with their regulatory agencies and utilities on resource planning.

Please contact Turney Foshee at the Southern States Energy Board (770.242.7712) with suggestions for additional legislation that should be included in this document.



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State Legislation

Alabama

2017

HJR 318: Joint Legislative Commission to Study Operation and Funding of the Surface Mining Commission and Department of Labor

Rep. Kyle South

Establishes a study commission on the operation and funding of the Surface Mining Commission and the Department of Labor's Abandoned Mine Program. The bill outlines the procedure and intent for performing a complete and comprehensive review and assessment of state laws and regulations regarding the operation and funding of the Surface Mining Commission and the Department of Labor's Abandoned Mine Program. The Study Commission will identify issues in the law or administrative rules that open gaps or create problems regarding the operation and funding process. The Commission will hold its first meeting no later than August 1, 2017, with all meeting specifics designated by the Speaker of the House of Representatives.

Arizona

2015

SB 1077: Joint Legislative Review Committee on State Plans Relating to Carbon Dioxide Emissions from Existing Power Plants

Sen. Judy Burges

Establishes the Joint Legislative Review Committee on State Plans Relating to Carbon Dioxide Emissions from Existing Power Plants (Committee) to develop factors that may be considered in reviewing the state plan prior to submittal of the plan by the Arizona Department of Environmental Quality (ADEQ) Director to the U.S. Environmental Protection Agency Administrator.

The ADEQ Director must consult with the specified stakeholders to develop, adopt, and enforce a state plan to regulate the emissions of carbon dioxide from existing electric generation units in compliance with the rules adopted by the EPA Administrator; submit a quarterly report to the Committee until submission of a complete state plan; and transmit the proposed state plan to the Committee for review at least 90 days before submission of the complete state plan to the EPA Administrator.

2017

HCM2006: Clean Power Plan—Repeal and Replace

Rep. Brenda Barton, Rep. Regina Cobb, Rep. Darin Mitchell, Rep. Bob Thorpe

Urges the United States Congress, Environmental Protection Agency, and Department of Energy to repeal and replace the clean power plan with an acceptable coal-fired electricity generation program.

The bill calls for the Administrator of the United States Environmental Protection Agency to repeal the Clean Power Plan and work with the states to develop a responsible replacement program that is acceptable to all parties concerned with coal-fired electricity generation. It also urges the Secretary of the United States Department of Energy to support and develop a strategic plan for responsibly working with the coal-fired electricity generation industry and local governments in attaining the best technology available for clean, economic, and efficient coal-fired systems.

Arkansas

2015

SB 83: Procedures for Enacting a State Implementation Plan

Sen. Eddie Joe Williams

Creates procedures for the creation of a state plan to regulate carbon dioxide emissions from power plants. The legislation states the submission of a state plan is the preferred method of compliance with federal emission guidelines. Before initiating any development of a state plan, the Arkansas Department of Environmental Quality (DEQ) is required to develop several impact reports. Among other reporting, the DEQ will work in conjunction with the Public Service Commission to prepare a report on the regulation's impacts to affordability, financial impacts, reliability, and other factors. The DEQ also will develop a report on electricity consumer impacts in conjunction with the Economic Development Commission. The bill requires legislative approval by the legislative council and the governor of the state plan before its submission to the U.S. Environmental Protection Agency, with certain exceptions. The legislation establishes a rate and reliability safety valve for customer classes, including energy-intensive-trade-exposed industries.

2017

HB 1312: Technical Corrections: Title 11—Labor And Industrial Relations

Rep. Matthew Shepherd

Makes technical corrections to Title 11 of the Arkansas Code concerning labor and industrial relations. The bill repeals Arkansas Code § 11-7-401 and in doing so removes obsolete references to the defunct Coal Mine Examining Board, the powers, duties, and functions of which were previously transferred to the Director of the Department of Labor.

California

2015

AB 1034: Reclamation Sites

Asm. Jay Obernolte

Requires a lead agency to consider the construction and operation of a renewable energy generation facility on disturbed mined lands to be an interim use. The bill prohibits a lead agency from requiring an amendment to an approved reclamation plan if specified criteria are met. The permit conditions for the energy facility may not adversely affect the ultimate reclamation of the mined lands or any ongoing mining operation.

SB 185: Divestiture of Thermal Coal Investments

Sen. Kevin DeLeón

Prohibits the boards of the Public Employees' Retirement System and the State Teachers' Retirement System from making new investments or renewing existing investments of public employee retirement funds in a thermal coal company. The legislation requires the boards to liquidate investments in thermal coal companies on or before July 1, 2017. Additionally, the boards are required, in making a determination to liquidate investments, to constructively engage with thermal coal companies to establish whether the companies are transitioning their business models to adapt to clean energy generation. The measure provides that it does not require a board to take any action unless the board

determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the constitution.

2016

SB 1279: California Transportation Commission: Funding Prohibition: Coal Shipment

Sen. Loni Hancock, Sen. Benjamin Allen

Prohibits the California Transportation Commission from providing money for any new bulk coal terminals in the state. "New bulk coal terminals" are defined as any terminal that stores, handles, or transports coal in bulk to a degree or significance that is categorized as having the potential for significant environmental impacts as a result of the storage, handling, or transport of coal in bulk.

A "new bulk coal terminal" does not include projects designed for the safety, rehabilitation, congestion reduction, modernization, maintenance, or repair of an existing operation or facility, including rail terminals, railyards, rail facilities, rail infrastructure, and rail right-of-way.

Illinois

2015

SB 543: Coal Combustion By-Products

Sen. John Sullivan

Updates the definition of a coal combustion by-product to include a synthetic gypsum that has a calcium sulfate dihydrate content greater than 90 percent, by dry weight, and is generated by the lime or limestone forced oxidation process. The synthetic gypsum must be registered with the Illinois Department of Agriculture as a fertilizer or soil amendment and be used as a fertilizer or soil amendment. Also, the synthetic gypsum must be a functionally equivalent substitute for mined gypsum (calcium sulfate dihydrate) used as a fertilizer or soil amendment. The coal combustion by-product must be used in accordance with, and applied at a rate consistent with, documented recommendations of a qualified agricultural professional or institution, including, but not limited to, any of the following: certified crop adviser, agronomist, university researcher, federal Natural Resources Conservation Service Conservation Practice Standard regarding the amendment of soil properties with gypsum, or state-approved nutrient management plan. In no case may it be applied at a rate greater than five dry tons per acre per year or mixed with waste.

Kansas

2015

HB 2233: Electric Utilities and Carbon Dioxide Emissions

Committee on Energy and the Environment

Establishes the procedure for developing and submitting a state plan to the U.S. Environmental Protection Agency (EPA) to comply with the proposed Clean Power Plan (CPP) rule. The bill authorizes the Secretary of Health and Environment to develop and submit a plan to the EPA for compliance with the requirements of the proposed CPP rule. The Secretary is authorized to implement the state plan through flexible regulatory mechanisms, including the averaging of emissions, emissions trading, or other alternative implementation measures that the Secretary determines to be in the best interest of Kansas. The Secretary may enter into voluntary agreements with utilities that operate fossil fuel-based electric generating units with Kansas to implement these carbon dioxide (CO₂) emission standards. The

agreements may aggregate the CO₂ emissions levels from electric resources in the state, including coal, petroleum, natural gas, or renewable energy resources as defined in statute that are owned, operated, or utilized by power purchase agreements by utilities for purposes of determining compliance with the CO₂ emission standards.

Kentucky

2015

HCR 168 : Federal Environmental Regulation Impact Assessment Task Force

Rep. Jim Gooch

Directs the Legislative Research Commission (LRC) to create the Federal Environmental Regulation Impact Assessment Task Force. The purpose of the Task Force is to study the potential effect of federal environmental regulations on the affordability and reliability of electricity generation in the Commonwealth. The bill establishes the membership of the Task Force and requires its members to meet at least three times before the submission of its findings and recommendations. The Task Force must submit its findings and recommendations to the LRC by December 4, 2015.

HB 543: Jurisdiction Over Surface Mining

Rep. Jim Gooch

Provides the governmental responsibility for regulating surface coal mining operations solely to state government through the Kentucky Energy and Environment Cabinet.

SR 186: Development of Coal-Fired Power Plants

Sen. Ray Jones

Encourages the U.S. Department of Energy to establish a 10 in 10 program to build 10 coal-fired power plants in 10 years to demonstrate carbon capture and storage technology.

SR 187: Use of Federal Coal Lease Royalties

Sen. Ray Jones

Encourages the Kentucky Congressional Delegation to support and sponsor measures to use the federal portion of coal royalties on federal coal leases for demonstration projects and funding for carbon control and sequestration technologies.

2017

HB 234: Technical Corrections Relating to Coal Mining

Rep. John Blanton, Rep. Suzanne Miles, Rep. Robby Mills, Rep. Melinda Gibbons Prunty

Amends existing statutes (KRS 350.055) to change the reference in the public notice of intention to mine coal from "mining site" to "permitted area." This bill also amends KRS 350.060 to remove the requirement that all areas overlying underground workings of coal mines must receive permitting.

HR 176 / SB 182: Urge Congress and the President to Extend Tax Incentives Supporting Carbon Capture Research and Deployment

Rep. Rocky Adkins / Sen. Dorsey Ridley, Sen. Ray Jones, Sen. Julian Carroll, Sen. Perry Clark, Sen. Denise Angel, Sen. Morgan McGarvey, Sen. Gerald Neal, Sen. Dennis Parrett, Sen. Reginald Thomas, Sen. Johnny Turner, Sen. Robin Webb

Urges Congress and the President of the United States to enact legislation extending and expanding the current federal tax credit for carbon capture, utilization, and storage under 26 U.S.C. Section 45Q of the Internal Revenue Code. The resolution also calls to support the following measures:

- Inclusion of economically and environmentally beneficial carbon capture projects in any forthcoming federal infrastructure initiative;
- Policies to increase the operational efficiency, and thereby the environmental performance of existing electric generating units; and
- Preservation of a fuel-diverse electric generation portfolio critical to our domestic economic, energy, and national security.

Montana

2015

HB 252: Research And Commercialization Account Funds

Rep. Kelly McCarthy

Eliminates the requirement that research and commercialization account funds expend 30 percent of its monies on research into clean coal and renewable resources.

2016

HB 421: Severance Tax Coal Washing Credit

Rep. Tom Berry

Revises the coal severance tax coal washing credit to extend the termination date of the credit by eight years from July 1, 2017, to July 1, 2025.

2017

HB 22: Closure Of Coal-Fired Generation Facilities

Rep. Jim Keane

Directs money to the Department of Justice to assist in securing the future of communities affected by the closure of coal-fired generating units in Montana. Effective immediately, the bill requires participation in proceedings and related dockets before out-of-state utility or regulatory commissions that address planning for the future of coal-fired generation facilities located in Montana.

For the biennium beginning July 1, 2017, a sum of \$80,000 will be appropriated to the Department of Justice from the Coal Natural Resource Account. Any funds not expended or encumbered in the biennium revert to the General Fund.

HB 344: Coal Bed Methane Protection Program

Rep. Geraldine Custer

Provides for a transfer of funds from the Orphan Share State Special Revenue Account to the Coal Bed Methane Protection Account. The bill appropriates money to the Department of Natural Resources and Conservation to allow conservation districts to properly administer the Coal Bed Methane Protection Program.

By June 10, 2017, the State Treasurer must transfer \$190,000 from the Orphan Share State Special Revenue Account to the Coal Bed Methane Protection Account established (but not funded) by previous legislation.

HB: 585: Coal-Fired Generating Unit Loans

Rep. Austin Knudsen

Allows the Board of Investments to make loans to an owner of a coal-fired generating unit in Montana from the state's permanent Coal Tax Trust Fund for the operation and maintenance of a coal-fired generating unit.

The bill also provides loan criteria and limitations such as requiring the owner to provide the Board of Investments and the Governor of Montana with a minimum of 90 days' notice prior to filing for bankruptcy, reorganization, or other insolvency proceeding or prior to a merger, sale, or transfer, by operation of law or otherwise.

SB 339: Coal-fired Generating Unit Remediation Act

Sen. Duane Ankney

Establishes the Coal-fired Generating Unit Remediation Act. This measure ensures appropriate remedies are in place when a coal-fired generating unit is retired to ensure the protection of the environmental life support systems from degradation and to provide adequate remedies to prevent unreasonable degradation of natural resources.

No later than three months after a coal-fired generating unit is retired and no earlier than five years prior to a coal-fired generating unit's planned retirement, an owner must submit a proposed remediation plan that contains:

1. The name of the operator of the coal-fired generating unit and the names and addresses of all owners of the coal-fired generating unit;
2. A general overview of the site where the unit is located, the unit itself, and affected property;
3. The current and reasonably anticipated future uses of affected property; and
4. Remediation information, including:
 - i. A list of reports, studies, or other evaluations related to remediation and specific remediation measures already completed or under way pursuant to any applicable legal obligation;
 - ii. The manner in which the remediation measures satisfy the requirements of cleanup; and
 - iii. A description of how the owner will comply.

A remediation plan may consist of a plan for more than one unit that is retired at the same time and planned for simultaneous remediation. The filing of a plan is not a commitment to retire a coal-fired generating unit on any particular date that is not otherwise required by an applicable legal obligation.

The Department of Environmental Quality must review for completeness a remediation plan and provide a written completeness notice to an owner within 60 days of receipt of the remediation plan and within 30 days of receipt of responses to notices of deficiencies. The initial completeness notice must include all deficiencies identified in the information submitted.

The law also establishes penalties for infractions and sets up an appeals process for an owner or person challenging an enforcement action or order.

Nebraska

2015

LB 469: State Implementation Plan

Sen. Jim Smith

Requires the Department of Environmental Quality, before developing a state plan that may be required under U.S. Environmental Protection Agency carbon dioxide emissions regulations, to prepare an assessment and conduct a public hearing. The assessment must show the effects that a state plan would have on: the electric public power sector, including effects on affordability, generating capacity changes, stranded investments, necessary investments to offset changes, reliability risks, and rate increase forecasts; electricity customers, particularly middle and low-income households; state employment; economic development; the state's competitive position; state and local governments; and state law. The Department is required to submit a copy of the state plan and assessment to the Nebraska Legislature.

New Mexico

2015

SB 146: Mine Safety Clarification

Sen. Carlos Cisneros

Amends provisions in two mine safety statutes to clarify the responsibility of mine operators to notify the State Mine Inspector after certain mine accidents. Prior to this legislation, "accident" was defined differently in the two sections, and the bill amends the definition in Section 69-5-17 to match the definition in Section 69-8-2. This definition provides specific requirements for surface and underground mines, and provisions relating specifically to accidents in underground mines are removed from the requirements for surface mines. The bill also removes references to federal rules and reorders other definitions.

North Carolina

2015

HB 157: Interstate Mining Compact Commission and Coal Ash Management

Rep. Pat McElraft

Authorizes the Governor to send an official from the Department of Environment and Natural Resources (DENR) to act on the Governor's behalf at Interstate Mining Compact Commission meetings.

Also, the legislation amends several sections of the Coal Ash Management Act of 2014 to clarify which state agencies are responsible for implementing various provisions of the Act. The bill specifies that certain responsibilities related to corrective action are under the authority of the DENR Secretary.

The Coal Ash Management Act of 2014 placed a moratorium on the use of coal combustion products as structural fill until August 1, 2015, in order to allow DENR, the Environmental Management Commission, and the General Assembly time to review and evaluate the use of coal combustion residuals as structural fill. The Act included two exceptions to the moratorium:

- Structural fill projects that include many of the requirements for solid waste landfills; and
- Structural fill projects that are the base of a concrete or asphalt paved road.

The bill makes a correction to the exceptions to the structural fill moratorium clarifying the applicable listed requirements. Also, it makes a technical correction to the effective date of the moratorium on the use of coal combustion products as structural fill. The corrections are retroactively effective to September 20, 2014, and apply to the use of coal combustion products as structural fill contracted on or after that date.

North Dakota

2015

SB 2036: Sales and Use Tax Exemption for Coal

Energy Development and Transmission Committee

Provides a sales and use tax exemption for beneficiated coal and equipment for certain power plants, exemptions from the coal conversion facility privilege tax for beneficiated coal produced for use within a coal conversion facility, and severance and sales and use tax exemption for coal used in certain plants.

SB 2037: Sales Tax Exemption for Coal Equipment

Energy Development and Transmission Committee

Expands a sales tax exemption for equipment used directly or indirectly to produce coal from a new mine. This sales tax exemption is retroactive to January 1, 2011.

SB 2318: Tax Exemption for Carbon Dioxide Capture Equipment

Sen. Dwight Cook

Provides a sales and use tax and property tax exemptions for carbon dioxide capture equipment used for enhanced oil recovery.

SB 2372: Study of Economics of EPA Rules

Sen. Jessica Unruh

Authorizes legislative management to conduct a study during the 2015-2016 interim on the impacts and costs of U.S. Environmental Protection Agency regulations on carbon dioxide emissions for new and existing electric generation units. Establishes required components in the study, including reliability, ratepayer impact, feasibility, and other factors. The bill requires legislative management to present the study and any recommendations to the North Dakota Legislature.

SB 2377: Definition and Taxation of Leonardite

Sen. Brad Bekkedahl

Defines commercial leonardite as separate and distinct from coal; however, commercial leonardite is taxed at the same rate as the existing coal severance tax at \$.375 per ton. "Commercial leonardite" means a dark-colored, soft, earthy rock formed from the oxidation of lignite coal and produced from a mine that has as its only function for supply for purposes other than gasification or combustion to generate electricity.

2017

HCR 3037: Urge Congress and the President to Extend Tax Incentives Supporting Carbon Capture Research and Deployment

Sen. Howard Anderson, Sen. Joan Heckaman, Sen. Erin Oban, Sen. Jessica Unruh, Sen. Rich Wardner, Rep. Corey Mock, Rep. Al Carlson, Rep. Jeff Delzer, Rep. Kathy Hogan, Rep. Alisa Mitskog, Rep. Todd Porter, Rep. Jay Seibel

Urges Congress and the President of the United States to enact legislation extending and expanding the current federal tax credit for carbon capture, utilization, and storage under 26 U.S.C. Section 45Q of the Internal Revenue Code. The resolution also calls to support the following measures:

- Inclusion of economically and environmentally beneficial carbon capture projects in any forthcoming federal infrastructure initiative;
- Policies to increase the operational efficiency, and thereby the environmental performance of existing electric generating units; and
- Preservation of a fuel-diverse electric generation portfolio critical to our domestic economic, energy, and national security.

SB 2133: The Coal Conversion Facilities Privilege Tax

Sen. Brad Bekkedahl, Sen. Jim Dotzenrod, Sen. Jessica K. Unruh, Rep. Jason Dockter, Rep. Craig Headland, Rep. Alisa Mitskog

Amends the North Dakota Century Code to reduce the tax on coal conversion facilities gross receipts from four and one tenth to two percent. The bill also modifies the carbon dioxide capture credit language to disallow coal conversion facilities that met capture requirements before January 1, 2017, from claiming the reduction.

SB 2196: Revenue Bonds For The Purchase of Land and Construction of an Integrated Carbon Plant

Sen. Lonnie Laffen, Sen. Dwight Cook, Sen. Gary Lee, Sen. Larry Robinson, Rep. Mark Sanford, Rep. Lois Delmore

Authorizes the issuance of revenue bonds totaling \$22,500,000 to Valley City State University for the construction of an integrated carbon plant including the purchase of land.

Oklahoma

2016

SB 1614: Coal Purchase and Production Tax Credit

Sen. Clark Jolley, Sen. Greg Treat, Rep. Earl Sears, Rep. Dennis Casey

Modifies the existing coal tax credits to be in the amount of two dollars and eighty-five cents (\$2.85) per ton for each ton of Oklahoma-mined coal purchased. In addition, for the period of July 1, 2006,

through December 31, 2006, and except where prohibited, for tax years beginning on or after January 1, 2007, and ending on or before December 31, 2021, there will be allowed a credit in the amount of two dollars and fifteen cents (\$2.15) per ton for each ton of Oklahoma-mined coal purchased.

2017

SB 479: Obsolete Mining Provisions

Sen. Nathan Dahm, Rep. Bobby Cleveland

Repeals obsolete mining legislation relating to the following subjects, among others, effective November 1, 2017: convict employment prohibition, Coal Experiment Station, signaling methods, code of signals; sanitary drinking devices, mine closets, dressing rooms, livestock, noon meals, traveling way, eight-hour work day, certificates of competency, granting certificates, certificates from other states, fees for issuance, record of issuance, effect of certificates, power to revoke certificates, power to arrest, mine foreman duties, timbers and drainage, ventilation, shelter holes and manways, air current, daily examination, assistant mine foreman, rules and notices, additional duties, duties of the fire boss, removal of dangers, operators to employ shot-firers, hours worked, reporting to superintendent, and emergency supplies.

South Carolina

2016

HB 4857: Coal Combustion Residuals

Rep. David Hiott, Rep. Gary Clary, Rep. Neal Collins

States that coal combustion residuals that result from an electric utility, an electric cooperative, a governmental entity, a corporation, or an individual producing electricity for sale or distribution by burning coal must be placed in a Class 3 solid waste management landfill. The exceptions are coal combustion residuals that are located contiguous with the electric generating unit, intended to be beneficially reused, placed in beneficial use, or placed in an appropriate landfill owned or operated by the entity that produced the residuals. Unless reenacted or extended, the provisions of the bill are repealed five years from the act's effective date of March 2, 2016.

Tennessee

2015

HB 868/SB 1325: Response to Federal Requirements for Regulating Carbon Dioxide Emissions

Rep. Kelly Keisling / Sen. Randy McNally

Requires the Tennessee Advisory Commission on Intergovernmental Relations (TACIR), upon submission of the final state plan for regulating carbon dioxide emissions from covered electric generating units by the Department of Environment and Conservation to the U.S. Environmental Protection Agency (EPA), to prepare a report that assesses the effects of the state plan on the electric power sector; electricity consumers within the state; employment within the state, both directly and indirectly; economic development in the state; the competitive position of the state relative to neighboring states and other economic competitors; state and local governments; and existing state laws and any proposed legislation that may be necessary to implement the state plan. A "covered electric-generating unit" means an existing fossil-fuel-fired, electric-generating unit located within the state that is subject to regulation under EPA emissions guidelines.

The legislation requires TACIR to transmit a copy of the report to the chairs of the Government Operations Committees of the Senate and the House of Representatives and to present the findings of the report at the next regularly scheduled meeting of the Joint Government Operations Committee. The measure provides that the report does not have to be prepared if the final federal emissions guidelines approved by the EPA:

1. Do not establish carbon dioxide emission control requirements for this state that are based on the decrease in carbon dioxide emissions resulting from the operation of new nuclear-generating facilities currently under construction in the state; and
2. Authorize the state to receive full credit for the decrease in carbon dioxide emissions resulting from nuclear-generating facilities under construction as of the effective date of this act, for purposes of demonstrating compliance with carbon dioxide emission control requirements under the final EPA emission guidelines.

Finally, the legislation requires the Commissioner of Environment and Conservation to notify the Secretary of State and the Executive Secretary of the Tennessee Code Commission of the effective date of federal emissions guidelines as soon as reasonably practical after such effective date is known. The bill will take effect concurrently with the effective date of federal emissions guidelines.

Virginia

2015

HB 2058: Coal Bed Methane Escrow Accounts

Del. Terry Kilgore

Requires the operator of certain previously pooled coal bed methane gas wells to request, by the beginning of 2016, the release of any funds held in escrow or suspense to the person who possesses a claim through a gas title. A coal claimant may halt such a release of funds by providing evidence that the coal and gas claimants have reached an agreement or that a proceeding against the gas claimant is ending.

For a well that is pooled after July 1, 2015, the bill requires the operator to pay royalties directly to the gas claimant unless the coal claimant provides evidence of an agreement or a proceeding within a certain time. The Virginia Oil and Gas Board, under certain conditions, is authorized to extend the time for the payment of funds held in escrow and is not required to order payment if the gas claimant fails to provide information needed by the Board in order to distribute the funds.

SB 1366 / HB 2257: Mine Safety

Sen. Benton Chafn, Del. Todd E. Pillion

Provides that mine-wide tracking systems, firefighting, and fire sensor equipment be maintained and in usable and operative conditions and that electric equipment be maintained in safe operating condition at all times while it is being used. Any unsafe condition must be corrected promptly or the equipment removed from service. The bill also states that mine foremen are responsible for compliance with health and safety requirements and are responsible for ensuring that every miner is aware of all hazardous conditions prior to working at the mine.

SB 349: Suspension of Regulatory Reviews for Electric Utilities

Sen. Frank Wagner

Bars the State Corporation Commission (SCC) from conducting a biennial review of the rates, terms, and conditions for any service of (1) Dominion Virginia Power for the five test periods beginning January 1, 2015, and ending December 31, 2019, and (2) Appalachian Power for the four test periods beginning January 1, 2014, and ending December 31, 2017 (the Transitional Rate Period). An investor-owned incumbent electric utility's existing tariff rates may not be adjusted between the beginning of the Transitional Rate Period and the conclusion of the first biennial review after the conclusion of the Transitional Rate Period, except as permitted for fuel factor and purchased power cost adjustments, rate adjustment clauses, and emergency temporary rate increases.

During the Transitional Rate Period, the SCC has the right to inspect the books, papers, and documents of any such utility and to require it to provide special reports and statements concerning its business. The SCC is directed to conduct two biennial proceedings for each such utility during the Transitional Rate Period to determine what constitutes the utility's fair rate of return on common equity for use in connection with rate adjustment clauses. Dominion Virginia Power is prohibited from recovering from customers 50 percent of certain deferred fuel expenses, and the SCC is required to reduce the utility's fuel factor rate. Except for early retirement plans identified in an integrated resource plan filed by September 1, 2014, an electric utility shall not permanently retire an electric power generation facility from service during the Transitional Rate Period without first obtaining the SCC's approval, which may be granted if the SCC determines that the retirement is reasonable and prudent.

During the Transitional Rate Period, an electric utility must recover the costs associated with asset impairments related to early retirement determinations for utility generation facilities resulting from the implementation of carbon emission guidelines for existing electric power generation facilities issued pursuant to Section 111(d) of the Clean Air Act, costs associated with severe weather events, and costs associated with natural disasters, only through its existing tariff rates for generation or distribution services. During the Transitional Rate Period, the SCC and Department of Environmental Quality shall provide reports that address issues related to the implementation of such carbon emissions guidelines issued pursuant to the federal Clean Air Act.

The measure also authorizes a utility to recover, through a rate adjustment clause, the costs of constructing or purchasing solar energy facilities and requires Dominion Virginia Power and Appalachian Power to conduct and fund pilot programs for energy assistance and weatherization for low income, elderly, and disabled individuals in their respective service territories in the Commonwealth. Each electric utility is required to file updated integrated resource plans by July 1, 2015, and thereafter each May 1; currently, updates are required to be filed biennially.

The integrated resource plans are required to provide options for maintaining and enhancing rate stability, energy independence, economic development including retention and expansion of energy-intensive industries, and service reliability. In preparing a plan, a utility is required to evaluate the effect of current and pending environmental regulations upon the continued operation of existing electric generation facilities or options for construction of new electric generation facilities and the most cost effective means of complying with current and pending environmental regulations.

2016

SB 182 / HB 1152: Local Gas Road Improvement and Virginia Coalfield Economic Development Authority Tax

Sen. Benton Chafin, Del. James W. Morefield

Authorizes localities comprising the Virginia Coalfield Economic Development Authority to use a portion of the revenues collected from the local gas road improvement and Virginia Coalfield Economic Development Authority tax for the repair or enhancement of existing water or sewer systems and lines.

2017

SB 1398: Coal Combustion Residuals Unit; Closure Permit, Assessments Required

Sen. Scott Surovell, Sen. Amanda Chase

Requires the owner or operator of a coal combustion residuals unit (CCR unit) to identify water pollution and address corrective measures to resolve it, evaluate the clean closure of the CCR unit by recycling the ash for use in cement or moving it to a landfill, and demonstrate the long-term safety of the CCR unit.

The bill also requires the owner or operator of each CCR unit to transmit its assessment to the Department of Environmental Quality (DEQ) and other agencies or legislative committees by December 1, 2017. The bill requires the Director of DEQ to delay the issuance of a permit to close any CCR unit until May 1, 2018, or the effective date of any legislation adopted during the 2018 Regular Session of the General Assembly that addresses the closure of CCR units, whichever occurs later.

Washington

2016

SB 6248: Risk Mitigation Plans to Promote the Transition of Eligible Coal Units

Sen. Doug Ericksen

Allows for the state's largest utility, Puget Sound Energy, to put money aside to cover future decommissioning and remediation costs of two coal-powered plants in Colstrip, Montana, if they're closed after 2023.

West Virginia

2015

HB 2004: Required Approval of State Implementation Plan

Del. Joshua Nelson

Requires the Department of Environmental Protection to submit a report to the legislature examining the feasibility of U.S. Environmental Protection Agency (EPA) regulations. If the Department determines a state plan is feasible, the Department must submit the state plan to the Legislature and publish the report and any proposed plan on its website. The legislation requires legislative approval of a state plan before its submission to EPA.

SB 357: Creating Coal Jobs and Safety Act of 2015

Sen. Jeff Mullins

Updates coal mine safety regulations, reverting them instead to the federal standards for coal mine safety regulation. The bill also tightens drug testing standards for coal miners by making drug testing processes the same for both union and non-union miners.

SB 502: Reclamation Bond Forfeiture Sites

Sen. David Sypolt

Amends eligibility for mine operators to receive a tax credit for performing reclamation or remediation at a bond forfeiture site that otherwise would have been reclaimed using funds from the Special Reclamation Fund or Special Reclamation Water Trust Fund.

2016

HB 4435: Rate Recovery for Coal-Fired Boiler Improvements

Del. Randy Smith, Del. Woody Ireland, Del. J. B. McCuskey, Del. Justin Marcum

Provides that electric utilities may file with the Public Service Commission (PSC) an application for a multiyear comprehensive program for modernizing and improving coal-fired boilers at power plants located in the state and owned, in whole or in part, by the electric utility. Subject to PSC review and approval, a program may be amended and updated by the electric utility as circumstances warrant. The recovery of costs in support of the program are allowed if the proposed program and related rates are found to be just, reasonable, and based on prudent investments that are used and useful to the utilities' West Virginia ratepayers. Electric utilities may defer incremental operation and maintenance expenditures attributable to regulatory and compliance-related requirements introduced after the electric utility's last rate case proceeding and not included in the electric utility's current base rates. In a future rate case, the PSC will allow recovery of the deferred costs amortized over a reasonable period of time to be determined by the Commission if the Commission finds that the costs were reasonable and prudently incurred and were not reflected in rates in prior rate cases.

HB 4726: Regulation of Mining Operations

Del. Randy Smith

Allows the Department of Environmental Protection to revise and promulgate rules concerning analyses of mine operations and hydrological impact assessments and statements as well as other criteria. The legislation amends the requirements for mine operators to provide private mine rescue teams, allowing them to instead rely on a state-funded team as a backup. Also, the measure eliminates the state Department of Environmental Protection's Office of Explosives and Blasting.

SB 691: Air Pollution Standard Modifications

Sen. Greg Boso

Provides for legislative findings with respect to the development of a federally mandated state plan relating to carbon dioxide emissions from existing fossil fuel-fired electric generating units. The bill prohibits the submission of a plan absent specific legislative enactment. The legislation provides for a report regarding the feasibility of state compliance and development of separate, flexible standards of performance for emissions. Also, it provides for legal effect and rulemaking authority.

2017

SB 687: Coal Mining, Safety, and Environmental Protection

Sen. Randy Smith, Sen. David Sypolt, Sen. Craig Blair, Sen. Donna Boley, Sen. Sue Cline, Sen. Ryan Ferns, Sen. Jeffrey Mullins, Sen. Douglas Facemire, Sen. Glenn Jeffries, Sen. Michael Woelfel

Removes language pertaining to water quality that "supports a balanced aquatic community that is diverse in species composition" as determined by the Department of Environmental Protection. The measure also modifies the bond-release requirements for certain mountaintop removal mining operations and limits the spending of money from the state's Special Reclamation Fund to clean up water pollution at abandoned mine sites.

The bill also revises well-plugging processes, preblast survey requirements, and the list of required on-site first aid items to include an automated external defibrillator, or AED, unit.

Wisconsin

2015

SB 144: Air Pollution Rule

Sen. Terry Moulton

Repeals certain provisions of a Department of Natural Resources (DNR) Administrative Rule that authorized the regulation of stationary sources based solely on the potential or actual emissions of certain amounts of greenhouse gases. These rule provisions were based on a U.S. Environmental Protection Agency (EPA) interpretation of certain provisions of the Clean Air Act, which a U.S. Supreme Court case, *Utility Air Regulatory Group v. EPA*, 134 S. Ct. 2427 (2014), determined was incorrect. Therefore, the DNR rule provisions are no longer valid.

2016

AB 804: Sulfur Dioxide Compliance Plans

Rep. Mike Kuglitsch

Provides that it is the goal of the state for annual sulfur dioxide emissions from all major energy utilities and large sources not to exceed 325,000 tons. The legislation changes requirements relating to the goal by eliminating the requirement for major energy utilities to submit annual plans for complying with sulfur dioxide emission rates to the Public Service Commission (PSC) and the Department of Natural Resources (DNR). The measure also deletes the requirement for DNR to review and approve the plans. DNR is no longer required to make certain determinations and recommendations to the Wisconsin Legislature regarding goals for sulfur dioxide emissions from major energy utilities and large sources. The measure assigns DNR the exclusive responsibility, rather than joint responsibility with PSC, for reviewing requests for a variance from sulfur dioxide emission rates submitted by major energy utilities and determining whether to grant a variance.

Wyoming

2015

SF 84: Certification of Stored Carbon Dioxide

Sen. Michael Von Flatern

Provides a voluntary procedure for certification of quantities of carbon dioxide incidentally stored through enhanced recovery of oil and gas through the Wyoming Oil and Gas Conservation Commission.

2016

SF 28: Geologic Sequestration Permits

Joint Minerals, Business and Economic Development Interim Committee

Sets standards for when an oil and gas operator ceases oil and gas recovery operations and converts its operations to the geologic sequestration of carbon dioxide (CO₂). When this conversion occurs, regulation of the operations and sequestration site is transferred from the Wyoming Oil and Gas Conservation Commission (WOGCC) to the Department of Environmental Quality (DEQ). The measure specifies that an enhanced oil and gas recovery CO₂ injection permit should be converted into a geological sequestration permit when an oil and gas operator injects CO₂ for the primary purpose of long-term storage and the storage results in an increased risk to an underground source of drinking water. The legislation gives the DEQ Director the authority to determine which permit is appropriate based upon findings and recommendations of the WOGCC Supervisor. The Supervisor's recommendations must be made after a hearing of the WOGCC examiners. Affected operators must be given notice of the Supervisor's findings and recommendations and provided an opportunity for a public hearing before the WOGCC.





Transcending Boundaries

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