



Transcending Boundaries

LEGISLATIVE PRIMER COAL-RELATED LEGISLATION IN THE U.S.



Introduction

The May 2016 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 2014 to 2016 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 a comprehensive 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 the Southern States Energy Board at 770.242.7712 with corrections and suggestions for legislation that should be included in this document.



FRIEND US ON FACEBOOK AT
[FACEBOOK.COM/SOUTHERNENERGY](https://www.facebook.com/SOUTHERNENERGY)



FOLLOW US ON TWITTER AT
[TWITTER.COM/SSENERGYBOARD](https://twitter.com/SSENERGYBOARD)

Contents

Arizona.....	2
Arkansas.....	3
California.....	3
Florida.....	4
Illinois.....	4
Kansas.....	4
Kentucky.....	5
Louisiana.....	7
Michigan.....	7
Missouri.....	8
New Mexico.....	9
North Carolina.....	9
North Dakota.....	11
Pennsylvania.....	11
South Carolina.....	12
Tennessee.....	12
Virginia.....	13
West Virginia.....	15
Wisconsin.....	17
Wyoming.....	17

State Legislation

Arizona

2014

HB 2285: Transaction Privilege Tax for Coal

Rep. Debbie Lesko

Exempts, from state, county, city, town, and special district Transaction Privilege Tax (TPT), the transfer of title or possession of coal, back and forth, between a coal refinery and power plant. TPT is imposed on a vendor for the privilege of conducting business in Arizona. Under this tax, the seller is responsible for remitting to the state the entire amount of tax due based on the gross proceeds or gross income of the business. While the tax is commonly passed on to the consumer at the point of sale, it is ultimately the seller's responsibility to remit the tax. This legislation exempts the transfer of title or possession of coal, back and forth, between a power plant owner or operator and a coal refinery, from state, county, city, town, and special district TPT, if the transfer of the title or possession of the coal is for refining purposes and the title or possession of the coal is transferred back to the power plant owner or operator after the coal refining process.

The bill stipulates that coal refining process means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas, for the purposes of the provisions of this act. The legislation exempts, from use tax, coal acquired from an owner or operator of a power plant by a coal refinery if the transfer of title or possession of the coal is for refining purposes and is transferred back to the owner or operator of the power plant after the coal refining process.

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.

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 a 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.

California

2015

AB 1034: Reclamation Sites

Assembly Member 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.

Florida

2014

HB 489: Severed Subservice Rights on Residential Parcels

Rep. Ross Spano; Judiciary Committee

Requires a seller, as part of a contract for the sale of residential property by a builder or developer, who has or will sever or retain any subsurface rights to provide a disclosure summary within the sales contract or incorporated by reference into the sales contract.

Illinois

2016

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

2014

HB 2636: Standards of Performance for Carbon Dioxide Based Emissions

Rep. Dennis Hedke

Authorizes the Secretary of Health and Environment to establish separate standards of performance for carbon dioxide emissions based on adequately demonstrated technology, cost, efficiency, and other measures that can be undertaken without requirements for fuel switching, co-firing, or limiting the utilization of the unit. The legislation allows for flexibility in meeting federal greenhouse gas standards through alternative standards, compliance schedules, or flexible regulatory mechanisms.

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

2014

HB 328: Reciprocity of Laws and Regulations

Rep. Fitz Steele

Amends state law to authorize reciprocal interstate agreements pertaining to coal mining. The legislation authorizes the Secretary of the Energy and Environment Cabinet or their designee to enter into, execute, and enforce reciprocal agreements with other states relating to compliance with Kentucky Revised Statutes chapters 350, 351, and 352 and the administrative regulations promulgated under those chapters. The intent of the bill is to allow underground mining companies whose mines cross state boundaries to be regulated by one state rather than both.

HB 336: Reclamation

Rep. Tanya Pullin

Requires a mining permittee to include in the reclamation plan the removal of electric distributions installations on the surface including poles, wires, and other attachments unless the permittee has been granted an alternative post-mine use that is industrial, commercial, or residential.

HB 388: Best System Emission Reductions for Existing Electric Generating Units

Rep. Jim Gooch

Addresses best system emission reductions for existing electric generating units (EGUs) by directing the Kentucky Energy and Environment Cabinet (EEC) to consider, among other factors, the “consumer impacts including any disproportionate energy price increases in lower income populations,” “the economic impacts of closing the EGU, including expected job losses,” and the “physical difficulties with or the impossibility of implementing emission reduction measures.” Specific to coal-fired EGUs, the legislation directs the EEC to set performance standards to include efficiency and other measures that can be undertaken at each coal-fired EGU without “switching from coal to other fuels; co-firing other fuels with coal; or limiting the utilization of the EGU.” In addition, the EEC must coordinate with the Kentucky Public Service Commission to “ensure that the plan minimizes the impacts on current and future industrial, commercial, and residential consumers; and does not threaten the affordability of Kentucky’s rate or the reliability of electricity service.”

SB 74: Kentucky Industrial Revitalization Act

Sen. Jimmy Higdon

Amends the Kentucky Industrial Revitalization Act (KIRA) to allow companies with an existing project to undertake supplemental projects during or within 24 months following the term of the initial project and to receive additional incentives relating to the supplemental project over its 10 year term. Incentives available to companies through KIRA include income tax credits and employee wage assessments. The bill also exempts property incorporated into the construction or modification of a blast furnace, performed as part of a KIRA supplemental project, from the state sales and use tax, effective for purchases made on or after July 1, 2016, and during the supplemental project term. The criteria for supplemental project applicants includes an agreement to incur at least \$10 million in additional eligible costs for improvements to a blast furnace that is located at the economic revitalization project and to burn at least one million tons of Kentucky coal during the initial term of the agreement.

2015

HCR 168 : Federal Environmental Regulation Impact Assessment Task Force

Rep. Jim Gooch

Direct 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 the task force 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.

Louisiana

2014

SB 650: Louisiana Carbon Dioxide Emission Fossil Fuel-Fired Electric Generating Units Control Act

Sen. Mike Walsworth

Authorizes the Department of Environmental Quality (DEQ), in collaboration with and input from the Louisiana Public Service Commission, to establish performance standards for measuring carbon dioxide emissions from existing fossil fuel-fired electric generating units (EGUs). The legislation sets forth criteria for performance standards and provides that the DEQ can set adjusting standards of performance on fossil fuel-fired EGUs and further determine if state standards are to be less stringent or allow for longer compliance schedules for individual units than those provided for in applicable federal rules or guidelines. The DEQ's plan establishing performance standards for existing fossil fuel-fired EGUs must be consistent with new law and may include alternative compliance options for meeting standards. The bill requires alternative compliance options to comply with a guidance document by the U.S. Environmental Protection Agency, based on measures that can be implemented, and are consistent with prior law.

Michigan

2014

HB 4885: Severance Tax for EOR Projects

Rep. Aric Nesbitt

Promotes carbon dioxide-enhanced oil recovery projects by establishing a 4 percent severance tax rate, rather than 6.6 percent for oil and 5 percent for natural gas.

HB 5254: Carbon Dioxide Transport

Rep. Rick Outman

Amends the Michigan Public Acts regulating the transportation and sale of crude oil and petroleum through pipelines, to include the regulation of a pipeline transporting carbon dioxide substances in the acts' definition of "pipeline."

HB 5255: Uniform Condemnation Procedures Act

Rep. Thomas Stallworth

Includes carbon dioxide substances in provisions regarding the use of eminent domain for the acquisition of pipeline rights-of-way and requires condemnation procedures to be conducted in accordance with the Uniform Condemnation Procedures Act.

HB 5274: Regulation of Carbon Dioxide Used by Petroleum Industries

Rep. Peter Pettalia

Amends Michigan Public Act 16 of 1929 to include references to carbon dioxide substances in provisions regarding:

- the rights of a person exercising or claiming the right to transport or store crude oil or petroleum or engaging in the business of buying, selling, or dealing in crude oil or petroleum.

- the regulatory authority of the Public Service Commission.
- discrimination by a common purchaser or common carrier of crude oil or petroleum.

The bill defines “carbon dioxide substance” as a gaseous or liquid substance, consisting primarily of carbon dioxide, that will be put in storage or that has been or will be used to produce hydrocarbons in a secondary or enhanced recovery operation.

Missouri

2014

SB 672: Financial Incentives for Energy Companies

Sen. Mike Parson

Prohibits the City of St. Louis from imposing restrictions by ballot measure on public financial incentives authorized by statute for businesses involved in bituminous coal and lignite surface mining. The provision expires on December 31, 2017.

HB 1631: Emission Standards Analysis

Rep. Todd Richardson

Requires the Air Conservation Commission to develop emission standards through an analysis of each carbon dioxide (CO₂) generation plant within the state regardless of the number of turbines at each plant site. The commission must consider in developing and implementing emission standards for each existing source of CO₂, among other factors, the remaining useful life of the existing source to which the standard applies, consistent with specified federal regulations. The commission must consider, consistent with its statutory duties to achieve the prevention, abatement, and control of air pollution by all commercially available and economically feasible methods, the overall economic impact from any and all emission standards and compliance schedules developed and implemented under specified federal regulations. The commission may develop, on a unit-by-unit basis for individual existing sources and emissions of CO₂ at these existing sources, consistent with federal regulation, emission standards that are less stringent, but not more stringent, than applicable federal emission guidelines or longer compliance schedules than those required by federal regulations.

SB 664: Air Conservation Commission

Sen. Dan Brown

Authorizes the Air Conservation Commission to establish standards of performance for carbon dioxide emissions from existing fossil fuel-fired electric generating units on a case-by-case basis. Standards will be based on adequately demonstrated technology, efficiency, and achievable means. Allows for flexibility in meeting federal greenhouse gas standards through alternative standards, compliance schedules, or regulatory mechanisms.

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 R. 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

2014

SB 729: Coal Combustion Residuals

Rep. Tom Apodaca

Provides timelines for conversion from wet to dry coal ash handling, an end to the deposition of coal combustion residuals (CCRs) in wet impoundments, and final closure of all 33 North Carolina impoundments under environmental standards. Also, the bill sets deadlines for groundwater assessment and remediation for all 33 CCR impoundments.

The legislation requires electric utilities to identify drinking water wells within one-half mile down-gradient of each CCR impoundment, test wells potentially affected by groundwater contamination from the impoundment, and provide an alternative water supply if testing finds a contaminant associated with CCRs at levels exceeding the groundwater standard. Under prior law, the state Department of Environment and Natural Resources (DENR) could use enforcement authority to require a person responsible for groundwater contamination to identify and test wells for contamination. Under the measure, enforcement actions focus on conditions at individual sites and the groundwater assessments are more incremental, gradually working out from the known source of contamination and continuing only as far as testing shows high levels of contamination. The bill mandates that utilities provide an alternative water supply to any well owner whose drinking water well shows high levels of a contaminant associated with coal combustion residuals.

The measure establishes stricter design, construction, and siting standards for large projects using coal ash as fill for construction projects and puts a moratorium on smaller structural fill projects. Any project using more than 8,000 tons of coal ash per acres or more than 80,000 tons total is considered a "large" structural fill. Large structural fill projects must be lined, have leachate collection systems, monitor for

groundwater impacts, and provide financial assurance. The bill also establishes new siting criteria for large structural fills, including setbacks from streams, wetlands, wells, and property boundaries.

The legislation places a one-year moratorium on smaller structural fill projects while DENR studies the adequacy of standards for those projects. There are two exceptions to the moratorium on small structural fills:

- voluntary compliance with the new, stricter standards applied to large structural fill projects; and
- the use of CCRs as structural fill for a public road project.

The bill amends water quality laws to require earlier notice to DENR and to the public following a wastewater spill that reaches surface waters. Prior law allowed 48 hours for notice to the public. The act requires notice to DENR as soon as practicable (and no later than 24 hours after the spill reaches surface waters) and to the public within 24 hours. The new notice requirements apply to all wastewater spills and not just those associated with CCR impoundments.

Finally, the measure imposes a new fee on electric utilities that own CCR impoundments to support its implementation. The bill allocates funds for 25 new positions in DENR to work on coal ash and five positions in the Department of Public Safety to support the Coal Ash Management Commission.

2015

HB 157: Interstate Mining Compact Commission and Coal Ash Management

Rep. Pat McElraft

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

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 Secretary of Environment and Natural Resources.

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 to clarify that all of the listed requirements apply. 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 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.

Pennsylvania

2014

SB 2354: Legislative Approval of State Implementation Plan

Rep. Pam Snyder

Requires the Department of Environmental Protection (DEP) to receive approval from the General Assembly for a state plan to regulate carbon dioxide (CO₂) emissions for existing stationary sources prior to submitting the state plan to the U.S. Environmental Protection Agency for approval. The measure determines actions the DEP must take for developing a state implementation plan for CO₂ emissions from power plants. The bill revises the process for the legislature to approve a state

implementation plan, where each chamber is no longer required to submit a concurrent resolution, merely a resolution, approving the implementation plan.

South Carolina

2016

HB 4857: Coal Combustion Residuals

Rep. David Hiott, Rep. Gary Clary, and 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.

Tennessee

2015

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

Rep. Kelly Keisling and 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 emission 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 emission 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

2014

HB 710/SB 560: Coal Surface Mining Control and Reclamation Act of 1979 Amendment

Del. Israel D. O'Quinn and Sen. Phil Puckett

Amends the Virginia Coal Surface Mining Control and Reclamation Act of 1979 by removing the ability of certain applicants to provide a bond without separate surety. The bill also raises the target balance of the Coal Surface Mining Reclamation Fund from \$1.75 million to \$20 million, alters the method of deducting certain expenditures from the fund, and makes technical amendments.

HB 1261/SB 615: Virginia Energy Plan Updates

Del. Ben Chafin and Sen. Charles Charrico

Requires the Virginia Energy Plan to include, with regard to any regulations proposed or promulgated by the U.S. Environmental Protection Agency to reduce carbon dioxide (CO₂) emissions from fossil fuel-fired electric generating units (EGUs) under Section 37 111(d) of the Clean Air Act, an analysis of the costs to and benefits for energy producers and electric utility customers; the effect on energy markets and reliability; and the commercial availability of technology required to comply with such regulations. The measure postpones the due date for quadrennial updates to the Virginia Energy Plan from July 1 to October 1. Interim updates of the plan are required to be provided by October 1 of the third year of each administration. The measure also requires the Division of Energy of the Department of Mines, Minerals and Energy (DMME), in plan updates starting in 2014, to set forth energy policy positions relevant to any potential regulations of the State Air Pollution Control Board to reduce CO₂ emissions from fossil fuel-fired EGUs under Section 111(d) of the Clean Air Act. The DMME is required to address policy options for establishing separate standards of performance for CO₂ emissions from existing fossil fuel-fired EGUs to promote the plan's overall goal of fuel diversity. The plan also is required to (1) examine policy options for state regulatory action to adopt less stringent standards or longer compliance schedules than those provided for in applicable federal rules or guidelines and (2) identify options, to the maximum extent permissible, for any federally required regulation of CO₂ emissions from existing fossil fuel-fired EGUs.

2015

HB 2058: Coalbed Methane Escrow Accounts

Del. Terry Kilgore

Requires the operator of certain previously pooled coalbed 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.

HB 2257/SB 1366: Mine Safety

Del. Todd E. Pillion and Sen. Ben Chafin

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 shall be corrected promptly or the equipment shall be removed from service. The bill also provides 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 shall 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 shall have 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 shall 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 emission guidelines issued pursuant to the federal Clean Air Act.

The measure also (1) authorizes a utility to recover, through a rate adjustment clause, the costs of constructing or purchasing solar energy facilities and (2) 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. The measure also requires each electric utility to file updated integrated resource plans by July 1, 2015, and thereafter each May 1; currently, such updates are required to be filed biennially.

Such plans are required to consider 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.

West Virginia

2014

HB 4346: Standards of Performance for Carbon Dioxide Emissions

Del. Rupert Phillips

The Department of Environmental Protection, in consultation with the Department of Environmental Protection Advisory Council, shall establish separate standards of performance for carbon dioxide emissions from existing coal-fired electric generating units and from existing natural gas-fired electric generating units. The standards of performance developed and proposed under any state plan to comply with Section 111(d) of the Clean Air Act should allow for greater flexibility and take into consideration the additional factors set as a part of any state plan to achieve targeted reductions in greenhouse gas emissions which are equivalent or comparable to the goals and marks established by federal guidelines.

HB 4449: Innovative Mine Safety Technology Credit Act

Del. Rupert Phillips

Includes proximity detection systems and cameras used on continuous mining machines and underground haulage equipment for tax credit purposes under the West Virginia Innovative Mine Safety Technology Credit Act.

SB 603: Methane Apparatus

Sen. Art Kirkendoll

Requires the automatic de-energization of an extraction apparatus where a machine mounted methane monitor indicates a methane concentration of one and five-tenths percent. Also, the bill removes the requirement that the Board of Coal Mine Health and Safety promulgate a legislative rule defining the term "sustained period."

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 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 Spybolt

Amends eligibility for mine operators to receive a tax credit for performing reclamation or remediation at a bond forfeiture site which 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, and Del. Justin Marcum

Provides that electric utilities may file with the commission 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 Public Service Commission (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 hydrologic 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.

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 an Environmental Protection Agency (EPA) interpretation of certain provisions of the Clean Air Act, which a recent 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 bill 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

2014

HB 174: Wyoming Infrastructure Authority

Rep. David Miller

Amends provisions relating to the Wyoming Infrastructure Authority, which provides funding for planning, financing, constructing, developing, acquiring, maintaining, and operating electric transmission facilities, advanced coal technology facilities, and related supporting infrastructure. This bill extends this funding to energy transmission facilities, including coal distribution facilities and ports.

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

SB 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.

Notes

Notes





Transcending Boundaries

SOUTHERN STATES ENERGY BOARD
6325 AMHERST COURT
PEACHTREE CORNERS, GA 30092
PH: 770.242.7712
FAX: 770.242.9956
WWW.SSEB.ORG