

H. B. 4346

(By Delegates R. Phillips, Caputo, Andes, Craig, Sumner, Pethtel, Marcum, Lynch, Tomblin, Eldridge and Barker)

[Introduced January 28, 2014; referred to the Committee on Energy then the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-5-20, relating to establishing separate standards of performance for carbon dioxide emissions from existing coal-fired electric generating units; and establishing separate standards of performance for natural gas-fired electric generating units.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §22-5-20, to read as follows:

ARTICLE 5. AIR POLLUTION CONTROL.

§22-5-20. Regulating carbon dioxide emissions from existing fossil fuel-fired electric generating units.

(a) The Department of Environmental Protection, in consultation with the Department of Environmental Protection

1 Advisory Council, shall establish separate standards of performance
2 for carbon dioxide emissions from existing coal-fired electric
3 generating units in accordance with subsection (b) and from
4 existing natural gas-fired electric generating units in accordance
5 with subsection (c). The standards of performance established
6 under this section shall be adjusted on a case-by-case basis as
7 provided for under subsection (d) and implemented as provided for
8 under subsection (e).

9 (b) Standards of performance for coal-fired electric
10 generating units. -- Except as provided under subsection (d), the
11 standard of performance established for existing coal-fired
12 electric generating units under subsection (a) shall be based upon:

13 (1) The best system of emission reduction which, taking into
14 account the cost of achieving the reduction and any nonair quality
15 health and environmental impact and energy requirements, has been
16 adequately demonstrated for coal-fired electric generating units
17 that are subject to the standard of performance;

18 (2) Reductions in emissions of carbon dioxide that can
19 reasonably be achieved through measures undertaken at each coal-
20 fired electric generating unit; and

21 (3) Efficiency and other measures that can be undertaken at
22 each coal-fired electric generating unit to reduce carbon dioxide
23 emissions from the unit without switching from coal to other fuels,
24 cofiring other fuels with coal, or limiting the utilization of the

1 unit.

2 (c) Standards of performance for natural gas-fired electric
3 generating units. -- Except as provided in subsection (d), the
4 standard of performance established for existing gas-fired electric
5 generating units under subsection (a) shall be based upon:

6 (1) The best system of emission reduction which, taking into
7 account the cost of achieving the reduction and any nonair quality
8 health and environmental impact and energy requirements, has been
9 adequately demonstrated for natural gas-fired electric generating
10 units that are subject to the standard of performance;

11 (2) Reductions in emissions of carbon dioxide that can
12 reasonably be achieved through measures undertake at each natural
13 gas-fired electric generating unit; and

14 (3) Efficiency and other measures that can be undertaken at
15 the unit to reduce carbon dioxide emissions from the unit without
16 switching from natural gas to other lower-carbon fuels or limiting
17 the utilization of the unit.

18 (d) Adjusting standards of performance. -- In establishing a
19 standard of performance under subsection (a) for any existing
20 fossil fuel-fired electric generating unit, the Department of
21 Environmental Protection shall consider in all cases whether to
22 adopt less stringent standards or longer compliance schedules than
23 those provided in applicable federal rules or guidelines based on
24 the following:

1 (1) Consumer impacts, including any disproportionate impacts
2 of energy price increases on lower income populations;

3 (2) Unreasonable cost of reducing emissions resulting from
4 plant age, location, or basic process design;

5 (3) Physical difficulties with or impossibility of
6 implementing emission reduction measures;

7 (4) The absolute cost of applying the performance standard to
8 the unit;

9 (5) The expected remaining useful life of the unit;

10 (6) The economic impacts of closing the unit, including
11 expected job losses, if the unit is unable to comply with the
12 performance standard; and

13 (7) Any other factors specific to the unit that make
14 application of a less stringent standard or longer compliance
15 schedule more reasonable.

16 (e) Implementing standards of performance. -- The Department
17 of Environmental Protection may implement, to the maximum extent
18 permissible, the standards of performance established under
19 subsection (a) through regulatory mechanisms that provide
20 flexibility in complying with the standards, including the
21 averaging of emissions, emissions trading, or other alternative
22 implementation measures that are determined to further the
23 interests of West Virginia and its citizens.

24 (f) State plan requirement. -- The Department of Environmental

1 Protection shall not propose or submit to the U.S. Environmental
2 Protection Agency any plan establishing standards of performance
3 for existing fossil fuel-fired electric generating units that is
4 inconsistent with this law.

NOTE: The purpose of this bill is to establish separate standards of performance for carbon dioxide emissions from existing coal-fired electric generating units and natural gas-fired electric generating units.

This section is new; therefore, it has been completely underscored.