



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

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

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

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

23           (3) Efficiency and other measures that can be undertaken at

1 each coal-fired electric generating unit to reduce carbon dioxide  
2 emissions from the unit without switching from coal to other fuels,  
3 cofiring other fuels with coal, or limiting the utilization of the  
4 unit.

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

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

14       (2) Reductions in emissions of carbon dioxide that can  
15 reasonably be achieved through measures undertaken at each natural  
16 gas-fired electric generating unit; and

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

21       (d) *Adjusting standards of performance.* -- In establishing a  
22 standard of performance under subsection (a) for any existing  
23 fossil fuel-fired electric generating unit, the Department of

1 Environmental Protection shall consider in all cases whether to  
2 adopt less stringent standards or longer compliance schedules than  
3 those provided in applicable federal rules or guidelines based on  
4 the following:

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

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

9 (3) Physical difficulties with or impossibility of  
10 implementing emission reduction measures;

11 (4) The absolute cost of applying the performance standard to  
12 the unit;

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

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

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

20 (e) *Implementing standards of performance.* -- The Department  
21 of Environmental Protection may implement, to the maximum extent  
22 permissible, the standards of performance established under  
23 subsection (a) through regulatory mechanisms that provide

1 flexibility in complying with the standards, including the  
2 averaging of emissions, emissions trading, or other alternative  
3 implementation measures that are determined to further the  
4 interests of West Virginia and its citizens.

5 (f) *State plan requirement.* -- The Department of Environmental  
6 Protection shall not propose or submit to the U.S. Environmental  
7 Protection Agency any plan establishing standards of performance  
8 for existing fossil fuel-fired electric generating units that is  
9 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, strike-throughs and underscoring have been omitted.