VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 67-201 and 67-202 of the Code of Virginia, relating to the Virginia Energy Plan; analysis of effects of carbon dioxide emission control requirements; periodic interim updates.

[H 1261]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 67-201 and 67-202 of the Code of Virginia are amended and reenacted as follows:

§ 67-201. Development of the Virginia Energy Plan.

A. The Division, in consultation with the State Corporation Commission, the Department of Environmental Quality, and the Center for Coal and Energy Research, shall prepare a comprehensive Virginia Energy Plan covering a 10-year period. The Plan shall propose actions, consistent with the objectives enumerated in § 67-101, that will implement the Commonwealth Energy Policy set forth in § 67-102.

B. In addition, the Plan shall include:

1. Projections of energy consumption in the Commonwealth, including but not limited to the use of fuel sources and costs of electricity, natural gas, gasoline, coal, renewable resources, and other forms of energy resources used in the Commonwealth;

2. An analysis of the adequacy of electricity generation, transmission, and distribution resources in the Commonwealth for the natural gas and electric industries, and how regional generation, transmission, and distribution resources affect the Commonwealth;

3. An analysis of siting requirements for electric generation resources and natural gas and electric transmission and distribution resources;

4. An analysis of fuel diversity for electricity generation, recognizing the importance of flexibility in meeting future capacity needs;

5. An analysis of the efficient use of energy resources and conservation initiatives;

6. An analysis of how these Virginia-specific issues relate to regional initiatives to assure the adequacy of fuel production, generation, transmission, and distribution assets;

7. An analysis of siting of energy resource development, refining or transmission facilities to identify any disproportionate adverse impact of such activities on economically disadvantaged or minority communities; ~~and~~

8. With regard to any regulations proposed or promulgated by the U.S. Environmental Protection Agency to reduce carbon dioxide emissions from fossil fuel-fired electric generating units under Section 111(d) of the Clean Air Act, 42 U.S. Code § 7411(d), an analysis of (i) the costs to and benefits for energy producers and electric utility customers; (ii) the effect on energy markets and reliability; and (iii) the commercial availability of technology required to comply with such regulations; and

~~8.~~ *9.* Recommendations, based on the analyses completed under subdivisions 1 through ~~7~~ *8,* for legislative, regulatory, and other public and private actions to implement the elements of the Commonwealth Energy Policy.

C. In preparing the Plan, the Division and other agencies involved in the planning process shall utilize state geographic information systems, to the extent deemed practicable, to assess how recommendations in the plan may affect pristine natural areas and other significant onshore natural resources.

D. In preparing the Plan, the Division and other agencies involved in the planning process shall develop a system for ascribing numerical scores to parcels of real property based on the extent to which the parcels are suitable for the siting of a wind energy facility or solar energy facility. For wind energy facilities, the scoring system shall address the wind velocity, sustained velocity, turbulence, proximity to electric power transmission systems, potential impacts to natural and historic resources and to economically disadvantaged or minority communities, and compatibility with the local land use plan. For solar energy facilities, the scoring system shall address the parcel's proximity to electric power transmission lines, potential impacts of such a facility to natural and historic resources and to economically disadvantaged or minority communities, and compatibility with the local land use plan. The system developed pursuant to this section shall allow the suitability of the parcel for the siting of a wind energy facility or solar energy facility to be compared to the suitability of other parcels so scored, and shall be based on a scale that allows the suitability of the parcel for the siting of a such an energy facility to be measured against the hypothetical score of an ideal location for such a facility.

E. After July 1, 2007, upon receipt by the Division of a recommendation from the Department of General Services, a local governing body, or the parcel's owner that a parcel of real property is a potentially suitable location for a wind energy facility or solar energy facility, the Division shall analyze the suitability of the parcel for the location of such a facility. In conducting its analysis, the Division shall ascribe a numerical score to the parcel using the scoring system developed pursuant to subsection D.

§ 67-202. Schedule.

A. The Division shall complete the Plan by July 1, 2007.

B. Prior to completion of the Plan and updates thereof, the Division shall present drafts to, and consult with, the Coal and Energy Commission and the Commission on Electric Utility Regulation.

C. The Plan shall be updated by the Division and submitted as provided in § 67-203 by July 1, 2010, *October 1, 2014,* and every ~~four~~ ~~years~~ *fourth October 1* thereafter. *In addition, the Division shall provide interim updates on the Plan by October 1 of the third year of each administration.* Updated reports shall reassess goals for energy conservation based on progress to date in meeting the goals in the previous plan and lessons learned from attempts to meet such goals.

D. Beginning with the Plan update in 2014, the Division shall include a section to set forth energy policy positions relevant to any potential regulations proposed or promulgated by the State Air Pollution Control Board to reduce carbon dioxide emissions from fossil fuel-fired electric generating units under Section 111(d) of the Clean Air Act, 42 U.S.C. § 7411(d). In this section of the Plan, the Division shall address policy options for establishing separate standards of performance pursuant to Section 111(d) of the Clean Air Act, 42 U.S.C. § 7411(d), for carbon dioxide emissions from existing fossil fuel-fired electric generating units to promote the Plan's overall goal of fuel diversity as follows:

1. The Plan shall address policy options for establishing the standards of performance for existing coal-fired electric generating units, including but not limited to the following factors:

a. The most suitable system of emission reduction that (i) takes into consideration (a) the cost and benefit of achieving such reduction, (b) any non-air quality health and environmental impacts, and (c) the energy requirements of the Commonwealth and (ii) has been adequately demonstrated for coal-fired electric generating units that are subject to the standard of performance;

b. Reductions in emissions of carbon dioxide that can be achieved through measures reasonably undertaken at each coal-fired electric generating unit; and

c. Increased efficiencies and other measures that can be implemented at each coal-fired electric generating unit to reduce carbon dioxide emissions from the unit without converting from coal to other fuels, co-firing other fuels with coal, or limiting the utilization of the unit.

2. The Plan shall also address policy options for establishing the standards of performance for existing gas-fired electric generating units, including but not limited to the following factors:

a. The application of the criteria specified in subdivisions 1 a and b to natural gas-fired electric generating units, instead of to coal-fired electric generating units; and

b. Increased efficiencies and other measures that can be reasonably implemented at the unit to reduce carbon dioxide emissions from the unit without switching from natural gas to other lower-carbon fuels or limiting the utilization of the unit.

3. The Plan shall 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 based on analysis of the following:

a. Consumer impacts, including any disproportionate impacts of energy price increases on lower-income populations;

b Unreasonable cost of reducing emissions resulting from plant age, location, or basic process design;

c. Physical difficulties with or impossibility of implementing emission reduction measures;

d. The absolute cost of applying the performance standard to the unit;

e. The expected remaining useful life of the unit;

f. The economic impacts of closing the unit, including expected job losses, if the unit is unable to comply with the performance standard; and

g. Any other factors specific to the unit that make application of a less stringent standard or longer compliance schedule more reasonable.

4. The Plan shall identify options, to the maximum extent permissible, for any federally required regulation of carbon dioxide emissions from existing fossil fuel-fired electric generating units, regulatory mechanisms that provide flexibility in complying with such standards, including the averaging of emissions, emissions trading, or other alternative implementation measures that are determined to further the interests of the Commonwealth and its citizens.