



# Ohio Legislative Service Commission

## Bill Analysis

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### **Am. H.B. 506\***

130th General Assembly

(As Reported by H. Agriculture & Natural Resources)

**Reps.** Thompson and Cera, Grossman, Hill, Stebelton, Blessing

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## **BILL SUMMARY**

- Requires the Director of Environmental Protection to adopt rules establishing standards of performance for carbon dioxide emissions from existing coal-fired electric generating units and natural gas fired electric generating units (hereafter, existing generating units) in compliance with the bill if the U.S. Environmental Protection Agency (USEPA) adopts applicable regulations or issues applicable guidelines.
- Requires standards of performance for existing generating units to be based on specified factors, including reductions in carbon dioxide emissions that can reasonably be achieved.
- Requires the Director to consider whether to adopt less stringent standards or longer compliance schedules than those established in applicable federal regulations or guidelines when establishing a standard of performance for an existing generating unit based on specified factors, including consumer impacts and cost.
- Allows the Director to implement, to the maximum extent permissible, the standards of performance through mechanisms that provide flexibility in complying with the standards.
- Requires any plan establishing standards of performance for existing generating units developed under the bill to be prepared in consultation with the Public

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\* This analysis was prepared before the report of the House Agriculture and Natural Resources Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

Utilities Commission of Ohio, the Ohio Air Quality Development Authority, and any other relevant agency.

- Requires the Director to consider the bill's provisions, to the extent practicable, in the development of a plan to be submitted to USEPA.
- States that any plan developed under the bill ceases to operate if applicable regulations adopted or applicable guidelines issued by USEPA under section 111(d) of the federal Clean Air Act are withdrawn by USEPA or invalidated by a court.

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## **CONTENT AND OPERATION**

### **Standards of performance for existing electric generating units**

The bill requires the Director of Environmental Protection, if the U.S. Environmental Protection Agency (USEPA) adopts regulations or issues guidelines for reducing carbon dioxide emissions from existing coal-fired or natural gas-fired electric generating units (hereafter, existing generating units) under section 111(d) of the federal Clean Air Act, to adopt rules in accordance with the Administrative Procedure Act establishing standards of performance for carbon dioxide emissions from existing generating units to the maximum extent permissible under the USEPA regulations or guidelines.<sup>1</sup>

Standards of performance for existing coal-fired electric generating units must be based on all of the following:

(1) The best system of emission reduction that, taking into account the cost of achieving that reduction and any non-air quality health and environmental impact and energy requirements, has been adequately demonstrated for coal-fired electric generating units that are subject to the standards of performance;

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

(3) Efficiency and other measures that can be undertaken at each coal-fired electric generating unit to reduce carbon dioxide emissions from the unit without changing from coal to other lower-carbon fuels, co-firing other fuels with coal, or limiting the economic utilization of the unit.<sup>2</sup>

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<sup>1</sup> R.C. 3704.20(A).

<sup>2</sup> R.C. 3704.20(B).

Similarly, standards of performance for existing natural gas-fired electric generating units must be based on all of the following:

(1) The best system of emission reduction that, taking into account the cost of achieving that reduction and any non-air quality health and environmental impact and energy requirements, has been adequately demonstrated for natural gas-fired electric generating units that are subject to the standards of performance;

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

(3) Efficiency and other measures that can be undertaken at each natural gas-fired electric generating unit to reduce carbon dioxide emissions from the unit without changing from natural gas to other lower-carbon fuels or limiting the economic utilization of the unit.<sup>3</sup>

### **Consideration of whether to adopt less stringent standards**

The bill requires the Director, in establishing a standard of performance for an existing generating unit, to consider whether to adopt less stringent standards or longer compliance schedules than those established in applicable federal regulations or guidelines based on all of the following:

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

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

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

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

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

(6) Impacts of closing the unit, including economic impacts such as expected job losses, if the unit is unable to comply with the performance standard;

(7) Impacts on the reliability of the state's electrical grid;

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<sup>3</sup> R.C. 3704.20(C).

(8) All actual reductions in carbon dioxide emissions beginning January 1, 2005; and

(9) Any other factors specific to the unit that make application of a less stringent standard or longer compliance schedule more reasonable.<sup>4</sup>

Additionally, the Director may implement, to the maximum extent permissible, the standards of performance established in rules adopted under the bill through mechanisms that provide flexibility in complying with the standards.<sup>5</sup>

### **Plans establishing standards of performance**

The bill requires any plan establishing standards of performance for existing generating units developed under the bill to be prepared in consultation with the Public Utilities Commission of Ohio, the Ohio Air Quality Development Authority, and any other relevant agency to ensure that the plan does not threaten the affordability of electric power to all classes of electricity consumers, takes full advantage of the federal Clean Air Act to minimize impacts to the cost and reliability of electricity, and minimizes the impacts on current and future industrial, commercial, and residential consumers.<sup>6</sup>

Under the bill, the Director must consider the bill's provisions, to the extent practicable, in the development of a plan to be submitted to the USEPA under section 111(d) of the federal Clean Air Act.<sup>7</sup> The bill then states that any plan establishing standards of performance for existing generating units developed under the bill ceases to operate if applicable regulations adopted or guidelines issued by USEPA under section 111(d) of the federal Clean Air Act are withdrawn by USEPA or invalidated by a court.<sup>8</sup>

### **Federal Clean Air Act**

Section 111(d) of the federal Clean Air Act requires the Administrator of USEPA to adopt regulations establishing a procedure under which each state must submit a plan that establishes standards of performance for any existing source for any air pollutant for which air quality criteria have not been issued or that is not included on a

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<sup>4</sup> R.C. 3704.20(D).

<sup>5</sup> R.C. 3704.20(E).

<sup>6</sup> R.C. 3704.20(F).

<sup>7</sup> R.C. 3704.20(G).

<sup>8</sup> R.C. 3704.20(H).

list of hazardous air pollutants but to which a standard of performance would apply if the existing source were a new source.

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## HISTORY

### ACTION

### DATE

Introduced  
Reported, H. Agriculture & Natural Resources

03-25-14  
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