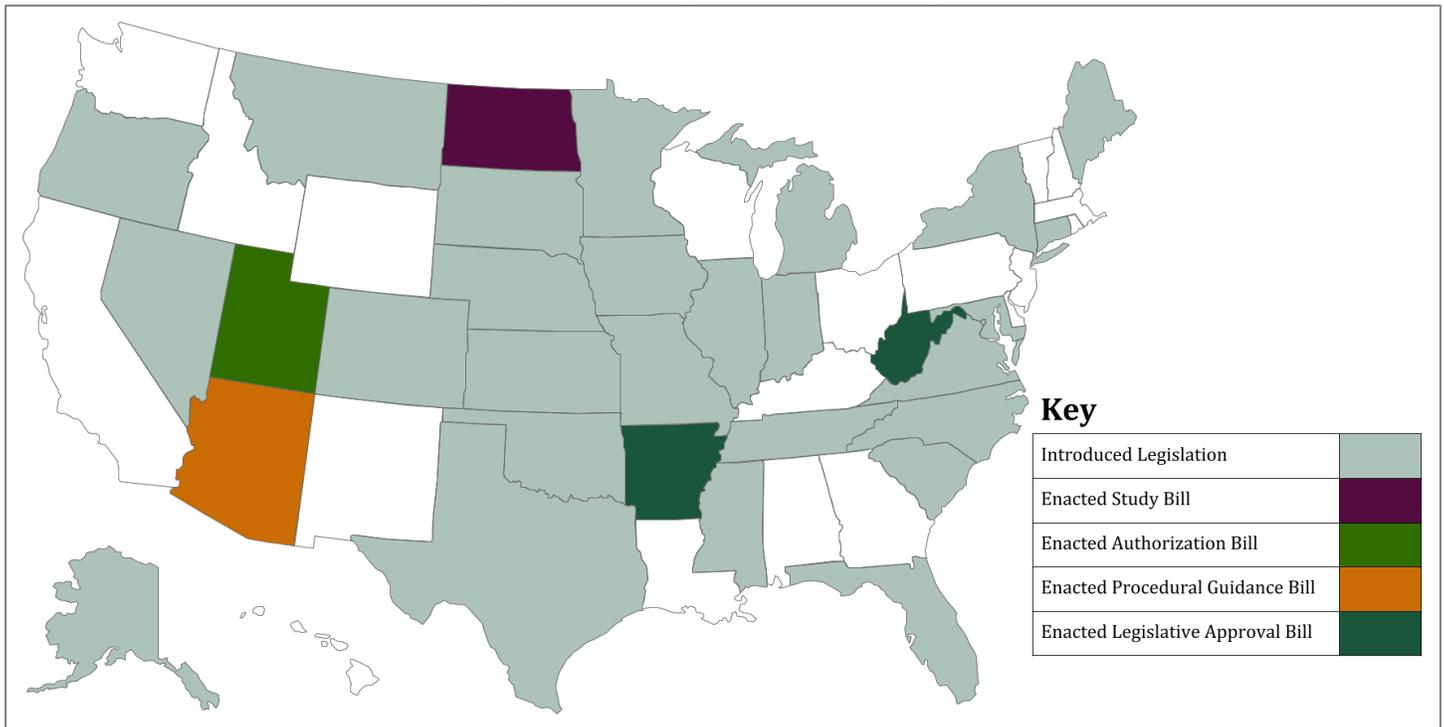


2015 State Legislative Activity Related to the Clean Power Plan May 2015

To date, legislators in 31 states have introduced 69 unique bills likely to impact the implementation of U.S. EPA's final carbon pollution standards for modified and reconstructed power plants under Section 111(d) of the Clean Air Act.¹ As the map below shows, only five of these bills have been enacted.

State 111(d)-Related Legislation as of May 7th, 2015



Highlights²:

1. The majority of the bills introduced to date relates to changes in administrative procedures (47 bills). While 23 bills would amend or create legislative approval requirements, 22 bills provide planning and procedural guidance. Enacted legislation in Arkansas ([SB 183](#)) and West Virginia ([HB 2004](#)) require legislative approval of the state compliance plan. A new Act in Arizona ([SB 1007](#)) creates a legislative committee to develop the metrics by which a state plan will be reviewed.

2. The Center for the New Energy Economy (CNEE) is tracking an additional 41 bills likely to have implications for state implementation of the final rule. Of these, two have been enacted. In Arkansas, [SB 727](#) provides for cost recovery for the costs incurred by a utility to comply with regulations. In Virginia, [SB 1349](#) allows utilities to recover the costs associated with early retirements that are a result of the implementation of the final rule.

¹ All data used in this brief reflects data available in the AEL Tracker on May 7th, 2015. "Companion bills" – identical or very similar pieces of legislation – are counted as a single bill in all analyses by CNEE. We track the version that has progressed the furthest in the legislative process. A full listing of legislation can be found at <http://www.westernstate111dplans.com> under "CNEE Research".

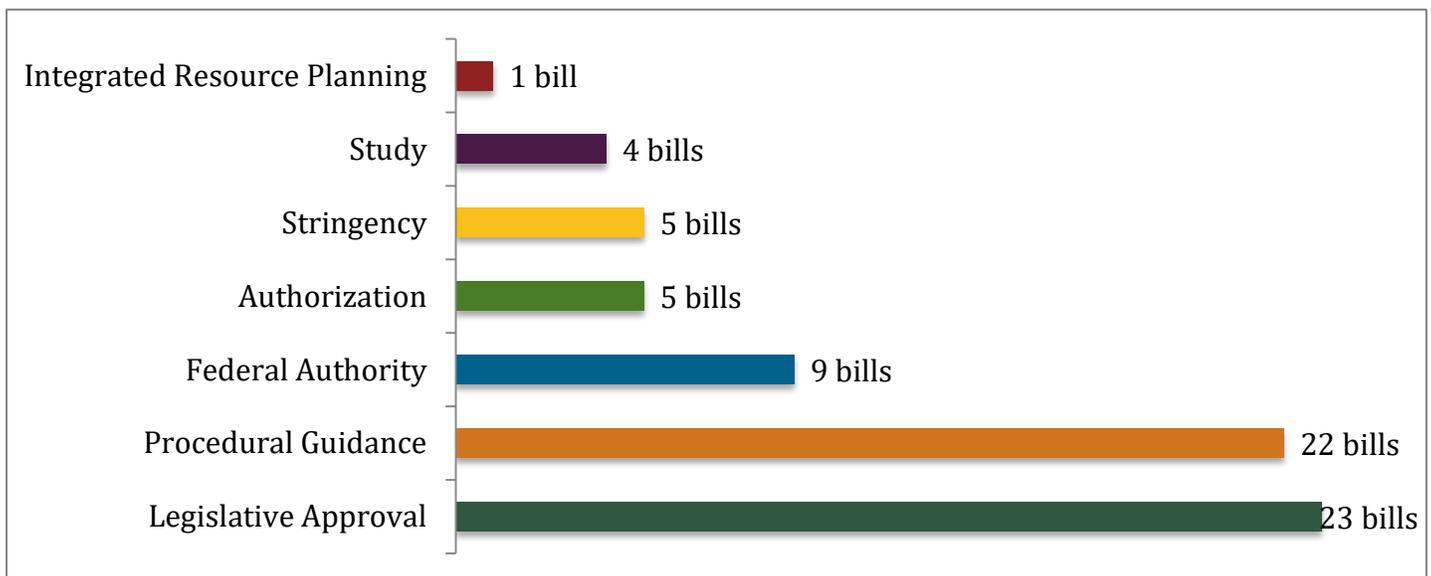
² See reverse for more detailed discussion.

Discussion:

In order to complete this analysis, bills were grouped into one of seven categories (see graph). The majority of legislation introduced to date would create new legislative approval requirements for state agencies (23 bills). While the bulk of the bills in this category specifically require that implementation or compliance plans be approved by the legislature prior to submission to the EPA, a handful of these bills amend legislative approval requirements generally by amending state Administrative Procedures Acts. Some of the bills in this category also provide planning and procedural guidance to agencies involved in the drafting of a compliance plan.

A close second, 22 bills provide planning and procedural requirements that state agencies are expected to meet. Again, while a handful of bills amend state Administrative Procedures Acts generally, the majority specifies the procedures and analyses to be undertaken in the development of a compliance plan. While legislation in this group may provide for legislative review, these bills do not specifically require legislative approval of a final plan.

111(d)-Related Legislation by Category (69 bills)



Far fewer bills have been introduced in the remaining categories. Legislation relating to federal authority (9 bills) generally questions the federal government’s role in regulating in-state activities. Bills in this category prohibit the development of a compliance plan or undertaking other rulemaking activities, typically unless certain conditions are met. Other bills threaten or appropriate money for litigation by the state. Legislation in the authorization category (5 bills) typically designates the state agencies responsible for developing a compliance plan and authorizes those agencies to do so. In a handful of instances, these bills authorize the adoption of in-state standards that are stricter than federal requirements. On the other hand, five bills limit in-state regulations, requiring that standards not be more stringent than federal requirements. To date, four bills to study the implications of state or federal regulation of carbon emissions have been introduced. And, a bill in Virginia ([HB 2244](#)) would require that Integrated Resource Plans (IRP) include an evaluation of compliance options for federal environmental rules in order to minimize rate impacts.

CNEE is also tracking a number of bills likely to have implications for state implementation of the final rule. The bulk of these bills relate to carbon emissions goals and plant retirements. For instance, Montana’s [HB 402](#) would create a “Coal County Impact fee” assessed on utilities retiring coal-fired plants on or before November 30, 2025. Other bills are more varied but generally relate to changes in cost-benefit analyses, allowing for cost recovery, prohibiting power purchase agreements or permits for coal-fired generation, or authorizing market-based or regional approaches to regulating emissions. For instance, in Illinois [HB 2607](#) would, upon promulgation of the final rule, authorize the state EPA to implement a market-based approach to regulating emissions.