

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2354 Session of 2014

INTRODUCED BY SNYDER, OBERLANDER, KORTZ, KOTIK, SANKEY, NEUMAN, JAMES, TOPPER, HARHAI, GOODMAN, GIBBONS, LUCAS, HANNA, KULA, AUMENT, D. COSTA, CARROLL, EVERETT, CLYMER, READSHAW, P. DALEY, MARSHALL AND MAHONEY, JUNE 18, 2014

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 25, 2014

AN ACT

1 Requiring the Department of Environmental Protection to receive
2 approval from the General Assembly for a State plan to
3 regulate carbon dioxide emissions for existing stationary
4 sources prior to submitting the State plan to the United
5 States Environmental Protection Agency for approval.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Pennsylvania
10 Greenhouse Gas Regulation Implementation Act.

11 Section 2. Declaration of policy.

12 The General Assembly finds and declares as follows:

13 (1) Reasonably priced reliable sources of electric power
14 generated in this Commonwealth are vital to the health,
15 safety and welfare of the residents and to the prosperity of
16 this Commonwealth's economy.

17 (2) It is the responsibility of the Commonwealth to
18 ensure that a reliable supply of electric power is generated

1 at a level consistent with the need for such electric power
2 for the protection of public health, safety and the
3 environment.

4 (3) Coal-fired electric generation power plants are
5 developed primarily through the free enterprise system and
6 require a significant commitment of funds and resources from
7 shareholders, and the potential decision to deactivate or
8 retire coal-fired electric generation power plants will have
9 a long-term impact on this Commonwealth's economy.

10 (4) Commonwealth coal-fired electric generation power
11 plants that sell into the wholesale power markets strengthen
12 competition and enhance the reliability of the bulk power and
13 transmission systems and are vital to public interest.

14 (5) The premature deactivation or retirement of coal-
15 fired electric generation facilities significantly affects
16 this Commonwealth's economy, environment, electric
17 reliability and the general health, safety and welfare of
18 this Commonwealth's residents, businesses and industries.

19 (6) All electric power generators, but primarily coal-
20 fired electric generation facilities, have been subjected to
21 ongoing and unmitigated negative market conditions that have
22 resulted in the premature deactivation and retirement of high
23 capacity resources in this Commonwealth.

24 (7) Over the past seven years, the Federal Environmental
25 Protection Agency, the Ozone Transportation Commission and
26 the Department of Environmental Protection have promulgated a
27 myriad of environmental rules that have significantly
28 increased costs to coal-fired electric generation facilities,
29 making them less competitive in the wholesale power markets.

30 (8) The United States Environmental Protection Agency

1 recently announced another rule governing carbon dioxide
2 emissions from coal-fired electric generation facilities.

3 (9) Since this Commonwealth is the second largest
4 electricity producing state in the nation, the top net
5 exporter of electricity and the fourth largest coal producing
6 state, the United States Environmental Protection Agency's
7 new greenhouse gas rule will have a significant, profound and
8 long-lasting impact on the economy of this Commonwealth.

9 (10) The United States Environmental Protection Agency's
10 greenhouse gas rule will also affect those communities that
11 host coal-fired power plants, the employees at those
12 facilities and residential, commercial and industrial
13 consumers in this Commonwealth who depend upon the reliable
14 provisioning of electricity at an economic price.

15 (11) Under the preliminary United States Environmental
16 Protection Agency greenhouse gas rule, the Commonwealth has
17 the authority to develop and submit to the United States
18 Environmental Protection Agency a plan for how the
19 Commonwealth will meet the United States Environmental
20 Protection Agency's goals of reducing carbon dioxide
21 emissions.

22 (12) Due to the extraordinary impact that the United
23 States Environmental Protection Agency's greenhouse gas rule
24 will have on this Commonwealth, it is the responsibility of
25 the General Assembly, working together with the Department of
26 Environmental Protection, the Pennsylvania Public Utility
27 Commission and other important stakeholders, to be directly
28 involved in the development of the Commonwealth's plan.

29 Section 3. Definitions.

30 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Department." The Department of Environmental Protection of
4 the Commonwealth.

5 "Environmental Protection Agency" or "EPA." The United
6 States Environmental Protection Agency or the Administrator of
7 the United States Environmental Protection Agency.

8 "State plan." The state plan authorized by the Environmental
9 Protection Agency under docket EPA-HQ-OAR-2013-0602.

10 Section 4. State plan development.

11 (a) Development of State plan.--In accordance with the
12 requirements of the EPA's regulation of carbon dioxide emissions
13 for existing stationary sources, as published under docket EPA-
14 HQ-OAR-2013-0602, the department shall develop and submit to the
15 EPA a State plan for compliance with the regulation of carbon
16 dioxide from existing power plants. In developing the State
17 plan, the department shall do all of the following:

18 (1) Summon and examine witnesses and compel the
19 production and examination of documents and other evidence
20 that may be necessary for the discharging of duties imposed
21 under this act.

22 (2) Conduct at least four public hearings in
23 geographically dispersed locations in this Commonwealth,
24 including locations that would be directly economically
25 affected by the EPA's carbon dioxide regulation.

26 (3) Accept written testimony and consider, as part of
27 the deliberations on the State plan, all written and oral
28 testimony provided.

29 (4) Consider all of the following in the development of
30 the State plan:

1 (i) Whether to rely on measures the EPA used to
2 calculate the carbon dioxide reduction goal, as well as
3 other measures that were not part of the EPA goal-setting
4 process.

5 (ii) Whether the Commonwealth should participate in
6 multistate programs that already exist, or whether a new
7 multistate carbon dioxide reduction program should be
8 created.

9 (iii) Whether the Commonwealth should invest in
10 energy efficiency programs during the compliance period
11 to assist in meeting the EPA's goal.

12 (iv) Whether the Commonwealth should work in
13 partnership with other states.

14 (v) When individual power plants must make
15 reductions.

16 (vi) The extent to which any of the following should
17 be included in the State plan:

18 (A) Demand-side energy efficiency programs.

19 (B) Renewable energy standards.

20 (C) Efficiency improvements at existing affected
21 power plants.

22 (D) Cofiring or switching to natural gas.

23 (E) Transmission efficiency improvements.

24 (F) Energy storage technologies.

25 (G) The retirement or deactivation of existing
26 affected generation units or facilities.

27 (H) The expansion of nonemitting sources, such
28 as nuclear power.

29 (I) Market-based trading programs.

30 (J) Other energy conservation programs.

1 (vii) How best to avoid stranded investments in
2 existing affected power plants.

3 (5) Prioritize the components of the State plan based on
4 a least-cost compliance approach to benefit consumers of
5 electricity.

6 (6) Take into consideration the necessity and value to
7 having a diverse generation fleet to ensure electric
8 reliability in this Commonwealth.

9 Section 5. Submission of the State plan.

10 (a) Submission for approval to the General Assembly.--No
11 less than 100 days prior to the department submitting the State
12 plan to the EPA for approval, the department shall transmit the
13 plan to the General Assembly for approval. ~~No State plan may be~~ <--
14 ~~submitted to the EPA without approval of the General Assembly~~
15 ~~under subsection (c).~~

16 (b) General Assembly duties.--The General Assembly shall
17 expeditiously consider the State plan developed by the
18 department under this section as a special order of business. No
19 ~~less~~ MORE than 20 days after receiving the State plan from <--
20 department, the President ~~Pro Tempore~~ PRO TEMPORE of the Senate <--
21 and the ~~Speaker~~ MAJORITY LEADER of the House of Representatives <--
22 shall place a concurrent resolution on the calendar summarizing
23 the State plan and the members of each chamber of the General
24 Assembly shall vote upon the concurrent resolution.

25 (c) Approval.--If both chambers of the General Assembly
26 adopt the concurrent resolution under subsection (b), the
27 department may submit the State plan to the EPA for
28 consideration.

29 (d) Disapproval.--If either chamber of the General Assembly
30 disapproves the concurrent resolution under subsection (b), the

1 department may not submit the State plan to the EPA for
2 consideration. The department shall do all of the following:

3 (1) Determine the reasons for disapproval and modify the
4 State plan.

5 (2) Cause the State plan to be resubmitted to the
6 General Assembly utilizing the process delineated under
7 subsection (b) WITHIN 60 DAYS OF THE DISAPPROVAL. <--

8 (3) If necessary, request an extension of time from the
9 EPA BY SUBMITTING AN INITIAL STATE PLAN BY JUNE 30, 2016, <--
10 THAT MEETS THE MINIMUM REQUIREMENTS FOR AN INITIAL STATE
11 PLAN, AS SPECIFIED IN THE PLAN GUIDELINES PUBLISHED BY THE
12 EPA. THE DEPARTMENT SHALL TRANSMIT THE FOLLOWING MESSAGE WITH
13 ITS SUBMITTAL UNDER THIS PARAGRAPH:

14 BE ADVISED THAT THE STATE PLAN SUBMITTED BY THE
15 PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION HAS
16 NOT YET MET THE REQUIREMENTS OF THE PENNSYLVANIA
17 GREENHOUSE GAS REGULATION IMPLEMENTATION ACT REQUIRING
18 AFFIRMATIVE APPROVAL OF THE GENERAL ASSEMBLY. IT IS THE
19 INTENTION OF THE COMMONWEALTH OF PENNSYLVANIA TO SUBMIT A
20 STATE PLAN WHICH CONFORMS TO THIS RULEMAKING. UNDER
21 SECTION 111(D) OF THE CLEAN AIR ACT, STATES MUST BE GIVEN
22 AN OPPORTUNITY TO MEET FEDERAL ENVIRONMENTAL STANDARDS
23 SET FORTH BY THE ENVIRONMENTAL PROTECTION AGENCY. THE
24 COMMONWEALTH OF PENNSYLVANIA HEREBY INVOKES THE AUTHORITY
25 PROVIDED TO IT UNDER SECTION 111(D) OF THE CLEAN AIR ACT,
26 AND, IN ACCORDANCE WITH THE PENNSYLVANIA GREENHOUSE GAS
27 IMPLEMENTATION ACT, WILL BE MAKING A FURTHER FILING WITH
28 THE AGENCY.

29 (E) DEFAULT APPROVAL.--IF NO VOTE IS TAKEN BY EITHER CHAMBER
30 OF THE GENERAL ASSEMBLY TO APPROVE OR DISAPPROVE THE CONCURRENT

1 RESOLUTION BEFORE 15 DAYS OF THE JUNE 30, 2016, DEADLINE, THE
2 STATE PLAN SHALL BE DEEMED APPROVED AND SHALL BE SUBMITTED TO
3 THE EPA IMMEDIATELY.

4 (F) DEFAULT APPROVAL AFTER TIME TO CURE.--IF EITHER CHAMBER
5 OF THE GENERAL ASSEMBLY FAILS TO APPROVE A RESUBMITTED PLAN
6 UNDER SUBSECTION (D) (2), WITHIN 60 DAYS OF THE EXTENSION
7 DEADLINE, THE RESUBMITTED PLAN SHALL BE DEEMED APPROVED.

8 Section 6. Effective date.

9 This act shall take effect immediately.