

**PENNSYLVANIA GREENHOUSE GAS REGULATION IMPLEMENTATION ACT -
ENACTMENT**

Act of Oct. 22, 2014, P.L. 2873, No. 175

Cl. 27

An Act

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

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

Section 1. Short title.

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

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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

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

"Standing committee." The Environmental Resources and Energy Committee of the Senate or the Environmental Resources and Energy Committee of the House of Representatives. (Def. added June 23, 2016, P.L.393, No.57)

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

Section 3. State plan development.

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

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

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

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

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

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

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

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

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

(v) When individual power plants must make reductions.

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

(A) Demand-side energy efficiency programs.

(B) Renewable energy standards.

(C) Efficiency improvements at existing affected power plants.

(D) Cofiring or switching to natural gas.

(E) Transmission efficiency improvements.

(F) Energy storage technologies.

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

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

(I) Market-based trading programs.

(J) Other energy conservation programs.

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

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

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

Section 4. Submission of the State plan.

(a) Submission for approval to the General Assembly.--No less than 100 calendar days prior to the department submitting the State plan to the EPA for approval, the department shall transmit the plan to the General Assembly for approval.

(b) Consideration by General Assembly.--Upon transmission under subsection (a), the State plan shall be:

(1) proposed as a resolution in each chamber;

(2) referred to the standing committee in each chamber the next legislative day following transmission;

(2.1) considered by the standing committee within 10 legislative days of referral under paragraph (2) at which time the standing committee shall recommend the General Assembly approve or disapprove the State plan; and

(3) considered by each chamber within 20 legislative days after consideration of the standing committee under paragraph (2.1).

(b.1) Extension request.--If necessary to meet the requirements under subsection (b), the department shall request an extension of time from the EPA by submitting an initial State plan by the initial State plan submission deadline under 40 CFR 60.5760 (relating to what are the timing requirements for submitting my plan?) that meets the minimum requirements for an initial State plan, as specified in the plan guidelines published by the EPA. The department shall transmit the following message with its submittal under this paragraph:

Be advised that the State plan submitted by the Pennsylvania Department of Environmental Protection has not yet met the requirements of the Pennsylvania Greenhouse Gas Regulation Implementation Act requiring affirmative approval of the General Assembly. It is the intention of the Commonwealth of Pennsylvania to submit

a State plan which conforms to this rulemaking. Under section 111(d) of the Clean Air Act, states must be given an opportunity to meet Federal environmental standards set forth by the Environmental Protection Agency. The Commonwealth of Pennsylvania hereby invokes the authority provided to it under section 111(d) of the Clean Air Act, and, in accordance with the Pennsylvania Greenhouse Gas Implementation Act, will be making a further filing with the agency.

(c) Approval.--If each chamber of the General Assembly adopts the resolution under subsection (b), the department may submit the State plan to the EPA for consideration.

(d) Disapproval.--If either chamber of the General Assembly disapproves the resolution under subsection (b), the department may not submit the State plan to the EPA for consideration. The department shall do all of the following:

(1) Review and consider the reasons for disapproval and modify the State plan.

(2) Cause a new version of the State plan to be resubmitted to the General Assembly utilizing the process delineated under subsection (b) within 60 calendar days after the close of the comment period under paragraph (2.1).

(2.1) Open a public comment period for no less than 180 calendar days on the modified State plan during which the department shall conduct at least four public hearings in geographically dispersed locations in this Commonwealth.

(3) If necessary, request an extension of time from the EPA by submitting an initial State plan by the initial State plan submission deadline under 40 CFR 60.5760, that meets the minimum requirements for an initial State plan, as specified in the plan guidelines published by the EPA. The department shall transmit the following message with its submittal under this paragraph:

Be advised that the State plan submitted by the Pennsylvania Department of Environmental Protection has not yet met the requirements of the Pennsylvania Greenhouse Gas Regulation Implementation Act requiring affirmative approval of the General Assembly. It is the intention of the Commonwealth of Pennsylvania to submit a State plan which conforms to this rulemaking. Under section 111(d) of the Clean Air Act, states must be given an opportunity to meet Federal environmental standards set forth by the Environmental Protection Agency. The Commonwealth of Pennsylvania hereby invokes the authority provided to it under section 111(d) of the Clean Air Act, and, in accordance with the Pennsylvania Greenhouse Gas Implementation Act, will be making a further filing with the agency.

(e) Default approval.--If no vote is taken by either standing committee or chamber of the General Assembly to approve or disapprove the resolution under subsection (b) for the State plan submitted under subsection (a) at least 14 calendar days prior to the final State plan submission deadline under 40 CFR 60.5760, the State plan shall be deemed approved and shall be submitted to the EPA immediately.

(f) Default approval after time to cure.--If either chamber of the General Assembly fails to approve the resolution under subsection (b) for a resubmitted State plan under subsection (d)(2) or within 60 calendar days of the final State plan submission extension deadline under 40 CFR 60.5760, whichever is sooner, the resubmitted State plan shall be deemed approved.

(g) Timing relative to Federal litigation.--The department shall not submit a State plan to the EPA for approval until after expiration of the stay issued on February 9, 2016, by the Supreme Court of the United States in *West Virginia, Et Al. v. EPA*, Docket No. 15A773, challenging the carbon pollution emission guidelines for existing stationary sources under 40 CFR Pt. 60 Subpt. UUUU (relating to emission guidelines for greenhouse gas emissions and compliance times for electric utility generating units).

(4 amended June 23, 2016, P.L.393, No.57)
Section 5. Effective date.

This act shall take effect immediately.