
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 812 Session of
2005

INTRODUCED BY PISTELLA, GEORGE, BELFANTI, CALTAGIRONE, CAPPELLI,
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McILHATTAN, MUSTIO, READSHAW, SHANER, SOLOBAY, R. STEVENSON,
THOMAS, TIGUE, WALKO AND YOUNGBLOOD, MARCH 14, 2005

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MARCH 14, 2005

AN ACT

1 Providing incentives for the use of waste, coal bed methane and
2 coal mine methane for the production of electricity;
3 establishing the Coal Waste Fund; providing for a tax credit;
4 and prohibiting certain surface disposal of coal waste.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Coal Waste
8 and Methane Green Power Act.

9 Section 2. Findings and declaration of policy.

10 (a) Findings.--The General Assembly finds and declares as
11 follows:

12 (1) The accumulation and storage of waste coal on or
13 within land situated in this Commonwealth can cause
14 environmentally unsafe conditions that can create a danger to
15 persons or property and degrade the air and water resources
16 of this Commonwealth.

17 (2) Coal bed methane and coal mine methane, which must
18 be vented from underground coal mines to protect the health
19 and safety of miners, is a potential energy resource that is
20 not being effectively utilized.

21 (3) Incentives are needed to encourage cleanup of lands
22 impacted by coal waste accumulations and to encourage the use
23 of existing and future state-of-the-art technology to use
24 coal refuse to generate clean electricity.

25 (b) Policy.--It is the policy of the Commonwealth that
26 electricity generated from the combustion of coal waste and up
27 to an aggregate of 10% coal bed methane or coal mine methane in
28 facilities that meet all applicable Federal and State air
29 emission requirements shall be considered to be green power.

30 Section 3. Definitions.

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

4 "Coal bed methane." Methane gas that is extracted from an
5 unmined coal seam.

6 "Coal mine methane." Methane gas that is extracted from the
7 worked out areas of an underground coal mine.

8 "Coal waste." Reject material of no commercial value that is
9 associated with or near coal seams, contains residual heat value
10 greater than 1,500 BTUs and was discarded in the coal cleaning
11 process or during mine development and subsequently placed on or
12 within land situate in this Commonwealth.

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

15 "Fund." The Coal Waste Fund established under section 6
16 (relating to Coal Waste Fund).

17 "Green power." Electricity generated from coal waste and up
18 to an aggregate of 10% coal bed methane or coal mine methane.

19 "Green power facility." An electricity generating facility
20 designated as a green power facility under section 4 (relating
21 to green power facility designation).

22 Section 4. Green power facility designation.

23 (a) Proposed facilities.--A proposed coal waste electricity
24 generating facility shall be designated by the department as a
25 green power facility if the facility is designed to utilize coal
26 waste or coal waste and an aggregate of up to 10% coal bed
27 methane and coal mine methane, based on heat input value, as
28 fuel. The operating permit for such facility shall be
29 conditioned to limit fuel sources to coal waste or coal waste
30 and an aggregate of up to 10% coal bed methane or coal mine

1 methane.

2 (b) Existing facilities.--An existing coal waste electricity
3 generating facility shall be designated by the department as a
4 green power facility if:

5 (1) The facility permittee commits to utilize coal waste
6 or coal waste and an aggregate of up to 10% coal bed methane
7 and coal mine methane, based on heat input value, as fuel.

8 (2) The operating permit for the facility is amended to
9 be conditioned to limit fuel sources to coal waste or coal
10 waste and an aggregate of up to 10% coal bed methane or coal
11 mine methane.

12 (c) Heat values less than 1,500 BTUs.--In considering
13 requests for designation of a facility as a green power
14 facility, the department may not require that the facility
15 utilize coal waste having a heat value of less than 1,500 BTUs.

16 (d) Quarterly reports.--The permittee of a green power
17 facility shall submit quarterly reports to the department on the
18 quantities and BTU heat value of the fuels used at the facility.

19 (e) Duration of designation.--The designation of a facility
20 as a green power facility shall continue as long as the fuel
21 sources on an annual basis are limited to coal waste and an
22 aggregate of up to 10% of coal bed methane or coal mine methane.

23 Section 5. Reclamation of coal waste source areas.

24 Removal of coal waste from land in this Commonwealth and
25 reclamation of such areas shall be authorized or permitted by
26 the department consistent with the laws and regulations
27 implemented by the department pertaining to such activities.

28 Section 6. Coal Waste Fund.

29 (a) Establishment.--One tenth of a cent for every kilowatt
30 of electricity sold from a green power facility shall be paid to

1 the State Treasurer for deposit in a special fund, separate and
2 apart from all other moneys in the State Treasury, to be known
3 as the Coal Waste Fund.

4 (b) Use of fund.--Moneys of the fund shall be used by the
5 department only for:

6 (1) Assisting operators in obtaining permits for and
7 providing financial assurance for reclamation of coal waste
8 source areas.

9 (2) Department contracts and grants for research and
10 development for utilization of coal waste to generate clean
11 electricity.

12 (3) Beneficial use of ash generated at green power
13 facilities.

14 Section 7. Use of mine pool water.

15 To the extent economically feasible, green power facilities
16 shall use water from mine pools.

17 Section 8. Renewable energy portfolio standards.

18 To the extent electricity generating facilities in this
19 Commonwealth are required to include renewable energy in the
20 electricity they offer for sale, the electricity generated at
21 green power facilities shall qualify as renewable energy.

22 Section 9. Green power incentives.

23 A facility that is classified as "green power" for utilizing
24 mining waste and cleanup of an environmental hazard may change
25 competitive market rates for green power based on supply and
26 demand and not established rates by the Pennsylvania Public
27 Utility Commission.

28 Section 10. Coal waste green power tax credits.

29 Commercial consumers of electricity who purchase electricity
30 generated at a green power facility shall be eligible to receive

1 a tax credit in an amount of 3% of the value of the green energy
2 purchased.

3 Section 11. Utilization of tax credits.

4 Tax credits which a consumer of electricity generated at a
5 green power facility shall receive, pursuant to section 10
6 (relating to coal waste green power tax credits), may be used by
7 the commercial consumer to offset any taxes imposed on the
8 commercial consumer by the Commonwealth under the act of March
9 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

10 Section 12. Carryforward of tax credits.

11 Tax credits awarded pursuant to this act may be utilized by a
12 commercial consumer in the tax return year earned and, to the
13 extent not so utilized, may be carried over to subsequent tax
14 years by the commercial consumer.

15 Section 13. Prohibition against surface disposal of coal waste.

16 No sooner than 15 years after the effective date of this act,
17 the surface disposal of any coal waste with a heat value greater
18 than 1,500 BTUs shall be prohibited, provided, however, that
19 this prohibition shall not apply unless the coal waste, at the
20 time it is created, can otherwise be economically utilized in a
21 green power facility.

22 Section 14. Regulations.

23 The department shall have the power to adopt rules and
24 regulations which may be required to implement the provisions of
25 sections 1 (relating to short title), 2 (relating to findings
26 and declaration of policy), 3 (relating to definitions), 4
27 (relating to green power facility designation), 5 (relating to
28 reclamation of coal waste source areas), 6 (relating to Coal
29 Waste Fund), 7 (relating to use of mine pool water), 8 (relating
30 to renewable energy portfolio standards), 9 (relating to green

1 power incentives) and 13 (relating to prohibition against
2 surface disposal of coal waste), and the Secretary of Revenue
3 shall have the power to adopt rules and regulations which may be
4 required to implement the provisions of sections 10 (relating to
5 coal waste green power tax credits), 11 (relating to utilization
6 of tax credits) and 12 (relating to carryforward of tax
7 credits).

8 Section 15. Effective date.

9 This act shall take effect immediately.