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THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 762 Session of 2007

INTRODUCED BY M. WHITE, MUSTO, D. WHITE, LAVALLE, STOUT, PUNT, ROBBINS, MADIGAN, KASUNIC, BROWNE, FOLMER, EARLL, SCARNATI, PIPPY, PICCOLA, ARMSTRONG, REGOLA AND WASHINGTON, APRIL 12, 2007

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, APRIL 12, 2007

AN ACT

Coordinating plans to reduce mercury emissions from new and existing stationary sources in this Commonwealth; imposing duties on and limiting certain powers of the Department of Environmental Protection; and imposing duties on and limiting certain powers of the Environmental Quality Board.

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 Clean Air Mercury Compliance Act.

Section 2. Legislative findings.

The General Assembly finds as follows:

(1) The United States of America is the only nation that has a comprehensive regulatory scheme for controlling mercury emissions from industrial facilities.

(2) Emissions from foreign countries such as China and other industrial nations continue to have an adverse impact upon aquatic ecosystems in the United States.

(3) Reducing domestic emissions of mercury is in the public interest inasmuch as it will have a beneficial effect on aquatic systems and associated fish and wildlife.

(4) The Clean Air Act (69 Stat. 322, 42 U.S.C. § 7401 et seq.) contains a comprehensive regulatory scheme for the control of mercury emissions and other harmful air pollutants.

(5) The Clean Air Mercury Rule of the Environmental Protection Agency will achieve by 2018 a reduction in mercury emissions from 1999 emission levels of 70% at electric generating facilities through a two-phase program commencing in 2010 and ultimately reduce the emissions to an annual nationwide level of 15 tons.

(6) It is the intent of the General Assembly to ensure that mercury reductions are made in Pennsylvania without substantially impairing competitiveness of businesses and industries in this Commonwealth, producing an adverse impact on employment, coal production, economic development and family income.

Section 3. Purposes.

The purposes of this act are as follows:

(1) To achieve by 2010 and 2015 an 80% and 90% reduction, respectively, in mercury emissions at Pennsylvania electric generating facilities measured from the coal feed or an emission rate of 0.024 lb/GWhr and 0.012 lb/GWhr, respectively, if greater.

(2) To provide this Commonwealth with the opportunity to participate in a national emissions trading program for mercury which is similar to the cost-effective national acid rain control program enacted in the Clean Air Act Amendments

of 1990 (Public Law 101-549, 42 U.S.C. § 7401 et seq.).

Section 4. 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:

"Board." The Environmental Quality Board.

"Circulating fluidized bed unit." Combustion of fuel in a bed or series of beds, including bubbling bed units and circulating bed units, of limestone aggregate or other sorbent materials in which these materials are forced upward by the flow of combustion air and the gaseous products of combustion.

"Clean Air Mercury Rule." The regulations adopted by the United States Environmental Protection Agency known as the Clean Air Mercury Rule codified at 40 CFR Pts. 60 (relating to standards of performance for new stationary sources), 72 (relating to permits regulation) and 75 (relating to continuous emission monitoring).

"Cobenefit mercury emission control technology." The process whereby mercury is removed from an exhaust gas stream, through implementation of measures to control other pollutants, such as sulfur dioxide, nitrogen oxides or particulate matter.

"Cold side electrostatic precipitator." An air pollution control device for particulate matter installed downstream of a boiler air preheater that does all of the following:

(1) Charges particles with an electric field and causes them to migrate from the gas to a collection surface.

(2) Treats the flue gas after heat extraction from the gas has been completed.

(3) Operates with a temperature range of no greater than 400 degrees Fahrenheit.

"Covered major mercury source." A stationary coal-fired boiler or a stationary coal-fired combustion turbine that is an "Hg Budget unit" as defined in 40 CFR 60.4104 (relating to applicability). For purposes of this definition, "coal-fired" has the same definition as 40 CFR 60.4102 (relating to definitions).

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

"Fabric filtration." An air pollution control device that removes particulate matter and emissions of nonvaporous metals by passing flue gas through filter bags.

"Selective catalytic reduction." A process where a gaseous or liquid reductant, most commonly ammonia or urea, is added to the flue gas stream in the presence of a catalyst.

"Wet flue gas desulfurization unit." An air pollution control device located downstream of a steam generating unit that removes sulfur oxides from the combustion gases of the steam generating unit by contacting the combustion gases of the steam generating unit with combustion gases with an alkaline slurry or solution, such as solutions of lime, limestone or sodium, and forming a liquid material, which liquid material may subsequently be converted to other forms.

Section 5. Implementation.

(a) Clean Air Mercury Rule.--The provisions of 40 CFR Pt. 60, Subpt. HHHH (relating to emission guidelines and compliance times for coal-fired electric steam generating units) as published in the May 18, 2005, Federal Register are hereby incorporated by reference into the permitting program referred to in the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act, and into other appropriate

programs as the Commonwealth's mercury control program required by the Clean Air Mercury Rule and the department shall, by January 1, 2008, issue emission allowances to affected sources consistent with the EPA's model allocation method.

(b) Limitation on regulations and programs.--The board shall adopt by regulation the Clean Air Mercury Rule to be the sole method of regulating mercury emissions from covered major mercury sources, and notwithstanding any other provision of law to the contrary, the board shall not have the power to promulgate regulations and the department may not implement or enforce programs relating to the control of mercury emissions from covered major sources that are more stringent than the Clean Air Mercury Rule, except as specifically provided in subsection (c).

(c) Implementation of controls.--

(1) By November 1, 2007, the board shall adopt regulations providing for the installation and operation by January 1, 2010, and January 1, 2015, of mercury emission control technologies at all facilities having one or more covered major mercury sources that, except as provided in paragraph (2), will achieve an 80% and 90% reduction, respectively, in mercury emissions measured from the coal feed or 0.024 lb/GWhr and 0.012 lb/GWhr, respectively, if greater.

(2) The regulations shall provide alternative standards and limits for facilities where meeting the standards in paragraph (1) are not technologically or economically feasible.

(3) The regulations shall provide that the department shall make a determination of technologies for specified coal

and boiler types that can be presumed to result in the emission reductions stated herein. Such technologies include, but are not limited to, the following for certain coals:

(i) Fabric filtration technology.

(ii) Selective catalytic reduction in conjunction with fabric filtration technology.

(iii) Wet flue gas desulfurization unit in conjunction with either cold side electrostatic precipitator unit or fabric filtration.

(iv) Selective catalytic reduction in conjunction with cold side electrostatic precipitator unit.

(v) Fabric filtration in conjunction with wet flue gas desulfurization unit.

(vi) Mercury sorbent injection in conjunction with either cold side electrostatic precipitator unit or fabric filtration.

(vii) Circulating fluidized bed unit.

(d) Interim review.--In 2012, the department shall review the state of mercury reduction technologies and shall adjust the 2015 requirements stated in subsection (c)(1) or extend the date of compliance to 2018 if those requirements are found to exceed the capability of the technology.

Section 6. Coordination with Clean Air Mercury Rule.

In the event that the Clean Air Mercury Rule is remanded by the D.C. Circuit Court to the Environmental Protection Agency for development of standards under section 112 of the Clean Air Act (69 Stat. 322, 42 U.S.C. § 7401 et seq.), then all of the following shall apply:

(1) The board shall not have the power to promulgate regulations, and the department shall not have the power to

implement or enforce programs relating to the control of mercury emissions from covered major mercury sources unless and until the Environmental Protection Agency has adopted final regulations addressing the court's final decree that do either of the following:

(i) Establish standards or other requirements governing the control of mercury emissions from major covered mercury sources.

(ii) Establish requirements for State implementation plans to contain controls on mercury emissions from major covered mercury sources.

(2) Following adoption by the Environmental Protection Agency of final regulations addressing the court's final decree, the board shall promptly promulgate regulations and the department shall implement or enforce programs relating to the control of mercury emissions from covered major mercury sources that are consistent with the final Environmental Protection Agency regulations and section 6.6 of the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act. The regulations and programs shall not be more stringent than the final Environmental Protection Agency regulations unless the General Assembly subsequently authorizes otherwise.

Section 7. Abrogation.

All rules and regulations and parts thereof are abrogated to the extent that they are inconsistent with this act.

Section 8. Repeal.

All acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 9. Effective date.

This act shall take effect immediately.