

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 80 Session of 2009

INTRODUCED BY VITALI, ROSS, GEORGE, DePASQUALE, HARPER, FREEMAN, M. O'BRIEN, GOODMAN, CREIGHTON, MOUL, O'NEILL, MANDERINO, BELFANTI, MELIO, SANTONI, HARHART, READSHAW, GIBBONS, ADOLPH, MENSCH, HORNAMAN, CARROLL, MYERS, JOSEPHS, LENTZ, DeWEESE, CONKLIN, PETRI, GINGRICH, CURRY, DRUCKER, MICOZZIE, GERBER, SABATINA, KULA, MAHONEY, BARBIN AND SEIP, MARCH 12, 2009

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 16, 2009

AN ACT

1 Amending the act of November 30, 2004 (P.L.1672, No.213),
2 entitled, "An act providing for the sale of electric energy
3 generated from renewable and environmentally beneficial
4 sources, for the acquisition of electric energy generated
5 from renewable and environmentally beneficial sources by
6 electric distribution and supply companies and for the powers
7 and duties of the Pennsylvania Public Utility Commission,"
8 further providing for definitions and for alternative energy
9 portfolio standards; and providing for carbon dioxide
10 sequestration network SEQUESTRATION FACILITY PERMITTING AND
11 FOR TITLE TO CARBON DIOXIDE, IMMUNITY AND TRANSFER OF
12 LIABILITY; ESTABLISHING THE CARBON DIOXIDE INDEMNIFICATION
13 FUND; PROVIDING FOR COMMONWEALTH-OWNED CARBON DIOXIDE
14 SEQUESTRATION FACILITY AND TRANSPORTATION PIPELINE;
15 ESTABLISHING THE CARBON SEQUESTRATION FUND; AND PROVIDING FOR
16 APPLICATION OF THE PUBLIC UTILITY CODE TO TRANSPORTERS OF
17 CARBON DIOXIDE.



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

20 Section 1. The definition of "alternative energy sources"
21 and "Tier II alternative energy source" in section 2 of the act
22 of November 30, 2004 (P.L.1672, No.213), known as the
23 Alternative Energy Portfolio Standards Act, are amended by

1 adding paragraphs and the section is amended by adding
2 definitions to read:

3 Section 2. Definitions.

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

7 * * *

8 "Alternative energy sources." The term shall include the
9 following existing and new sources for the production of
10 electricity:

11 * * *

12 (14) Advanced coal combustion with limited carbon
13 emissions, which means the production of electric power from
14 a generation facility that: ←

15 ~~(i) Is IS fueled by coal, WASTE COAL or gas derived~~ ←
16 from an advanced coal gasification plant. ←

17 ~~(ii) Captures THAT:~~ ←

18 (I) BEGINS COMMERCIAL OPERATION AFTER JANUARY 1,
19 2009, AND CAPTURES, either in the advanced coal
20 gasification plant or in the electrical generation
21 facility, and permanently sequesters DELIVERS TO A CARBON ←
22 DIOXIDE SEQUESTRATION FACILITY IN THIS COMMONWEALTH FOR
23 PERMANENT SEQUESTRATION at least the following amount of
24 all carbon dioxide produced:

25 (A) 40% from June 1, 2015 to May 31, 2019.

26 (B) 60% from June 1, 2019 to May 31, 2024.

27 (C) 90% from June 1, 2024 and thereafter.

28 (D) The requirement under clause (C) shall be
29 waived if commercially proven and project-financeable
30 technology is not available AS DETERMINED BY THE ←

1 DEPARTMENT.

2 ~~(iii)~~ (II) Has been designed to accommodate the ←
3 required additional processing equipment to produce power
4 with a maximum of 1,000 pounds of carbon dioxide
5 emissions per megawatt hour. ← OR BEGINS COMMERCIAL
6 OPERATION BEFORE JANUARY 1, 2009, AND CAPTURES AND
7 DELIVERS TO A CARBON DIOXIDE SEQUESTRATION FACILITY IN
8 THIS COMMONWEALTH FOR PERMANENT SEQUESTRATION NO LESS
9 THAN THE FOLLOWING AMOUNT OF CARBON DIOXIDE PRODUCED:

10 (A) 40% FROM JUNE 1, 2015 TO MAY 31, 2019.

11 (B) 60% FROM JUNE 1, 2019 TO MAY 31, 2024.

12 (C) 90% FROM JUNE 1, 2024 AND THEREAFTER.

13 * * *

14 "CARBON DIOXIDE." ANTHROPOGENICALLY GENERATED CARBON DIOXIDE ←
15 OF SUFFICIENT PURITY AND QUALITY AS TO NOT COMPROMISE THE
16 ABILITY OF THE CARBON DIOXIDE TRANSPORTATION PIPELINE OR
17 SEQUESTRATION FACILITY TO SAFELY AND EFFECTIVELY TRANSPORT AND
18 SEQUESTER THE CARBON DIOXIDE.

19 "CARBON DIOXIDE SEQUESTRATION FACILITY." GEOLOGICAL
20 SUBSURFACE FORMATIONS WITHIN THIS COMMONWEALTH WITH SUITABLE CAP
21 ROCK, SEALING FAULTS AND ANTICLINE FOR THE PERMANENT STORAGE OF
22 CARBON DIOXIDE FROM ADVANCED COAL COMBUSTION WITH LIMITED CARBON
23 EMISSIONS FACILITIES OR OTHER SOURCES WITHIN THIS COMMONWEALTH
24 ALONG WITH THE FACILITIES NECESSARY TO TRANSPORT THE CARBON
25 DIOXIDE FROM THE SURFACE TO THE SUBSURFACE FORMATIONS AND
26 MONITOR THE PERMANENT STORAGE OF THE CARBON DIOXIDE IN
27 SUBSURFACE FORMATIONS. THE TERM SHALL NOT INCLUDE USE OF THE
28 CARBON DIOXIDE FOR ENHANCED RESOURCE RECOVERY OR THE CARBON
29 DIOXIDE TRANSPORTATION PIPELINES USED TO TRANSPORT THE CARBON
30 DIOXIDE TO THE SEQUESTRATION FACILITY.

1 "Carbon dioxide sequestration network." Geological
2 subsurface formations within this Commonwealth with suitable cap
3 rock, sealing faults and anticline used by the Department of
4 Conservation and Natural Resources for the permanent storage of
5 carbon dioxide from advanced coal combustion with limited carbon
6 emissions plants or other sources within this Commonwealth along
7 with the facilities necessary to transport the carbon dioxide
8 from the surface to the subsurface formations and monitor the
9 permanent storage of the carbon dioxide in subsurface
10 formations. The term shall not include use of the carbon dioxide
11 for enhanced resource recovery.

12 "CARBON DIOXIDE TRANSPORTATION PIPELINE." A PIPELINE WITHIN ←
13 THIS COMMONWEALTH USED TO TRANSPORT CARBON DIOXIDE FROM A
14 FACILITY WITHIN THIS COMMONWEALTH TO A CARBON DIOXIDE
15 SEQUESTRATION FACILITY.

16 * * *

17 "DCNR." The Department of Conservation and Natural Resources
18 of the Commonwealth.

19 * * *

20 "Enhanced resource recovery." The use of carbon dioxide
21 injection or other techniques for increasing the amount of oil,
22 natural gas or coal bed methane extracted from geologic
23 formations.

24 * * *

25 "PERSON." AN INDIVIDUAL, CORPORATION, PARTNERSHIP, ←
26 ASSOCIATION OR OTHER ENTITY RECOGNIZED BY LAW AS THE SUBJECT OF
27 RIGHTS, DUTIES OR OBLIGATIONS. THE TERM INCLUDES THE UNITED
28 STATES, A FEDERAL AGENCY, THE COMMONWEALTH, AN AGENCY OR
29 INSTRUMENTALITY OF THE COMMONWEALTH AND A POLITICAL SUBDIVISION.

30 * * *

1 "Tier II alternative energy source." Energy derived from:

2 * * *

3 (8) Advanced coal combustion with limited carbon
4 emissions.

5 * * *

6 Section 2. Section 3(a), (b), (c), (f) and (g) of the act,
7 amended July 17, 2007 (P.L.114, No.35), are amended and the
8 section is amended by adding subsections to read:

9 Section 3. Alternative energy portfolio standards.

10 (a) General compliance and cost recovery.--

11 (1) From the effective date of this act through and
12 including the 15th year after enactment of this act and each
13 year thereafter, the electric energy sold by an electric
14 distribution company or electric generation supplier to
15 retail electric customers in this Commonwealth shall be
16 comprised of electricity generated from alternative energy
17 sources and in the percentage amounts as described under
18 subsections [(b) and (c)] (b), (c) and (c.1).

19 (2) Electric distribution companies and electric
20 generation suppliers shall satisfy both requirements set
21 forth in subsections [(b) and (c)] (b), (c) and (c.1),
22 provided, however, that an electric distribution company or
23 an electric generation supplier shall be excused from its
24 obligations under this section to the extent that the
25 commission determines that force majeure exists.

26 (3) All costs for:

27 (i) the purchase of electricity generated from
28 alternative energy sources, including the costs of the
29 regional transmission organization, in excess of the
30 regional transmission organization real-time locational

1 marginal pricing, or its successor, at the delivery point
2 of the alternative energy source for the electrical
3 production of the alternative energy sources; and

4 (ii) payments for alternative energy credits, in both
5 cases that are voluntarily acquired by an electric
6 distribution company during the cost recovery period on
7 behalf of its customers shall be deferred as a regulatory
8 asset by the electric distribution company and fully
9 recovered, with a return on the unamortized balance,
10 pursuant to an automatic energy adjustment clause under
11 66 Pa.C.S. § 1307 (relating to sliding scale of rates;
12 adjustments) as a cost of generation supply under 66
13 Pa.C.S. § 2807 (relating to duties of electric
14 distribution companies) in the first year after the
15 expiration of its cost-recovery period. After the cost-
16 recovery period, any direct or indirect costs for the
17 purchase by electric distribution of resources to comply
18 with this section, including, but not limited to, the
19 purchase of electricity generated from alternative energy
20 sources, payments for alternative energy credits, cost of
21 credits banked, payments to any third party
22 administrators for performance under this act and costs
23 levied by a regional transmission organization to ensure
24 that alternative energy sources are reliable, shall be
25 recovered on a full and current basis pursuant to an
26 automatic energy adjustment clause under 66 Pa.C.S. §
27 1307 as a cost of generation supply under 66 Pa.C.S. §
28 2807.

29 (b) Tier I and solar photovoltaic shares.--

30 (1) Two years after the effective date of this act, at

1 least 1.5% of the electric energy sold by an electric
2 distribution company or electric generation supplier to
3 retail electric customers in this Commonwealth shall be
4 generated from Tier I alternative energy sources. Except as
5 provided in this section, the minimum percentage of electric
6 energy required to be sold to retail electric customers from
7 alternative energy sources shall increase to 2% three years
8 after the effective date of this act. The minimum percentage
9 of electric energy required to be sold to retail electric
10 customers from alternative energy sources shall increase by
11 at least 0.5% each year so that at least 8% of the electric
12 energy sold by an electric distribution company or electric
13 generation supplier to retail electric customers in that
14 certificated territory in the 15th year after the effective
15 date of this subsection is sold from Tier I alternative
16 energy resources.

17 (1.1) After the 15th year of the effective date of this
18 subsection, the minimum percentage of electric energy
19 required to be sold to retail electric customers from Tier I
20 alternative energy sources is:

21 (i) 10% for June 1, 2021, through May 31, 2022.

22 (ii) 12% for June 1, 2022, through May 31, 2023.

23 (iii) 14% for June 1, 2023, through May 31, 2024.

24 (iv) 16% for June 1, 2024, through May 31, 2025.

25 (v) 18% for June 1, 2025, through May 31, 2026.

26 (vi) 20% for June 1, 2026, and thereafter.

27 (2) The total percentage of the electric energy sold by
28 an electric distribution company or electric generation
29 supplier to retail electric customers in this Commonwealth
30 that must be sold from solar photovoltaic technologies is:

- 1 (i) 0.0013% for June 1, 2006, through May 31, 2007.
2 (ii) 0.0030% for June 1, 2007, through May 31, 2008.
3 (iii) 0.0063% for June 1, 2008, through May 31,
4 2009.
5 (iv) 0.0120% for June 1, 2009, through May 31, 2010.
6 (v) 0.0203% for June 1, 2010, through May 31, 2011.
7 (vi) 0.0325% for June 1, 2011, through May 31, 2012.
8 (vii) 0.0510% for June 1, 2012, through May 31,
9 2013.
10 (viii) 0.0840% for June 1, 2013, through May 31,
11 2014.
12 (ix) 0.1440% for June 1, 2014, through May 31, 2015.
13 (x) 0.2500% for June 1, 2015, through May 31, 2016.
14 (xi) 0.2933% for June 1, 2016, through May 31, 2017.
15 (xii) 0.3400% for June 1, 2017, through May 31,
16 2018.
17 (xiii) 0.3900% for June 1, 2018, through May 31,
18 2019.
19 (xiv) 0.4433% for June 1, 2019, through May 31,
20 2020.
21 (xv) 0.5000% for June 1, 2020, [and thereafter.]
22 through May 31, 2021.
23 (xvi) 0.9000% for June 1, 2021, through May 31,
24 2022.
25 (xvii) 1.3000% for June 1, 2022, through May 31,
26 2023.
27 (xviii) 1.7000% for June 1, 2023, through May 31,
28 2024.
29 (xix) 2.1000% for June 1, 2024, through May 31,
30 2025.

1 (xx) 2.5000% for June 1, 2025, through May 31, 2026.

2 (xxi) 3.000% for June 1, 2026, and thereafter.

3 (3) Upon commencement of the beginning of the 6th
4 reporting year, and every five years thereafter, the
5 commission shall undertake a review of the compliance by
6 electric distribution companies and electric generation
7 suppliers with the requirements of this act. The review shall
8 also include the status of alternative energy technologies
9 within this Commonwealth and the capacity to add additional
10 alternative energy resources. The commission shall use the
11 results of this review to recommend to the General Assembly
12 additional compliance goals beyond year [15] 21. The
13 commission shall work with the department in evaluating the
14 future alternative energy resource potential.

15 ~~(4) As of May 31, 2021, and thereafter, 50% of electric~~ ←
16 ~~energy from solar photovoltaic technologies supplied to~~
17 ~~retail customers shall be generated from solar photovoltaic~~
18 ~~systems located within this Commonwealth in meeting the~~
19 ~~requirements of paragraph (2).~~

20 (4) ELECTRIC ENERGY FROM SOLAR PHOTOVOLTAIC TECHNOLOGIES ←
21 SUPPLIED TO RETAIL CUSTOMERS SHALL BE GENERATED FROM SOLAR
22 PHOTOVOLTAIC SYSTEMS LOCATED WITHIN THIS COMMONWEALTH IN
23 MEETING THE REQUIREMENTS OF PARAGRAPH (2).

24 (5) NOTWITHSTANDING THE OTHER PROVISIONS OF THIS ACT,
25 CREDITS GENERATED FROM SOLAR PHOTOVOLTAIC TECHNOLOGIES
26 OUTSIDE THIS COMMONWEALTH MAY BE USED TO DEMONSTRATE
27 COMPLIANCE UNDER THIS ACT PROVIDED THE CREDIT WAS ACQUIRED
28 PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION.

29 (c) Tier II share.--Of the electrical energy required to be
30 sold from alternative energy sources identified in Tier II, the

1 percentage that must be from these technologies is for:

2 (1) Years 1 through 4 - 4.2%.

3 (2) Years 5 through 9 - 6.2%.

4 (3) Years 10 through 14 - [8.2%] 11.2%.

5 (4) Years 15 and thereafter - [10.0%] 13.0%.

6 (c.1) Retail sales from advanced coal combustion.--The total
7 electric energy sold by an electric distribution company or
8 electric generation supplier to retail electric customers in
9 this Commonwealth that shall be sold from advanced coal
10 combustion with limited carbon emissions is all of the electric
11 energy available from advanced coal combustion with limited
12 carbon emissions up to a maximum of 3.0% of the total electric
13 energy sold by an electric distribution company or electric
14 generation supplier to retail electric customers in this
15 Commonwealth for the reporting period which begins June 1, 2015,
16 and for each reporting period thereafter pursuant to subsection
17 (c). If at any time on or after June 1, 2015, the ~~network~~ CARBON ←
18 DIOXIDE SEQUESTRATION FACILITY provided for under section ~~8.1-~~ ←
19 12, or other ~~network~~ SEQUESTRATION FACILITY permitted to ←
20 permanently sequester carbon dioxide IN THIS COMMONWEALTH, is ←
21 not available to receive OPERATING AND CAPABLE OF RECEIVING ←
22 carbon dioxide for sequestration through no fault of an advanced
23 coal combustion with limited carbon emissions facility, a
24 facility need not sequester carbon dioxide in order to generate
25 alternative energy credits provided: ←

26 (1) ~~the~~ THE facility is capable of capturing to the ←
27 department's satisfaction the amount of carbon dioxide
28 required by paragraph (14)(ii) of the definition of
29 "alternative energy sources" in section 2.

30 (2) THE TOTAL VALUE OF THE ALTERNATIVE ENERGY CREDITS ←

1 SOLD BY THE ADVANCED COAL COMBUSTION WITH LIMITED CARBON
2 EMISSIONS FACILITY DURING TIMES WHEN THE CARBON DIOXIDE
3 EMISSIONS FROM THE FACILITY ARE NOT SEQUESTERED SHALL NOT
4 EXCEED THE COSTS THAT THE FACILITY INCURRED IN INSTALLING
5 CARBON CAPTURE EQUIPMENT AND IN INSTALLING ADDITIONAL
6 EQUIPMENT NECESSARY TO PROCESS COAL FOR CARBON CAPTURE
7 PURPOSES, AS DETERMINED BY THE DEPARTMENT. COSTS INCURRED IN
8 INSTALLING CARBON CAPTURE EQUIPMENT SHALL NOT INCLUDE FEDERAL
9 OR STATE FINANCIAL ASSISTANCE RECEIVED BY THE FACILITY.

10 (c.2) Force majeure.--On or after December 31, 2015, if the
11 commission determines that construction of an advanced coal
12 combustion with limited carbon emissions facility has not been
13 commenced, this determination shall constitute force majeure,
14 and electric distribution companies and electric generation
15 suppliers shall be excused from all or part of their obligation
16 under subsection (c.1), as determined by the commission.

17 (c.3) Long-term contracts.--Upon review and approval of the
18 commission, an electric distribution company may enter into a
19 long-term contract of up to 25 years to purchase the energy,
20 capacity or alternative energy credits of an advanced coal
21 combustion with limited carbon emissions facility. The contract
22 shall provide for ~~cost~~ THE recovery of costs associated with ←
23 carbon capture, including, but not limited to, any fees charged
24 by the ~~Department of Conservation and Natural Resources pursuant~~ ←
25 ~~to section 8.1(b) with regard to the carbon dioxide~~
26 ~~sequestration network~~ OWNER OR OPERATOR OF THE CARBON DIOXIDE ←
27 SEQUESTRATION FACILITY OR A CARBON DIOXIDE TRANSPORTATION
28 PIPELINE. The commission shall determine ~~that~~ WHETHER the ←
29 contract is reasonable, taking into consideration the following:

30 (1) The price of the energy purchased under the long-

1 term contract.

2 (2) The price of capacity purchased under the long-term
3 contract.

4 (3) The price of alternative energy credits, provided
5 that the cost of an alternative energy credit purchased from
6 advanced coal combustion with limited carbon emissions shall
7 not exceed \$45 per megawatt hour (MWh).

8 (4) Prior to the effective date of the contract, the
9 value of any carbon emission credits or other credits that
10 the seller obtains from the advanced coal combustion with
11 limited carbon emissions facility.

12 (5) After the effective date of the contract, the value
13 of any additional Federal or State carbon credits, allowances
14 or other financial benefits shall be reflected in the price
15 of the resource in a manner which recognizes savings to
16 customers and does not reduce the economic return to the
17 seller, provided that the seller demonstrates that it has
18 made a commercially reasonable effort to distribute any
19 economic incentives it has realized to electric distribution
20 companies. A contract approved by the commission under this
21 subsection shall be deemed to meet the requirements of 66
22 Pa.C.S. § 2807(e) (relating to duties of electric
23 distribution companies).

24 * * *

25 (f) Alternative compliance payment.--

26 (1) At the end of each program year, the program
27 administrator shall provide a report to the commission and to
28 each covered electric distribution company showing their
29 status level of alternative energy acquisition.

30 (2) The commission shall conduct a review of each

1 determination made under subsections [(b) and (c)] (b), (c)
2 and (c.1). If, after notice and hearing, the commission
3 determines that an electric distribution company or electric
4 generation supplier has failed to comply with subsections
5 [(b) and (c)] (b), (c) and (c.1), the commission shall impose
6 an alternative compliance payment on that company or
7 supplier.

8 (3) The alternative compliance payment, with the
9 exception of the solar photovoltaic share compliance
10 requirement set forth in subsection (b)(2), shall be \$45
11 times the number of additional alternative energy credits
12 needed in order to comply with subsection (b) or (c).

13 (4) [The alternative compliance payment for the solar
14 photovoltaic share shall be 200% of the average market value
15 of solar renewable energy credits sold during the reporting
16 period within the service region of the regional transmission
17 organization, including, where applicable, the levelized up-
18 front rebates received by sellers of solar renewable energy
19 credits in other jurisdictions in the PJM Interconnection,
20 L.L.C. transmission organization (PJM) or its successor.] The
21 alternative compliance payment for the solar photovoltaic
22 alternative share shall be established by the commission in
23 an amount and for a period of years necessary to promote the
24 market for solar photovoltaic alternative energy credits. The
25 alternative compliance payment for the solar photovoltaic
26 share may vary over the time period established by the
27 commission but shall be at least 200% of the average market
28 value for solar photovoltaic alternative energy credits sold
29 within the service region of the PJM Interconnection, L.L.C.
30 transmission organization in the year prior to the

1 establishment of the alternative compliance payment schedule.
2 The commission shall review the solar photovoltaic
3 alternative compliance payment schedule at least once per
4 year and shall establish an alternative compliance payment
5 schedule for additional years as needed to promote the market
6 for solar photovoltaic alternative energy credits.

7 (5) The commission shall establish a process to provide
8 for, at least annually, a review of the alternative energy
9 market within this Commonwealth and the service territories
10 of the regional transmission organizations that manage the
11 transmission system in any part of this Commonwealth. The
12 commission will use the results of this study to identify any
13 needed changes to the cost associated with the alternative
14 compliance payment program. If the commission finds that the
15 costs associated with the alternative compliance payment
16 program must be changed, the commission shall present these
17 findings to the General Assembly for legislative enactment.

18 (g) Transfer to sustainable development funds.--

19 (1) Notwithstanding the provisions of 66 Pa.C.S. §§ 511
20 (relating to disposition, appropriation and disbursement of
21 assessments and fees) and 3315 (relating to disposition of
22 fines and penalties), alternative compliance payments imposed
23 pursuant to this act shall be paid into Pennsylvania's
24 Sustainable Energy Funds created under the commission's
25 restructuring orders under 66 Pa.C.S. Ch. 28 (relating to
26 restructuring of electric utility industry). Alternative
27 compliance payments shall be paid into a special fund of the
28 Pennsylvania Sustainable Energy Board, established by the
29 commission under Docket M-00031715, and made available to the
30 Regional Sustainable Energy Funds under procedures and

1 guidelines approved by the Pennsylvania Energy Board.

2 (2) The alternative compliance payments shall be
3 utilized solely for projects that will increase the amount of
4 electric energy generated from alternative energy resources
5 for purposes of compliance with subsections [(b) and (c)]
6 (b), (c) and (c.1).

7 * * *

8 Section 3. The act is amended by adding ~~a section~~ SECTIONS ←
9 to read:

10 ~~Section 8.1. Carbon dioxide sequestration network.~~ ←

11 ~~(a) Establishment of network. DCNR shall develop and~~
12 ~~operate a carbon dioxide sequestration network utilizing~~
13 ~~appropriate geologic formations and facilities on State forest~~
14 ~~land or as otherwise acquired by DCNR for the purposes set forth~~
15 ~~in this subsection. DCNR may acquire, on behalf of the~~
16 ~~Commonwealth, geologic formations and facilities required for~~
17 ~~the carbon dioxide sequestration network by purchase, gift,~~
18 ~~lease or condemnation. The carbon dioxide sequestration network~~
19 ~~shall only be utilized to store carbon dioxide generated within~~
20 ~~this Commonwealth.~~

21 ~~(b) Fees. DCNR shall collect reasonable fees from entities~~
22 ~~that transport to or through, deposit in or otherwise utilize~~
23 ~~the carbon dioxide sequestration network. DCNR shall enter into~~
24 ~~agreements with the entities establishing the terms and~~
25 ~~conditions for use of the carbon dioxide sequestration network~~
26 ~~and the payment of appropriate fees prior to the transport of~~
27 ~~any carbon dioxide into the carbon dioxide sequestration~~
28 ~~network. Fees shall be established to recover the total cost,~~
29 ~~less any nonreimbursable Federal funding, of developing and~~
30 ~~operating the carbon dioxide sequestration network. Recoverable~~

~~1 costs shall include, but are not limited to, the cost to acquire
2 or obtain the right to use geologic formations or facilities
3 required for the carbon dioxide sequestration network,
4 construction costs, insurance costs and other costs to operate
5 and maintain the network.~~

~~6 (c) Establishment of fund. There is established in the
7 State Treasury a Carbon Sequestration Fund. The Carbon
8 Sequestration Fund shall be a nonlapsing fund and the money
9 deposited into this fund is specifically appropriated to DCNR to
10 carry out the purposes of this section at the discretion of the
11 Secretary of Conservation and Natural Resources.~~

~~12 (d) Permitting requirements. The department shall develop
13 regulations necessary to permit the siting and operation of the
14 carbon dioxide sequestration facility authorized by this
15 section. The regulations shall include, but not be limited to,
16 the following:~~

~~17 (1) Risk assessment.~~

~~18 (2) Geologic site characterization including, but not
19 limited to, modeling and verification of fluid movement.~~

~~20 (3) Corrective action.~~

~~21 (4) Well construction, operation and mechanical
22 integrity testing.~~

~~23 (5) Monitoring and site closure.~~

~~24 No carbon dioxide may be accepted for sequestration until all
25 applicable permits have been approved.~~

~~26 (e) Operation.~~

~~27 (1) DCNR may enter into contracts for the development
28 and operation of the carbon dioxide sequestration network.~~

~~29 DCNR or its contractor shall evaluate the requirements for
30 safe operation of the carbon dioxide sequestration network~~

~~including, but not limited to, geologic site
characterization, modeling and verification of fluid
movement, well construction, mechanical integrity testing,
monitoring, corrective action and site closure. No carbon
dioxide may be accepted for sequestration until all
applicable permits have been approved.~~

~~(2) Prior to commencement of operation of the carbon
dioxide sequestration network and periodically thereafter,
DCNR or its contractor shall assess the risks associated with
the operation. DCNR and the Department of General Services
shall determine the appropriate method to insure the
operation of the carbon dioxide sequestration network and
shall insure the operation as deemed appropriate.~~

~~(f) Title to carbon dioxide and immunity.~~

~~(1) All right, title and interest in and to carbon
dioxide delivered to the property line of the
Commonwealth owned lands or other lands upon which the
Commonwealth's carbon dioxide sequestration network is
located by the advanced coal combustion with limited carbon
emission facilities that, individually or collectively, first
meet the maximum requirements of section 3(c.1) as determined
by the department, shall be transferred to the Commonwealth
and the Commonwealth shall accept and receive all the right,
title and interest in and to such carbon dioxide, including,
but not limited to, any liabilities associated with the
carbon dioxide, current or future environmental benefits,
marketing claims, associated voluntary or compliance based
emissions allocations or offsets, but not alternative energy
credits provided by section 3(e).~~

~~(2) Upon and after transfer and conveyance of carbon~~

~~dioxide as provided under paragraph (1), the owner of an advanced coal combustion plant with limited carbon emissions shall be immune from liabilities regarding the storage of carbon dioxide within and the release, escape or migration of carbon dioxide from the Commonwealth's carbon dioxide sequestration network and subsurface storage site.~~

SECTION 8.1. SEQUESTRATION FACILITY PERMITTING. ←

(A) PROHIBITION.--NO PERSON MAY OPERATE A CARBON DIOXIDE SEQUESTRATION FACILITY WITHOUT A PERMIT FROM THE DEPARTMENT.

(B) FACILITY SITES.--THE ENVIRONMENTAL QUALITY BOARD SHALL, BY REGULATION, ESTABLISH THE CONDITIONS UNDER WHICH A CARBON DIOXIDE SEQUESTRATION FACILITY MAY BE LOCATED, DEVELOPED AND OPERATED. THE REGULATIONS PROMULGATED BY THE BOARD SHALL PROVIDE FOR THE PROTECTION OF PUBLIC HEALTH, SAFETY AND ENVIRONMENT AND SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(1) GEOLOGIC SITE CHARACTERIZATION.

(2) SEQUESTRATION FACILITY PERFORMANCE STANDARDS.

(3) WELL LOCATION RESTRICTIONS AND WELL CONSTRUCTION STANDARDS, INCLUDING OPERATION AND MECHANICAL INTEGRITY TESTING.

(4) RISK ASSESSMENT, CORRECTIVE ACTION AND EMERGENCY RESPONSE REQUIREMENTS.

(5) MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS.

(6) FACILITY CLOSURE, POSTCLOSURE AND FINAL CLOSURE CERTIFICATION REQUIREMENTS.

(7) FINANCIAL ASSURANCE REQUIREMENTS, INCLUDING BONDING OR INSURANCE, IN AMOUNTS SUFFICIENT TO ENSURE THE CARBON SEQUESTRATION FACILITY WILL BE CONSTRUCTED, OPERATED, CLOSED AND MONITORED DURING THE POSTCLOSURE PERIOD IN ACCORDANCE

1 WITH REGULATIONS PROMULGATED UNDER THIS SECTION.

2 (8) FEES IN AN AMOUNT SUFFICIENT TO RECOVER THE
3 DEPARTMENT'S COST OF ADMINISTERING THIS SECTION.

4 (9) FEES FOR EVERY TON OF CARBON DIOXIDE ACCEPTED BY A
5 CARBON DIOXIDE SEQUESTRATION FACILITY IN AN AMOUNT SUFFICIENT
6 TO MONITOR AND MAINTAIN THE FACILITY AFTER FINAL CLOSURE OF
7 THE FACILITY AND TAKE REMEDIAL ACTIONS IF NECESSARY AFTER
8 FINAL CLOSURE OF THE FACILITY. THE FEES SHALL BE PAID BY THE
9 OPERATOR OF A CARBON DIOXIDE SEQUESTRATION FACILITY TO THE
10 DEPARTMENT ON A QUARTERLY BASIS.

11 (10) PUBLIC NOTICE REQUIREMENTS, INCLUDING NOTIFICATION
12 OF A RELEASE.

13 (11) CRITERIA USED TO DETERMINE THAT CARBON DIOXIDE HAS
14 BEEN PERMANENTLY SEQUESTERED.

15 (12) OTHER REQUIREMENTS NECESSARY TO EVALUATE THE
16 PROPOSED CARBON DIOXIDE SEQUESTRATION FACILITY AND TO ENSURE
17 SAFE AND ENVIRONMENTALLY PROTECTIVE OPERATION OF THE
18 FACILITY.

19 (C) POWERS, DUTIES AND ENFORCEMENT AUTHORITY OF
20 DEPARTMENT.--THE DEPARTMENT SHALL HAVE THE SAME POWERS, DUTIES
21 AND ENFORCEMENT AUTHORITY PROVIDED BY THE ACT OF JULY 7, 1980
22 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE MANAGEMENT ACT, TO
23 CARRY OUT THE PURPOSES OF THIS SECTION. OPERATORS OF A CARBON
24 DIOXIDE SEQUESTRATION FACILITY SHALL HAVE THE SAME RIGHTS AND BE
25 SUBJECT TO THE SAME PENALTIES AS PROVIDED BY THE SOLID WASTE
26 MANAGEMENT ACT; HOWEVER, AN ADMINISTRATIVE PENALTY ASSESSED BY
27 THE DEPARTMENT FOR A VIOLATION OF THIS SECTION SHALL NOT EXCEED
28 \$50,000 PER DAY PER VIOLATION.

29 SECTION 8.2. TITLE TO CARBON DIOXIDE, IMMUNITY AND TRANSFER OF
30 LIABILITY.

1 (A) TITLE TO CARBON DIOXIDE.--THE RIGHT, TITLE AND INTEREST
2 IN AND TO CARBON DIOXIDE DELIVERED TO A CARBON DIOXIDE
3 SEQUESTRATION FACILITY BY THE ADVANCED COAL COMBUSTION WITH
4 LIMITED CARBON EMISSION FACILITIES THAT, INDIVIDUALLY OR
5 COLLECTIVELY, FIRST MEET THE MAXIMUM REQUIREMENTS OF SECTION
6 3(C.1), AS DETERMINED BY THE DEPARTMENT, SHALL BE TRANSFERRED TO
7 THE CARBON DIOXIDE SEQUESTRATION FACILITY AND THE FACILITY SHALL
8 ACCEPT AND RECEIVE THE RIGHT, TITLE AND INTEREST IN AND TO SUCH
9 CARBON DIOXIDE, INCLUDING, BUT NOT LIMITED TO, LIABILITIES
10 ASSOCIATED WITH THE CARBON DIOXIDE, CURRENT OR FUTURE
11 ENVIRONMENTAL BENEFITS, MARKETING CLAIMS, ASSOCIATED VOLUNTARY
12 OR COMPLIANCE-BASED EMISSIONS ALLOCATIONS OR OFFSETS, BUT NOT
13 ALTERNATIVE ENERGY CREDITS PROVIDED BY SECTION 3(E).

14 (B) IMMUNITY.--UPON AND AFTER TRANSFER AND CONVEYANCE OF
15 CARBON DIOXIDE AS PROVIDED UNDER SUBSECTION (A), THE OWNER OF AN
16 ADVANCED COAL COMBUSTION PLANT WITH LIMITED CARBON EMISSIONS
17 SHALL BE IMMUNE FROM LIABILITIES REGARDING THE STORAGE OF CARBON
18 DIOXIDE WITHIN AND THE RELEASE, ESCAPE OR MIGRATION OF CARBON
19 DIOXIDE FROM THE CARBON DIOXIDE SEQUESTRATION FACILITY.

20 (C) TRANSFER OF LIABILITY.--UPON FINAL CLOSURE OF A CARBON
21 DIOXIDE SEQUESTRATION FACILITY, AS DETERMINED BY THE DEPARTMENT,
22 THE RIGHT, TITLE OR INTEREST IN THE CARBON DIOXIDE AND LIABILITY
23 FOR ANY RELEASE FROM THE FACILITY SHALL BE TRANSFERRED TO AND
24 ACCEPTED BY THE COMMONWEALTH PROVIDED THE OPERATOR OF THE CARBON
25 DIOXIDE SEQUESTRATION FACILITY HAS PAID THE APPROPRIATE FEES
26 UNDER SECTION 8.1.

27 SECTION 8.3. CARBON DIOXIDE INDEMNIFICATION FUND.

28 (A) ESTABLISHMENT.--THERE IS HEREBY ESTABLISHED IN THE STATE
29 TREASURY A NONLAPSING FUND TO BE KNOWN AS THE CARBON DIOXIDE
30 INDEMNIFICATION FUND. MONEY COLLECTED BY THE DEPARTMENT UNDER

1 SECTION 8.1(B) (9) SHALL BE DEPOSITED IN THE FUND AND SHALL ONLY
2 BE EXPENDED BY THE DEPARTMENT TO MONITOR AND MAINTAIN CARBON
3 DIOXIDE SEQUESTRATION FACILITIES AFTER FINAL CLOSURE AND TO TAKE
4 REMEDIAL ACTIONS, IF NECESSARY, AFTER FINAL CLOSURE.

5 (B) MONEY COLLECTED UNDER SECTION 8.1.--FINES, CIVIL
6 PENALTIES AND PERMIT FEES COLLECTED BY THE DEPARTMENT UNDER
7 SECTION 9 ARE HEREBY APPROPRIATED TO THE DEPARTMENT TO CARRY OUT
8 THE PURPOSES OF SECTION 8.1.

9 SECTION 8.4. COMMONWEALTH-OWNED CARBON DIOXIDE SEQUESTRATION
10 FACILITY AND TRANSPORTATION PIPELINE.

11 (A) DEVELOPMENT AND OPERATION.--DCNR MAY DEVELOP AND OPERATE
12 A CARBON DIOXIDE SEQUESTRATION FACILITY AND CARBON DIOXIDE
13 TRANSPORTATION PIPELINE NECESSARY TO DELIVER CARBON DIOXIDE TO
14 THE FACILITY, WHICH MAY BE LOCATED ON STATE FOREST LAND OR ON
15 OTHER LAND ACQUIRED BY DCNR, ON BEHALF OF THE COMMONWEALTH, FOR
16 SUCH PURPOSE BY PURCHASE, GIFT, LEASE OR CONDEMNATION. A CARBON
17 DIOXIDE SEQUESTRATION FACILITY OR CARBON DIOXIDE TRANSPORTATION
18 PIPELINE DEVELOPED AND OPERATED BY DCNR SHALL ONLY BE UTILIZED
19 TO STORE CARBON DIOXIDE GENERATED WITHIN THIS COMMONWEALTH.

20 (B) FEES.--DCNR SHALL COLLECT REASONABLE FEES FROM ENTITIES
21 THAT DEPOSIT IN OR OTHERWISE UTILIZE A CARBON DIOXIDE
22 SEQUESTRATION FACILITY OR A CARBON DIOXIDE TRANSPORTATION
23 PIPELINE OWNED BY THE COMMONWEALTH. DCNR SHALL ENTER INTO AN
24 AGREEMENT WITH ENTITIES SEEKING TO USE THE COMMONWEALTH FACILITY
25 OR PIPELINE ESTABLISHING THE TERMS AND CONDITIONS FOR SUCH USE
26 AND THE PAYMENT OF APPROPRIATE FEES PRIOR TO THE DEPOSIT OF ANY
27 CARBON DIOXIDE INTO THE CARBON DIOXIDE TRANSPORTATION PIPELINE
28 OR SEQUESTRATION FACILITY. FEES SHALL BE ESTABLISHED TO RECOVER
29 THE TOTAL COST, LESS NONREIMBURSABLE FEDERAL FUNDING, OF
30 DEVELOPING AND OPERATING THE CARBON DIOXIDE SEQUESTRATION

1 FACILITY OR TRANSPORTATION PIPELINE. RECOVERABLE COSTS SHALL
2 INCLUDE, BUT ARE NOT LIMITED TO, THE COST TO ACQUIRE OR OBTAIN
3 THE RIGHT TO USE GEOLOGIC FORMATIONS OR FACILITIES REQUIRED FOR
4 THE CARBON DIOXIDE SEQUESTRATION FACILITY OR RIGHTS-OF-WAY FOR
5 THE CARBON DIOXIDE TRANSPORTATION PIPELINE, CONSTRUCTION COSTS,
6 INSURANCE COSTS AND OTHER COSTS TO OPERATE AND MAINTAIN THE
7 SEQUESTRATION FACILITY OR TRANSPORTATION PIPELINE.

8 (C) ESTABLISHMENT OF FUND.--PRIOR TO THE RECEIPT OF FEES BY
9 DCNR FOR THE DELIVERY OF CARBON DIOXIDE THROUGH A CARBON DIOXIDE
10 TRANSPORTATION PIPELINE OR DEPOSIT OF CARBON DIOXIDE INTO A
11 CARBON DIOXIDE SEQUESTRATION FACILITY, THE STATE TREASURY SHALL
12 ESTABLISH A NONLAPSING FUND TO BE KNOWN AS THE CARBON
13 SEQUESTRATION FUND. MONEY DEPOSITED INTO THIS FUND IS
14 SPECIFICALLY APPROPRIATED TO DCNR TO CARRY OUT ACTIVITIES
15 RELATED TO ANY COMMONWEALTH-OWNED CARBON DIOXIDE TRANSPORTATION
16 PIPELINE OR CARBON DIOXIDE SEQUESTRATION FACILITY PERFORMED BY
17 DCNR AT THE DISCRETION OF THE SECRETARY OF CONSERVATION AND
18 NATURAL RESOURCES.

19 (D) CONTRACTING AND INSURING.--DCNR MAY ENTER INTO CONTRACTS
20 FOR THE DEVELOPMENT AND OPERATION OF THE CARBON DIOXIDE
21 SEQUESTRATION FACILITY OR TRANSPORTATION PIPELINE. DCNR AND THE
22 DEPARTMENT OF GENERAL SERVICES SHALL DETERMINE THE APPROPRIATE
23 METHOD TO INSURE THE OPERATION OF THE CARBON DIOXIDE
24 SEQUESTRATION FACILITY OR TRANSPORTATION PIPELINE AND SHALL
25 INSURE THE OPERATION AS DEEMED APPROPRIATE. IN NO EVENT,
26 HOWEVER, SHALL THE COMMONWEALTH INDEMNIFY THE DEVELOPER OR
27 OPERATOR OF THE CARBON DIOXIDE SEQUESTRATION FACILITY OR
28 TRANSPORTATION PIPELINE FROM LIABILITY WHERE THE ACTIONS OF THE
29 DEVELOPER OR OPERATOR CONSTITUTE GROSS NEGLIGENCE OR INTENTIONAL
30 MISCONDUCT.

1 SECTION 8.5. APPLICATION OF THE PUBLIC UTILITY CODE TO
2 TRANSPORTERS OF CARBON DIOXIDE.
3 ENTITIES TRANSPORTING OR CONVEYING CARBON DIOXIDE BY PIPELINE
4 OR CONDUIT FOR COMPENSATION UNDER THIS ACT SHALL BE CONSIDERED A
5 PUBLIC UTILITY UNDER 66 PA.C.S. § 102 (RELATING TO DEFINITIONS)
6 AND SUBJECT TO THE PROVISIONS OF 66 PA.C.S. (RELATING TO PUBLIC
7 UTILITIES).

8 SECTION 4. THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY
9 PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR
10 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT
11 OTHER PROVISIONS OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN
12 EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

13 Section 4 5. This act shall take effect immediately.

