

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, MAHONEY, MURT, McNEILL, DeLUCA AND COHEN,
JUNE 18, 2014

SENATOR CORMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, OCTOBER 8, 2014

AN ACT

1 Requiring the Department of Environmental Protection to receive
2 ~~approval from~~ CONSIDERATION AND ENDORSEMENT OR DISAPPROVAL BY <--
3 the General Assembly for a State plan to regulate carbon
4 dioxide emissions for existing stationary sources prior to
5 submitting the State plan to the United States Environmental
6 Protection Agency for approval.

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

9 Section 1. Short title.

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

12 Section 2. Definitions.

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

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

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

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

6 Section 3. State plan development.

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

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

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

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

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

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

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

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

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

10 (v) When individual power plants must make
11 reductions.

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

14 (A) Demand-side energy efficiency programs.

15 (B) Renewable energy standards.

16 (C) Efficiency improvements at existing affected
17 power plants.

18 (D) Cofiring or switching to natural gas.

19 (E) Transmission efficiency improvements.

20 (F) Energy storage technologies.

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

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

25 (I) Market-based trading programs.

26 (J) Other energy conservation programs.

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

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

1 electricity.

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

5 SECTION 4. ENHANCED PUBLIC REVIEW PROCEDURES. <--

6 THE SENATE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE AND
7 HOUSE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE SHALL EACH
8 CONDUCT AT LEAST FOUR PUBLIC HEARINGS ON OPTIONS FOR
9 PENNSYLVANIA'S COMPLIANCE WITH THE STATE PLAN, IN GEOGRAPHICALLY
10 DISPERSED LOCATIONS IN THIS COMMONWEALTH, INCLUDING LOCATIONS
11 THAT WOULD BE DIRECTLY ECONOMICALLY AFFECTED BY EPA'S CARBON
12 DIOXIDE REGULATION.

13 (1) AS PART OF THE DELIBERATION ON THE STATE PLAN, THE
14 COMMITTEES SHALL ACCEPT WRITTEN TESTIMONY AND CONSIDER, THE
15 WRITTEN AND ORAL TESTIMONY PROVIDED AND SUBMIT A WRITTEN
16 REPORT OF THEIR FINDINGS TO THE DEPARTMENT FOR ITS
17 CONSIDERATION.

18 (2) THE COMMITTEES SHALL POST COPIES OF THEIR WRITTEN
19 REPORTS ON THE INTERNET WEBSITE OF THE COMMITTEE.

20 Section 4 5. Submission of the State plan. <--

21 (a) Submission for ~~approval~~ CONSIDERATION to the General <--
22 Assembly.--No less than 100 days prior to the department
23 submitting the State plan to the EPA for approval, the
24 department shall transmit the plan to the General Assembly for
25 ~~approval~~ CONSIDERATION. <--

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

28 (1) proposed as a resolution in each chamber;

29 (2) placed on the calendar of each chamber for the next
30 legislative day following transmission; and

1 (3) considered by each chamber within 20 days after
2 transmission.

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

6 (C) CONSIDERATION.--EACH CHAMBER SHALL CONSIDER THE STATE <--
7 PLAN RESOLUTION AND VOTE TO EITHER ENDORSE OR DISAPPROVE.

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

12 ~~(1) Determine the reasons for disapproval and modify the~~
13 ~~State plan.~~

14 ~~(2) Cause the State plan to be resubmitted to the~~
15 ~~General Assembly utilizing the process delineated under~~
16 ~~subsection (b) within 60 days of the disapproval.~~

17 ~~(3) If necessary, request an extension of time from the~~
18 ~~EPA by submitting an initial State plan by June 30, 2016,~~
19 ~~that meets the minimum requirements for an initial State~~
20 ~~plan, as specified in the plan guidelines published by the~~
21 ~~EPA. The department shall transmit the following message with~~
22 ~~its submittal under this paragraph:~~

23 ~~Be advised that the State plan submitted by the~~
24 ~~Pennsylvania Department of Environmental Protection has~~
25 ~~not yet met the requirements of the Pennsylvania~~
26 ~~Greenhouse Gas Regulation Implementation Act requiring~~
27 ~~affirmative approval of the General Assembly. It is the~~
28 ~~intention of the Commonwealth of Pennsylvania to submit a~~
29 ~~State plan which conforms to this rulemaking. Under~~
30 ~~section 111(d) of the Clean Air Act, states must be given~~

1 ~~an opportunity to meet Federal environmental standards~~
2 ~~set forth by the Environmental Protection Agency. The~~
3 ~~Commonwealth of Pennsylvania hereby invokes the authority~~
4 ~~provided to it under section 111(d) of the Clean Air Act,~~
5 ~~and, in accordance with the Pennsylvania Greenhouse Gas~~
6 ~~Implementation Act, will be making a further filing with~~
7 ~~the agency.~~

8 ~~(e) Default approval. If no vote is taken by either chamber~~
9 ~~of the General Assembly to approve or disapprove the resolution~~
10 ~~under subsection (b) before June 15, 2016, deadline, the State~~
11 ~~plan shall be deemed approved and shall be submitted to the EPA~~
12 ~~immediately.~~

13 ~~(f) Default approval after time to cure. If either chamber~~
14 ~~of the General Assembly fails to approve a resubmitted plan~~
15 ~~under subsection (d) (2), within 60 days of the extension the~~
16 ~~resubmitted plan shall be deemed approved.~~

17 THE CHAMBER SHALL PRESENT THE DEPARTMENT WITH A SUMMARY OF THE REASONS FOR DISAPPROVAL. WITHIN 90 DAYS OF RECEIPT OF THE CHAMBER'S SUMMARY OF REASONS FOR DISAPPROVAL, THE DEPARTMENT SHALL PROVIDE A REPORT ADDRESSING THE CHAMBER'S CONCERNS AND IDENTIFYING POTENTIAL STRATEGIES TO ADDRESS THE CONCERNS, INCLUDING, BUT NOT LIMITED TO, A DISCUSSION OF THE BENEFITS AND DRAWBACKS OF SUBMITTING A REVISED STATE PLAN TO EPA. <--

24 SECTION 6. SUBMISSION OF STATE PLAN TO EPA.

25 NOTWITHSTANDING THE LANGUAGE OF THIS ACT, THE DEPARTMENT
26 SHALL HAVE THE AUTHORITY TO SUBMIT THE STATE PLAN TO EPA, AS
27 REQUIRED BY FEDERAL LAW.

28 Section 5 7. Effective date. <--

29 This act shall take effect immediately.