

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1195 Session of 2015

INTRODUCED BY WHITE, VOGEL, ARGALL, EICHELBERGER, SCARNATI, YAW, WAGNER, HUTCHINSON, STEFANO, BARTOLOTTA, VULAKOVICH, WARD, AUMENT, WOZNIAK, GORDNER, BREWSTER, RESCHENTHALER, ALLOWAY, BLAKE, BROWNE, SCAVELLO, YUDICHAK, CORMAN AND BROOKS, APRIL 8, 2016

AS AMENDED ON THIRD CONSIDERATION, JUNE 7, 2016

AN ACT

1 Amending the act of October 22, 2014 (P.L.2873, No.175),
2 entitled "An act requiring the Department of Environmental
3 Protection to receive approval from the General Assembly for
4 a State plan to regulate carbon dioxide emissions for
5 existing stationary sources prior to submitting the State
6 plan to the United States Environmental Protection Agency for
7 approval," further providing for submission of State plan.

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

10 ~~Section 1. Section 4 of the act of October 22, 2014~~ <--
11 ~~(P.L.2873, No.175), known as the Pennsylvania Greenhouse Gas~~
12 ~~Regulation Implementation Act, is amended to read:~~

13 SECTION 1. SECTION 2 OF THE ACT OF OCTOBER 22, 2014 <--
14 (P.L.2873, NO.175), KNOWN AS THE PENNSYLVANIA GREENHOUSE GAS
15 REGULATION IMPLEMENTATION ACT, IS AMENDED BY ADDING A DEFINITION
16 TO READ:

17 SECTION 2. DEFINITIONS.

18 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
19 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE

1 CONTEXT CLEARLY INDICATES OTHERWISE:

2 * * *

3 "STANDING COMMITTEE." THE ENVIRONMENTAL RESOURCES AND ENERGY
4 COMMITTEE OF THE SENATE OR THE ENVIRONMENTAL RESOURCES AND
5 ENERGY COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

6 * * *

7 SECTION 2. SECTION 4 OF THE ACT IS AMENDED TO READ:

8 Section 4. Submission of the State plan.

9 (a) Submission for approval to the General Assembly.--No
10 less than ~~{100}~~180 calendar days prior to the department <--
11 submitting the State plan to the EPA for approval, the
12 department shall transmit the plan to the General Assembly for
13 approval.

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

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

17 (2) [placed on the calendar of each chamber for] <--
18 REFERRED TO THE STANDING COMMITTEE IN EACH CHAMBER the next
19 legislative day following transmission; [and] <--

20 (2.1) CONSIDERED BY THE STANDING COMMITTEE WITHIN 10
21 LEGISLATIVE DAYS OF REFERRAL UNDER PARAGRAPH (2) AT WHICH
22 TIME THE STANDING COMMITTEE SHALL RECOMMEND THE GENERAL
23 ASSEMBLY APPROVE OR DISAPPROVE THE STATE PLAN; AND

24 (3) considered by each chamber within 20 legislative
25 days after ~~{transmission} placement under paragraph (2).~~ <--

26 [TRANSMISSION.] CONSIDERATION OF THE STANDING COMMITTEE UNDER <--
27 PARAGRAPH (2.1).

28 (B.1) EXTENSION REQUEST.--IF NECESSARY TO MEET THE
29 REQUIREMENTS UNDER SUBSECTION (B), THE DEPARTMENT SHALL REQUEST
30 AN EXTENSION OF TIME FROM THE EPA BY SUBMITTING AN INITIAL STATE

1 PLAN BY THE INITIAL STATE PLAN SUBMISSION DEADLINE UNDER 40 CFR
2 60.5760 (RELATING TO WHAT ARE THE TIMING REQUIREMENTS FOR
3 SUBMITTING MY PLAN?) THAT MEETS THE MINIMUM REQUIREMENTS FOR AN
4 INITIAL STATE PLAN, AS SPECIFIED IN THE PLAN GUIDELINES
5 PUBLISHED BY THE EPA. THE DEPARTMENT SHALL TRANSMIT THE
6 FOLLOWING MESSAGE WITH ITS SUBMITTAL UNDER THIS PARAGRAPH:

7 BE ADVISED THAT THE STATE PLAN SUBMITTED BY THE
8 PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION HAS
9 NOT YET MET THE REQUIREMENTS OF THE PENNSYLVANIA
10 GREENHOUSE GAS REGULATION IMPLEMENTATION ACT REQUIRING
11 AFFIRMATIVE APPROVAL OF THE GENERAL ASSEMBLY. IT IS THE
12 INTENTION OF THE COMMONWEALTH OF PENNSYLVANIA TO SUBMIT A
13 STATE PLAN WHICH CONFORMS TO THIS RULEMAKING. UNDER
14 SECTION 111(D) OF THE CLEAN AIR ACT, STATES MUST BE GIVEN
15 AN OPPORTUNITY TO MEET FEDERAL ENVIRONMENTAL STANDARDS
16 SET FORTH BY THE ENVIRONMENTAL PROTECTION AGENCY. THE
17 COMMONWEALTH OF PENNSYLVANIA HEREBY INVOKES THE AUTHORITY
18 PROVIDED TO IT UNDER SECTION 111(D) OF THE CLEAN AIR ACT,
19 AND, IN ACCORDANCE WITH THE PENNSYLVANIA GREENHOUSE GAS
20 IMPLEMENTATION ACT, WILL BE MAKING A FURTHER FILING WITH
21 THE AGENCY.

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

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

29 (1) **[Determine]** REVIEW AND CONSIDER the reasons for <--
30 disapproval and modify the State plan.

1 (2) Cause the State plan to be resubmitted to the
2 General Assembly utilizing the process delineated under
3 subsection (b) within 60 calendar days [of] AFTER the <--
4 [disapproval.] CLOSE OF THE COMMENT PERIOD UNDER PARAGRAPH <--
5 (2.1).

6 (2.1) OPEN A PUBLIC COMMENT PERIOD FOR NO LESS THAN 180
7 CALENDAR DAYS ON THE MODIFIED STATE PLAN DURING WHICH THE
8 DEPARTMENT SHALL CONDUCT AT LEAST FOUR PUBLIC HEARINGS IN
9 GEOGRAPHICALLY DISPERSED LOCATIONS IN THIS COMMONWEALTH.

10 (3) If necessary, request an extension of time from the
11 EPA by submitting an initial State plan by [June 30, 2016]
12 the initial State plan submission deadline under 40 CFR
13 60.5760 (~~relating to What are the timing requirements for~~ <--
14 submitting my plan?), that meets the minimum requirements for
15 an initial State plan, as specified in the plan guidelines
16 published by the EPA. The department shall transmit the
17 following message with its submittal under this paragraph:

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

1 Implementation Act, will be making a further filing with
2 the agency.

3 (e) Default approval.--If no vote is taken by either
4 STANDING COMMITTEE OR chamber of the General Assembly to approve <--
5 or disapprove the resolution under subsection (b) [before the
6 June 15, 2016, deadline] at least 14 calendar days prior to the
7 final State plan submission deadline under 40 CFR 60.5760, the
8 State plan shall be deemed approved and shall be submitted to
9 the EPA immediately.

10 (f) Default approval after time to cure.--If either chamber
11 of the General Assembly fails to approve a resubmitted plan
12 under subsection (d) (2) [,] OR within 60 calendar days of the <--
13 [extension] final State plan submission extension deadline under
14 40 CFR 60.5760, WHICHEVER IS SOONER, the resubmitted plan shall <--
15 be deemed approved.

16 (G) TIMING RELATIVE TO FEDERAL LITIGATION.--THE DEPARTMENT <--
17 SHALL NOT SUBMIT A FINAL STATE PLAN TO THE EPA FOR APPROVAL
18 UNTIL AFTER EXPIRATION OF THE STAY ISSUED ON FEBRUARY 9, 2016,
19 BY THE SUPREME COURT OF THE UNITED STATES IN WEST VIRGINIA, ET
20 AL. V. EPA, DOCKET NO. 15A773, CHALLENGING THE CARBON POLLUTION
21 EMISSION GUIDELINES FOR EXISTING STATIONARY SOURCES UNDER 40 CFR
22 PT. 60 SUBPT. UUUU (RELATING TO EMISSION GUIDELINES FOR
23 GREENHOUSE GAS EMISSIONS AND COMPLIANCE TIMES FOR ELECTRIC
24 UTILITY GENERATING UNITS).

25 Section 2 3. This act shall take effect immediately. <--