

## No. 2016-57

## AN ACT

SB 1195

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

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

Section 1. Section 2 of the act of October 22, 2014 (P.L.2873, No.175), known as the Pennsylvania Greenhouse Gas Regulation Implementation Act, is amended by adding a definition to read:

Section 2. 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:

\* \* \*

***"Standing committee." The Environmental Resources and Energy Committee of the Senate or the Environmental Resources and Energy Committee of the House of Representatives.***

\* \* \*

Section 2. Section 4 of the act is amended to read:

Section 4. Submission of the State plan.

(a) Submission for approval to the General Assembly.—No less than 100 *calendar* days prior to the department submitting the State plan to the EPA for approval, the department shall transmit the plan to the General Assembly for approval.

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

(1) proposed as a resolution in each chamber;

(2) **[placed on the calendar of each chamber for] referred to the standing committee in each chamber** the next legislative day following transmission; **[and]**

**(2.1) considered by the standing committee within 10 legislative days of referral under paragraph (2) at which time the standing committee shall recommend the General Assembly approve or disapprove the State plan; and**

(3) considered by each chamber within 20 *legislative* days after **[transmission.] consideration of the standing committee under paragraph (2.1).**

**(b.1) Extension request.—If necessary to meet the requirements under subsection (b), the department shall request an extension of time from the EPA by submitting an initial State plan by the initial State plan submission**

*deadline under 40 CFR 60.5760 (relating to what are the timing requirements for submitting my plan?) that meets the minimum requirements for an initial State plan, as specified in the plan guidelines published by the EPA. The department shall transmit the following message with its submittal under this paragraph:*

*Be advised that the State plan submitted by the Pennsylvania Department of Environmental Protection has not yet met the requirements of the Pennsylvania Greenhouse Gas Regulation Implementation Act requiring affirmative approval of the General Assembly. It is the intention of the Commonwealth of Pennsylvania to submit a State plan which conforms to this rulemaking. Under section 111(d) of the Clean Air Act, states must be given an opportunity to meet Federal environmental standards set forth by the Environmental Protection Agency. The Commonwealth of Pennsylvania hereby invokes the authority provided to it under section 111(d) of the Clean Air Act, and, in accordance with the Pennsylvania Greenhouse Gas Implementation Act, will be making a further filing with the agency.*

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

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

(1) **[Determine] Review and consider** the reasons for disapproval and modify the State plan.

(2) Cause a *new version* of the State plan to be resubmitted to the General Assembly utilizing the process delineated under subsection (b) within 60 *calendar* days [of] *after* the [disapproval.] *close of the comment period under paragraph (2.1).*

*(2.1) Open a public comment period for no less than 180 calendar days on the modified State plan during which the department shall conduct at least four public hearings in geographically dispersed locations in this Commonwealth.*

(3) If necessary, request an extension of time from the EPA by submitting an initial State plan by **[June 30, 2016] the initial State plan submission deadline under 40 CFR 60.5760**, that meets the minimum requirements for an initial State plan, as specified in the plan guidelines published by the EPA. The department shall transmit the following message with its submittal under this paragraph:

Be advised that the State plan submitted by the Pennsylvania Department of Environmental Protection has not yet met the requirements of the Pennsylvania Greenhouse Gas Regulation Implementation Act requiring affirmative approval of the General Assembly. It is the intention of the Commonwealth of Pennsylvania to submit a State plan which conforms to this rulemaking. Under section 111(d) of the Clean Air Act, states must be given an opportunity to meet Federal environmental standards set forth by the Environmental

Protection Agency. The Commonwealth of Pennsylvania hereby invokes the authority provided to it under section 111(d) of the Clean Air Act, and, in accordance with the Pennsylvania Greenhouse Gas Implementation Act, will be making a further filing with the agency.

(e) Default approval.—If no vote is taken by either *standing committee* or chamber of the General Assembly to approve or disapprove the resolution under subsection (b) [**before the June 15, 2016, deadline**] *for the State plan submitted under subsection (a) at least 14 calendar days prior to the final State plan submission deadline under 40 CFR 60.5760*, the State plan shall be deemed approved and shall be submitted to the EPA immediately.

(f) Default approval after time to cure.—If either chamber of the General Assembly fails to approve *the resolution under subsection (b)* for a resubmitted *State* plan under subsection (d)(2)[,] or within 60 *calendar* days of the [extension] *final State plan submission extension deadline under 40 CFR 60.5760, whichever is sooner*, the resubmitted *State* plan shall be deemed approved.

(g) *Timing relative to Federal litigation.—The department shall not submit a State plan to the EPA for approval until after expiration of the stay issued on February 9, 2016, by the Supreme Court of the United States in West Virginia, Et Al. v. EPA, Docket No. 15A773, challenging the carbon pollution emission guidelines for existing stationary sources under 40 CFR Pt. 60 Subpt. UUUU (relating to emission guidelines for greenhouse gas emissions and compliance times for electric utility generating units).*

Section 3. This act shall take effect immediately.

APPROVED—The 23rd day of June, A.D. 2016

TOM WOLF