

The Clean Power Plan and Senate Bill 1195

The Clean Power Plan sets the first-ever limits on climate-disrupting greenhouse gas emissions from power plants, and gives states a choice between creating customized state plans to meet those limits or having the EPA impose a standardized Federal Plan upon them.

82 percent of Pennsylvanians support a customized State Plan to reduce dangerous power plant pollution because a State Plan can put us on the path to a clean energy future while saving lives, creating jobs and reducing electricity bills. **The Clean Power PA coalition**, an alliance of public health, environmental, business, and outdoor organizations, represents this overwhelming majority of Pennsylvanians. **We urge you to oppose Senate Bill 1195, which seeks to delay Clean Power Plan implementation in the Commonwealth, because it threatens regulatory uncertainty for Pennsylvania's power sector, is unnecessary, and is likely unconstitutional.**

What Senate Bill 1195 Does

SB 1195 would amend Act 175 of 2014, also known as the Pennsylvania Greenhouse Gas Regulation Implementation Act. Act 175 currently gives the General Assembly at least 100 days to review and provide feedback on any State Plan written by the DEP before the plan can be submitted to the U.S. Environmental Protection Agency. After that, the DEP can revise the State Plan and the General Assembly can again review it. SB 1195 would make two major changes to Act 175. First, it would enlarge the initial State Plan legislative review period from 100 to 180 days. Second, it would enlarge the post-feedback legislative review period so that it lasts until the latest date allowed under federal law for submission of a State Plan to the EPA. Right now, this date is September 6, 2018. See 40 CFR §60.5760. However, ongoing litigation concerning the Clean Power Plan could establish a later date – with the result that SB 1195 could delay submission of a State Plan for years.

Why Senate Bill 1195 is Bad for Pennsylvania

- **SB 1195 is unnecessary.** Enforcement of the Clean Power Plan is currently stayed, and while the DEP will continue to study implementation approaches and engage stakeholder during the stay, it will not submit a final State Plan to the EPA until ongoing federal litigation is concluded, probably in 2018. At that point, Act 175 will give legislators at least 100 days to review it before the DEP can submit it to the EPA. Then, *after* submission to the EPA, legislators will have an opportunity to disapprove the State Plan through the Pennsylvania Regulatory Review Act. These mechanisms provide more than enough time for the General Assembly to review and analyze any State Plan prepared by the DEP. The extensions in SB 1195 have no added value, where review is concerned.
- **SB 1195 would create harmful regulatory uncertainty for electric generators.** In comments submitted to the DEP last fall, Exelon – one of Pennsylvania's largest generators and employers – urged the DEP to submit a timely State Plan to the EPA because “[d]elay will prolong uncertainty that will hamstring long-term planning efforts and stifle investment in the Commonwealth.” The same consideration holds true now. If SB 1195 passes, generators will be reluctant to make decisions on new resources or invest in existing resources, and clean energy businesses considering what states to invest in will be less likely to choose Pennsylvania. Submitting a State Plan sooner rather than later simply makes business sense for the Commonwealth.
- **SB 1195 is likely unconstitutional.** When Governor Wolf vetoed House Bill 1327 – where most of the language in SB 1195 first appeared – he noted that the Clean Power Plan provisions would establish a one-chamber veto in violation of the Pennsylvania Constitution. SB 1195 suffers from the same defect. Legislative review of the State Plan is clearly appropriate – but as noted above, the General Assembly already has review powers under Act 175, and can already vote to disapprove the State

Plan under the Regulatory Review Act. It is not appropriate for the General Assembly to seek to exceed its constitutional authority, or intrude on the executive's.

For all these reasons, we strongly urge you to oppose against SB 1195.

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