



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Air Quality

# **Ashley Funk Petition to Establish Regulations to Reduce Fossil Fuel Carbon Dioxide Emissions**

Environmental Quality Board Meeting

Aug. 19, 2014

# Background

- **Sept. 6, 2013** – The Environmental Quality Board (board) received a petition for rulemaking on behalf of Ashley Funk and Kids vs Global Warming.
- **Nov. 19, 2013** – The petitioner presented why the board should accept the Petition for Rulemaking.

# Petition

- The petition cites scientific studies and other reasons to accept the petition including:
  - *Anthropogenic climate change is occurring and is threatening the stability of the global climate.*
  - *Climate change is already occurring in Pennsylvania and is projected to significantly impact the state in the future.*

# Petition

- Petitioners request that a rule be adopted to achieve the general goal of reducing CO<sub>2</sub> emissions:
  - **Regulatory goal**
  - **Baseline emission rate**
  - **Determination of annual CO<sub>2</sub> emission rate**
  - **Reductions in annual CO<sub>2</sub> emission rate**

# Actions

- **Nov. 19, 2013** – DEP recommended acceptance and the board voted unanimously to accept the petition for further study.
- **Dec. 7, 2013** – DEP published a notice of acceptance of the Petition for Rulemaking in the *Pennsylvania Bulletin*.

# DEP's April 15 Report

- **April 15, 2014** – Evaluation report to the petitioners recommending denial
- Report identified substantive actions that reduce greenhouse gas (GHG) emissions from fossil fuel CO<sub>2</sub> sources in Pennsylvania.

# Summary of DEP's April 15 Report

- Actions taken to reduce GHG emissions in Pennsylvania include:
  - Pennsylvania AEPS
  - Act 129 of 2008, Phases I and II
  - Pennsylvania Clean Vehicles Program
  - Biofuel Development and In-State Production Incentive Act
  - Pennsylvania Climate Change Act
  - Best Available Control Technology limits for CO2 emissions
  - Implementation of federal GHG emission reduction requirements
- DEP will also develop and implement additional measures to reduce CO2 emissions from new and existing electric generating units after EPA promulgates final rules.

# EPA's Section 111(d) Proposal

- EPA established CO2 emission targets using:
  - Coal-fired boiler heat rate improvements (assumed 6 percent)
  - Switching to natural gas fired units
  - Switching to additional nuclear power
  - More renewable energy
  - Energy efficiency programs (“outside the fence”)

# 111(d) Proposal Effect on PA Coal Burn

- Pennsylvania's coal fleet annual capacity

Year	Capacity Factor	Coal Consumption	Reduction in Coal Consumption from 2005
2005	73.4%	43.4 million tons	N/A
2012	54.6%	33.0 million tons	24%
2020	23.7%	12.5 million tons	71%
2030	16.9%	10.5 million tons	76%

# Summary of DEP's April 15 Report

- DEP recommended that the petition be denied for the following reasons:
  - Pennsylvania has already implemented a number of cost-effective GHG emission reduction strategies;
  - Pennsylvania will continue to evaluate and implement cost-effective GHG emission reduction strategies; and
  - The petition's recommendation to reduce emissions by six percent per year through 2050 from sources in Pennsylvania will not achieve an atmospheric concentration of 350 ppm CO<sub>2</sub>.

# Petitioners' May 30 Reply

- **May 30, 2014** – The petitioners requested that the board reject the DEP's recommendation and order DEP to develop and promulgate regulations consistent with the petition.
- Petitioners responded stating:
  - Article 1, Section 27 requires the commonwealth to protect the atmosphere;
  - Science shows that average global surface heating must not exceed 1°C this century; and
  - The petition does not seek to have Pennsylvania single-handedly restore the concentration of CO<sub>2</sub> in the atmosphere to 350 ppm.

# Response to the Petitioner's Reply

- DEP acknowledges that it has an important role as trustee in protecting and preserving the rights and values contained in Article I, Section 27 of the Pennsylvania Constitution.
- Protection of the atmosphere requires the efforts of multiple trustees not to mention participation by the public - in this commonwealth, nationally and around the world.
- DEP plays a substantial role, within the scope of its legal authority and with a balanced approach to sustainable development, in reducing CO<sub>2</sub> emissions.

# Response to the Petitioner's Reply

- Identified a number of actions that are being taken to reduce GHGs in Pennsylvania
- CO2 emissions projected to decrease by:
  - 14.55 MMtCO2e by 2015
  - 24.64 MMtCO2e by 2020
- Pennsylvania GHG reduction strategy already affects all of the major GHG-emitting source categories in Pennsylvania

# States' Denial of GHG Rulemaking Petitions

- Alabama
- Arkansas
- Connecticut
- Delaware
- Florida
- Georgia
- Hawaii
- Idaho
- Illinois
- Indiana
- Iowa
- Kentucky
- Louisiana
- Maine
- Maryland
- Massachusetts
- Michigan
- Mississippi
- Missouri
- Ohio
- Oklahoma
- Pennsylvania (2012)
- Nebraska
- New Jersey
- New York
- North Carolina
- North Dakota
- New Hampshire
- Nevada
- Rhode Island
- South Carolina
- South Dakota
- Tennessee
- Texas
- Utah
- Vermont
- Virginia
- Washington
- West Virginia
- Wisconsin
- Wyoming

# Other Actions

- To date, lawsuits in the following states have been denied, dismissed or are under appeal:
  - Alaska, Arizona, California, Colorado, Kansas, Minnesota, Montana, New Mexico, and Oregon.
- On June 5, 2014, the U.S. Court of Appeals for the District of Columbia affirmed the district court's dismissal of the case against the federal government.

# DEP Recommendation

- DEP does not recommend to the Board development of the requested regulatory program because it will not achieve the desired outcomes.
- As a result of its April 15 Report, the Petitioner's Reply and DEP's Response to that Reply, DEP does not recommend pursuing a regulatory amendment.



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