

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL NO. 154  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, strike “establishing certain limits on the emissions” and substitute “prohibiting affected facilities collectively from emitting more than certain amounts per year”; in line 4, after “dioxide,” insert “and”; in the same line, strike “, and carbon dioxide from certain facilities by” and substitute “on or after”; in line 5, after “dates;” insert “authorizing the Department of the Environment to set a certain interim stage of sulfur dioxide emissions reductions;”; in the same line, strike “of the Environment”; in line 6, after “budgets;” insert “authorizing an affected facility to exceed certain budgets under certain circumstances;”; strike beginning with “or” in line 7 down through the first “facilities” in line 9; in line 9, after the first semicolon insert “providing for the withdrawal of the State from the Regional Greenhouse Gas Initiative under certain circumstances; encouraging the State to join a successor organization if the Regional Greenhouse Gas Initiative expires; requiring the Governor to report to the General Assembly under certain circumstances;”; after line 10, insert “authorizing the Department to reduce certain penalties under certain circumstances; providing for judicial review of certain decisions under certain circumstances;”; after line 16, insert “providing for certain administrative and civil penalties for certain violations;”; and in line 17, strike “providing for criminal and civil penalties for a violation” and substitute “establishing certain allowance penalties for certain violations”; and in line 20, strike “and penalties”.

AMENDMENT NO. 2

On page 2, in line 12, strike “FOSSIL FUEL” and substitute “COAL”; after line 30, insert:

“(C) “ALLOWANCE” MEANS:

(1) ONE TON OF SULFUR DIOXIDE THAT MAY BE BOUGHT, SOLD, TRADED, OR BANKED FOR USE UNDER THE ACID RAIN PROGRAM IN THE U.S. ENVIRONMENTAL PROTECTION AGENCY; OR

(Over)

(2) ONE TON OF OXIDES OF NITROGEN THAT MAY BE BOUGHT, SOLD, TRADED, OR BANKED FOR USE UNDER THE NITROGEN OXIDES BUDGET TRADING PROGRAM IN THE U.S. ENVIRONMENTAL PROTECTION AGENCY.”;

and in line 31, strike “(C)” and substitute “(D)”.

On page 3, strike lines 3 and 4 in their entirety.

AMENDMENT NO. 3

On page 3, in line 8, strike “2010” and substitute “2009”; strike beginning with “THERE” in line 8 down through “DIOXIDE.” in line 12 and substitute “AFFECTED FACILITIES COLLECTIVELY MAY NOT EMIT MORE THAN 21,475 TONS OF OXIDES OF NITROGEN PER YEAR.”

(B) (1) ON OR AFTER JANUARY 1, 2010, AFFECTED FACILITIES COLLECTIVELY MAY NOT EMIT MORE THAN 48,618 TONS OF SULFUR DIOXIDE PER YEAR.

(2) THE DEPARTMENT MAY SET AN INTERIM STAGE REDUCTION FOR SULFUR DIOXIDE.”;

in line 13, strike “(B)” and substitute “(C)”; in the same line, strike “2015” and substitute “2012”; strike beginning with the first “THE” in line 13 down through “DIOXIDE.” in line 17 and substitute “AFFECTED FACILITIES COLLECTIVELY MAY NOT EMIT MORE THAN 17,926 TONS OF OXIDES OF NITROGEN PER YEAR.”

(D) ON OR AFTER JANUARY 1, 2015, AFFECTED FACILITIES COLLECTIVELY MAY NOT EMIT MORE THAN 32,322 TONS OF SULFUR DIOXIDE PER YEAR.”;

in line 18, strike “(C)” and substitute “(E) (1)”; in line 19, strike “(A) AND (B)” and substitute “(A), (B), (C), AND (D)”; after line 20, insert:

“(2) (1) THIS PARAGRAPH APPLIES TO AN AFFECTED FACILITY THAT IS OWNED, LEASED, OPERATED, OR CONTROLLED BY A PERSON THAT OWNS, LEASES, OPERATES, OR CONTROLS MORE THAN ONE AFFECTED FACILITY.

(II) AN AFFECTED FACILITY MAY EMIT MORE THAN THE EMISSIONS BUDGET SET FOR THE FACILITY UNDER PARAGRAPH (1) OF THIS SUBSECTION AS LONG AS THE PERSON OWNING, LEASING, OPERATING, OR CONTROLLING THE AFFECTED FACILITY DOES NOT EXCEED THE CUMULATIVE EMISSIONS BUDGET FOR ALL OF THE AFFECTED FACILITIES THAT THE PERSON OWNS, LEASES, OPERATES, OR CONTROLS.

(3) IF AN AFFECTED FACILITY PERMANENTLY CEASES OPERATION, THE DEPARTMENT:

(I) SHALL SUBTRACT THE EMISSIONS BUDGET FOR THAT AFFECTED FACILITY FROM THE EMISSIONS LIMITATIONS ESTABLISHED IN SUBSECTIONS (A), (B), (C), AND (D) OF THIS SECTION; AND

(II) MAY NOT INCREASE EXISTING EMISSIONS BUDGETS FOR ALL OTHER AFFECTED FACILITIES.”;

in line 21, strike “(D)” and substitute “(F) (1)”; in line 22, strike the colon; in line 23, strike “(1)”; in the same line, strike “90%” and substitute “80%”; in line 24, strike “; AND” and substitute a period; after line 24, insert:

“(2) ON OR AFTER JANUARY 1, 2012, A PERSON THAT OWNS, LEASES, OPERATES, OR CONTROLS AN AFFECTED FACILITY SHALL ACHIEVE A MINIMUM 90% CAPTURE OF INLET MERCURY FOR EACH AFFECTED FACILITY, CALCULATED AS A ROLLING 12-MONTH AVERAGE.”;

in line 25, strike “(2)” and substitute “(3) A PERSON THAT OWNS, LEASES, OPERATES, OR CONTROLS AN AFFECTED FACILITY SHALL”; and in the same line, strike “PARAGRAPH (1) OF”.

AMENDMENT NO. 4

On page 3, in line 29, strike “(E)” and substitute “(G) (1)”; in the same line, strike the colon and substitute a comma; in line 30, strike “(1)”; and in line 32, strike “; OR” and substitute a period.

(Over)

On pages 3 through 5, strike in their entirety the lines beginning with line 33 on page 3 through line 4 on page 5, inclusive, and substitute:

“(2) IF THE DEPARTMENT, IN CONSULTATION WITH THE PUBLIC SERVICE COMMISSION, DETERMINES THAT PARTICIPATION IN THE REGIONAL GREENHOUSE GAS INITIATIVE WILL COMPROMISE THE RELIABILITY OF THE ELECTRIC SYSTEM IN THE STATE, THE STATE MAY WITHDRAW FROM THE INITIATIVE AS PROVIDED IN THE DECEMBER 20, 2005 MEMORANDUM OF UNDERSTANDING OF THE INITIATIVE, AT ANY TIME AFTER JANUARY 1, 2009.

(3) IF THE REGIONAL GREENHOUSE GAS INITIATIVE EXPIRES AND THERE IS A SUCCESSOR ORGANIZATION WITH THE SAME PURPOSES AND GOALS, THE GOVERNOR IS ENCOURAGED TO JOIN THE STATE IN THE SUCCESSOR ORGANIZATION.

(4) IF THE STATE’S PARTICIPATION IN THE REGIONAL GREENHOUSE GAS INITIATIVE CEASES FOR ANY REASON, THE GOVERNOR SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, REGARDING:

(I) WHY PARTICIPATION CEASED; AND

(II) A PLAN TO REDUCE CARBON DIOXIDE EMISSIONS FROM POWER PLANTS IN THE STATE.”.

On page 5, in line 5, strike “(G)” and substitute “(H)”; in the same line, after “AFFECT” insert “EXISTING OR FUTURE”; in line 7, after “OTHER” insert “EXISTING OR FUTURE”; in line 10, strike “(H)” and substitute “(I (1))”; in line 13, strike “AND (E)” and substitute “(C), AND (D)”; after line 13, insert:

“(2) IF A PERSON THAT OWNS, LEASES, OPERATES, OR CONTROLS AN AFFECTED FACILITY CAN DEMONSTRATE, WITH CLEAR AND CONVINCING EVIDENCE, THAT THE POLLUTION CONTROL EQUIPMENT THAT IS NECESSARY TO ACHIEVE COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION IS

UNATTAINABLE, DUE TO A LACK OF AVAILABLE SUPPLY, THE DEPARTMENT MAY REDUCE ANY PENALTY DUE TO THE FAILURE TO ATTAIN COMPLIANCE UNTIL THE POLLUTION CONTROL EQUIPMENT BECOMES ATTAINABLE.

(3) A DECISION BY THE DEPARTMENT TO REDUCE ANY PENALTY UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE SUBJECT TO JUDICIAL REVIEW BY ANY PERSON WHO MEETS THE THRESHOLD STANDING REQUIREMENTS UNDER FEDERAL CONSTITUTIONAL LAW.”;

in line 14, strike “(I)” and substitute “(J) (1)”; in line 16, strike “AS FOLLOWS:” and substitute “AS PROVIDED IN THIS SUBSECTION.”; in lines 17, 21, and 26, strike “(1)”, “(2)”, and “(3)”, respectively, and substitute “(2)”, “(3)”, and “(4)”, respectively; strike beginning with “BY” in line 27 down through “DEPARTMENT” in line 28 and substitute “FOR AN AFFECTED FACILITY”; in line 29, after “FACILITY” insert “FOR EMISSIONS ABOVE THE EMISSIONS LIMITATIONS ESTABLISHED UNDER SUBSECTIONS (A) THROUGH (D) OF THIS SECTION”; and in line 32, strike “WHO” and substitute “THAT”.

AMENDMENT NO. 5

On page 6, strike in their entirety lines 12 through 28, inclusive, and substitute:

“(A) (1) THE ALLOWANCE PENALTY PROVISIONS OF THIS SECTION ARE IN ADDITION TO THE ADMINISTRATIVE AND CIVIL PENALTY PROVISIONS PROVIDED UNDER §§ 2-604, 2-609, 2-610, AND 2-610.1 OF THIS TITLE.

(2) EACH ONE-HALF OUNCE OF MERCURY AND EACH TON OF SULFUR DIOXIDE OR NITROGEN OXIDES EMITTED IN EXCESS OF THE LIMITATIONS SET FORTH OR IMPOSED IN ACCORDANCE WITH § 2-1002 OF THIS SUBTITLE SHALL BE A SEPARATE VIOLATION UNDER §§ 2-610 AND 2-610.1 OF THIS TITLE.

(3) FOR ANY VIOLATION OF ANY EMISSIONS LIMITATION SET FORTH OR IMPOSED UNDER § 2-1002(A) THROUGH (D) OF THIS SUBTITLE, THE DEPARTMENT MAY, INSTEAD OF IMPOSING CIVIL OR ADMINISTRATIVE PENALTIES UNDER § 2-610 OR § 2-610.1 OF THIS TITLE, ACCEPT THE VOLUNTARY SURRENDER OF SULFUR

(Over)

DIOXIDE OR OXIDES OF NITROGEN EMISSION ALLOWANCES.

(B) IF, IN ANY CALENDAR YEAR DURING THE PERIOD FROM JANUARY 1, 2010 THROUGH DECEMBER 31, 2012, A PERSON FAILS TO ACHIEVE AND MAINTAIN FULL COMPLIANCE WITH THE EMISSIONS LIMITATIONS ESTABLISHED BY THE DEPARTMENT UNDER § 2-1002(E) OF THIS SUBTITLE, THE PERSON SHALL SURRENDER:

(1) ONE SULFUR DIOXIDE ALLOWANCE FOR EACH TON OF SULFUR DIOXIDE EMITTED IN EXCESS OF THE EMISSION RATE LIMITATION; AND

(2) ONE OXIDE OF NITROGEN ALLOWANCE FOR EVERY 2 TONS OF SULFUR DIOXIDE EMITTED IN EXCESS OF THE EMISSION RATE LIMITATION.

(C) IF, IN ANY CALENDAR YEAR, DURING THE PERIOD FROM JANUARY 1, 2009 THROUGH DECEMBER 31, 2011, A PERSON FAILS TO ACHIEVE FULL COMPLIANCE WITH THE OXIDES OF NITROGEN EMISSION LIMITATIONS IN § 2-1002(A) AND (C) OF THIS SUBTITLE, THE PERSON SHALL SURRENDER ONE OXIDE OF NITROGEN ALLOWANCE FOR EACH TON OF OXIDES OF NITROGEN EMITTED IN EXCESS OF THE REQUIRED EMISSION RATE LIMITATION.

(D) A PERSON THAT SURRENDERS ALLOWANCES IN ACCORDANCE WITH SUBSECTIONS (B) OR (C) OF THIS SECTION SHALL SURRENDER THE ALLOWANCES TO THE DEPARTMENT'S SURRENDER ACCOUNT BY MARCH 1 OF THE YEAR FOLLOWING THE YEAR IN WHICH THE PERSON FAILED TO ACHIEVE AND MAINTAIN COMPLIANCE WITH THE APPLICABLE EMISSION LIMITATION."

AMENDMENT NO. 6

On page 7, strike beginning with "§ 2-1002(E)(2)" in line 4 down through "ARTICLE" in line 5 and substitute "THE REGIONAL GREENHOUSE GAS INITIATIVE"; in line 6, strike "CRIMINAL FINES AND"; in line 23, strike "AND"; and in line 26, after "COSTS" insert "; AND

(5) TO INCREASE THE DEVELOPMENT AND PRODUCTION OF ELECTRICITY FROM TIER 1 RENEWABLE ENERGY SOURCES IN THE STATE AS DEFINED IN § 7-701 OF THE PUBLIC UTILITY COMPANIES ARTICLE"