

Maitland, Sharon K.

From: Wade, David
Sent: Monday, June 3, 2019 10:56 AM
To: Maitland, Sharon K.
Subject: FW: Rulemaking Petition to Establish an Economy-Wide Auction-Cap-and-Trade Program for Pennsylvania
Attachments: PA auction cap and trade petition.pdf; ATT00001.htm; Draft EQB Regulation.docx; ATT00002.htm; Carbon-Neutrality Backers Push Pennsylvania Toward Cap and Trade.pdf; ATT00003.htm

1 of 2

From: Goldman, Jonathan Scott [REDACTED]
Sent: Sunday, December 2, 2018 3:15 PM
To: Robert (Bobby) B. McKinstry Jr. [REDACTED]; Fischer, Michael J. [REDACTED]
Cc: [REDACTED] Wade, David [REDACTED]
Subject: Fwd: Rulemaking Petition to Establish an Economy-Wide Auction-Cap-and-Trade Program for Pennsylvania

Thank you, Bobby, for your hard work on this important issue. We'll take a look. I look forward to reading the article, too.

I hope you are well,

Jonathan

Jonathan Scott Goldman
Executive Deputy Attorney General
Civil Law Division
Pennsylvania Office of Attorney General
Strawberry Square, 15th Floor
Harrisburg, PA 17120

[REDACTED]
Telephone: [REDACTED]
Facsimile: [717-772-4526](tel:717-772-4526)

Sent and possibly dictated from my iPhone — Please forgive any creative misspellings.

Begin forwarded message:

From: "Robert B McKinstry Jr" [REDACTED]
To: "Goldman, Jonathan Scott" [REDACTED]
Cc: "John Dernbach" [REDACTED], "Joe Minott" [REDACTED]
Subject: FW: Rulemaking Petition to Establish an Economy-Wide Auction-Cap-and-Trade Program for Pennsylvania

Hi Jonathan,

I am forwarding you the climate disruption rulemaking petition that we filed last Tuesday. We still adding petitioners and will do so until we make a supplemental filing on February 1. We got a fair amount of good press on it. I thought you'd enjoy my quote from the Bloomberg Law piece. (I actually said "fiddling" rather than "twiddling" – the reporter realized that after it was filed – but it works anyway.)

The Attorney General may be asked to weigh in on this at some point. We would be happy to meet to discuss this if he or someone else in your office would like.

Bobby

Robert B. McKinstry, Jr.
Environmental and Climate Law & Consulting
Romeade Farm
548 School House Rd.
Kennett Square Pa. 19348

[REDACTED]
[REDACTED]
Fellow of the American College of Environmental Lawyers and the American Bar Foundation

From: Robert B McKinstry Jr [REDACTED]
Sent: Tuesday, November 27, 2018 7:29 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Rulemaking Petition to Establish an Economy-Wide Auction-Cap-and-Trade Program for Pennsylvania

Dear Secretary McDonnell, Ms. Edinger, and Honorable Members of the Board,

On behalf of ourselves and the other petitioners identified on Exhibit A to the attached Petition, we hereby submit for the consideration of the Environmental Quality Board the attached Petition Pursuant to 25 Pa. Code §§ 23.1-23.5, Article I, §27 of the Pennsylvania Constitution, and the Pennsylvania Air Pollution Control Act to Adopt the Attached Regulation Establishing a Comprehensive Program to Limit Greenhouse Gas Emissions Through an Auction-Cap-and-Trade Program to Conserve and Maintain a Stable Climate and Other Public Resources for Which the Commonwealth is a Trustee (“Petition”). We also attach a courtesy Word version of the proposed regulation for the Department’s use. The Petition and the proposed regulation attached as Exhibit B to the Petition conform to the requirements of 25 Pa. Code §§ 23.1-23.5.

In light of the ongoing and severe damage to the public natural resources caused by unconstrained emissions of greenhouse gas pollutants, we urge the Board to act swiftly on this Petition and to adopt the attached regulation as quickly as feasible consistent with the requirements of law and appropriate public participation. The recent report of the Intergovernmental Panel on Climate Change and the U.S. Global Change Research Program’s *Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States* underscore the need for haste to address the looming emergency posed by climate disruption. The proposed regulation and the analysis of facts, law, impacts, costs and benefits contained in the Petition contain all that is necessary to proceed to the publication of a proposed rule in the Pennsylvania Bulletin. The Administration could, therefore, move more quickly than the timelines set forth in 25 Pa. Code §§ 23.1-23.5, and should do so in light of the looming climate emergency.

The Commonwealth’s duty as a trustee under Article I, § 27 of the Constitution requires that the Board proceed with all due haste to limit the damage to the Commonwealth’s public natural resources and the health of current and future generations caused by unchecked greenhouse gas pollution. The proposed regulation would create a measured and foreseeable path for the Commonwealth and its industry to do what is necessary to avoid the worst consequences of climate disruption. It would provide a solution to the problem of financially stressed nuclear electric generating facilities and provide an incentive for investment in the types of projects that will be key to keeping Pennsylvania’s economy strong as we transition to an economy that does not emit greenhouse gas pollution. The proposed regulation will also have significant co-benefits. It will allow the Commonwealth to address its severe and structural budget deficit without the continued depletion of the environmental capital that the Supreme Court held unconstitutional in *PEDF v. Commonwealth*. If used wisely, some of the income could be used to provide seed capital for the infrastructure projects that will be necessary to adapt to the effects of climate disruption.

There are other organizations that wish to become petitioners but have not yet been able to complete the procedures necessary to allow them to do so. Therefore, as suggested by Exhibit A, we intend to supplement this submission by adding additional petitioners before the next Board meeting.

We look forward to presenting our proposal to the Board.

Thank you for your consideration.

Respectfully submitted:

Robert B. McKinstry, Jr.

Joseph Minott, Clean Air Council

Robert Routh, Clean Air Council

John C. Dernbach, Widener Commonwealth Law School Environmental Law and Sustainability Center

C. Baird Brown, eco(n)law LLC

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**Bloomberg
Environment****Environment ReporterSM**

Carbon-Neutrality Backers Push Pennsylvania Toward Cap and Trade

By Leslie A. Pappas

Posted Nov. 29, 2018, 2:42 PM

- Cap-and-trade petition in third-largest greenhouse-gas emitting state based on California regulation
- Board won't likely consider measure until April

Pennsylvania should consider an economywide greenhouse gas trading program that would make the state that's the third largest source of the gases carbon neutral within 35 years, a coalition of environmental advocates, attorneys, and businesses said.

Frustrated with the state's failure to curb emissions, the 62-member coalition, led by the Philadelphia-based Clean Air Council, presented the state's Environmental Quality Board Nov. 27 with a draft 258-page regulation that would go far beyond Gov. Tom Wolf's (D) pledge to join a Northeastern carbon dioxide trading program for power plants.

Backers of the proposal, who consulted state environmental regulators while drafting it, want to bypass the Republican Legislature, which is resistant to climate change efforts.

The move comes as envoys from nearly 200 countries prepare to meet in Poland to discuss global warming. A four-year assessment from the U.S. Global Change Research Programsaid climate change left unchecked could cost the country billions of dollars. And a United Nations report recently concluded that global emissions are getting worse and political will to change the trajectory is flagging.

The Trump administration's refusal to respond to such warnings prompted the petition, said Robert B. McKinstry, Jr., an environmental lawyer and lead author of the regulatory package. McKinstry has been working on the regulation since March 31 when he retired from Ballard Spahr LLP, where he was in charge of the firm's climate change and sustainability initiative.

"I decided I could retire and do something," McKinstry told Bloomberg Environment. "I could no longer sit by while Nero twiddled with Twitter and Rome burned."

State law requires the Department of Environmental Protection to review the petition and make a recommendation to the Environmental Quality Board about whether to accept it, Neil Shader, the department's press secretary, told Bloomberg Environment.

The next board meeting is in December, but the petition likely won't be considered until April, Shader said.

The proposal would cap greenhouse gas emissions starting in 2018 and decline annually. The reductions would put the state on track to achieve carbon neutrality by 2052, consistent with goals defined in the Paris climate agreement.

To contact the reporter on this story: Leslie A. Pappas in Philadelphia at lpappas@bloombergglaw.com

To contact the editors responsible for this story: Gregory Henderson at ghenderson@bloombergenvironment.com; Andrew Childers at achilders@bloombergenvironment.com; Renee Schoof at rschoof@bloombergenvironment.com

Related Articles

Climate Change Deniers Are Blocking Progress, UN Report Suggests (Nov. 27, 2018, 1:21 PM)

EU Should Aim for 2050 Carbon Neutrality, European Commission Says (Nov. 28, 2018, 10:08 AM)

Greenhouse Gases Hit Level Last Seen When Seas Covered Manhattan (Nov. 23, 2018, 9:19 AM)

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Maitland, Sharon K.

From: Wade, David
Sent: Monday, June 3, 2019 10:56 AM
To: Maitland, Sharon K.
Subject: FW: Emoluments suit stays alive.
Attachments: 124 - Order on MTD.pdf; ATT00001.htm; 123 Order denying MTD on merits.pdf; ATT00002.htm

2 of 2

From: Goldman, Jonathan Scott [REDACTED]
Sent: Thursday, July 26, 2018 6:55 AM
To: Shapiro, Josh [REDACTED]; Fischer, Michael J. [REDACTED]
Cc: Henry, Michelle A. [REDACTED]; Wade, David [REDACTED]; Fritz, Dana [REDACTED]
Subject: Emoluments suit stays alive.

FYI only, a good ruling here. [REDACTED]
<https://www.politico.com/story/2018/07/25/trump-emoluments-lawsuit-740423>. Opinion and order below if interested.

Jonathan

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Begin forwarded message:

From: Robert B McKinstry Jr [REDACTED]
Date: July 25, 2018 at 8:17:08 PM EDT
To: Jonathan Goldman [REDACTED]
Subject: Fwd: Order on MID: motion denied!

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Robert B McKinstry Jr
[REDACTED]

Begin forwarded message:

From: Deepak Gupta [REDACTED]
Date: July 25, 2018 at 12:14:09 PM EDT
To: [REDACTED]
Subj: [REDACTED]

Deepak Gupta
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