

# PACER and PRESS Are Introduced in the Pennsylvania General Assembly

**May 30, 2024**

*Pittsburgh, PA and Washington, DC*

*FNREL Mineral and Energy Law Newsletter*

*Pennsylvania – Mining*

**(Joseph K. Reinhart, Sean M. McGovern, Gina F. Buchman, Christina M. Puhnaty)**

Pennsylvania Governor Josh Shapiro recently announced two pieces of legislation as part of his “commonsense energy plan” that would replace state efforts to join the Regional Greenhouse Gas Initiative (RGGI): (1) the Pennsylvania Climate Emissions Reduction Act (PACER) and (2) the Pennsylvania Reliable Energy Sustainability Standard (PRESS). [Press Release](#), Gov’t Josh Shapiro, “Governor Josh Shapiro’s Energy Plan Builds on Pennsylvania’s Legacy of Energy Leadership by Protecting and Creating Energy Jobs and Lowering Electricity Costs for Consumers” (Mar. 13, 2024). According to the Shapiro administration, these Pennsylvania-specific programs are aimed at reducing greenhouse gas emissions, lowering utility bills for consumers, and creating and protecting jobs in the Commonwealth.

PACER was introduced as House Bill 2275 by Representative Aerion Abney and as Senate Bill 1191 by Senator Carolyn Comitta on May 8, 2024, along with many cosponsors. The legislation proposes to establish a Pennsylvania-run CO<sub>2</sub> Budget Trading Program with its own auction of CO<sub>2</sub> allowances. The bill directs the Pennsylvania Department of Environmental Protection (PADEP) to administer this program in accordance with parts of the regulation promulgated to implement the commonwealth’s participation in RGGI, 25 Pa. Code ch. 145, subch. E (CO<sub>2</sub> Budget Trading Program), with some changes. “Budget sources”—fossil fuel-fired electricity generators with a nameplate capacity of 25 MW or more—would be required to comply with the program under PACER and purchase allowances (authorization to emit one ton of VOCs) equal to the tons of CO<sub>2</sub> emitted annually.

The legislation also directs PADEP to review the base budget—the number of allowances available for auction set in the CO<sub>2</sub> Budget Trading Program regulation—and consider the impact of the budget on jobs, consumers, and the environment to determine whether revisions to the budget are necessary.

If PADEP determines that budget revisions are needed, it would recommend a revised budget to the Environmental Hearing Board. The Environmental Hearing Board is permitted under the legislation to promulgate a final-omitted regulation under the Regulatory Review Act, effectively bypassing the typical rulemaking process, to amend 25 Pa. Code § 145.341 and adopt the recommended PACER emissions budget.

The proceeds from the auction of allowances would remain in Pennsylvania. The legislation requires that 70% of the proceeds be given to Pennsylvania consumers through an electric bill rebate. The remaining 30% of the proceeds would support projects to reduce air pollution, further reduce electric bills for low-income households, and invest in clean energy projects like carbon capture and storage.

PRESS was also introduced on May 8, 2024, as House Bill 2277 by Representative Danielle Friel Otten and as Senate Bill 1190 by Senator Steve Santarsiero, along with many cosponsors. PRESS will significantly increase the amount of renewable energy that utilities in Pennsylvania use by modifying and expanding Pennsylvania’s Alternative Energy Portfolio Standards (AEPS) first implemented two decades ago. The bill would add nuclear power and next-generation technologies like fusion to AEPS, as well as incentivize lower emissions for gas-fired power plants.

PRESS also provides for the investment of \$5.1 billion in advanced energy technologies by 2035, incentivizing new development in Pennsylvania, with a focus on specific forms of energy development—primary battery storage, natural gas, and nuclear power—to establish reliable base-load power. PRESS establishes a target of 35% Tier I energy generation by 2035, with 10% Tier II generation and 5% Tier III generation.

Tier I includes solar photovoltaic and solar thermal energy, wind power, low-impact hydropower, geothermal energy, and biologically derived fugitive emissions. Tier II, which is limited to in-state resources, includes Tier I reliable energy sources in Pennsylvania, non-solar distributed generation systems, combined heat and power, demand-side management, large-scale hydropower, natural gas or coal using clean hydrogen (80%) co-fired blend or equivalent carbon intensity reduction technologies, fuel cells, biomass energy, and 24-hour storage co-located with a Tier I resource. Tier III, which is also limited to in-state resources, includes natural gas or coal using clean hydrogen (20%) co-fired blend or equivalent carbon intensity reduction technologies, waste coal, municipal solid waste, integrated combined coal gasification technology, and generation of electricity utilizing by-products of the pulping process and wood manufacturing process.

The Governor's office anticipates that PRESS and PACER will create nearly 15,000 energy jobs and save Pennsylvania ratepayers \$252 million during the first five years after passage. This legislation is still pending in the Pennsylvania General Assembly.

*Copyright © 2024, The Foundation for Natural Resources and Energy Law, Westminster, Colorado*

**Babst | Calland**  
Attorneys at Law

PITTSBURGH, PA | CHARLESTON, WV | HARRISBURG, PA | LAKWOOD, NY | STATE COLLEGE, PA | WASHINGTON, DC