

## USA - Pennsylvania

### General Information

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#### ETS Description

The Pennsylvania regulation is finalized but not applied pending state Supreme Court decision.

In October 2019, Pennsylvania's Governor Tom Wolf signed an executive order directing the state's Department of Environmental Protection (DEP) to develop and present to the Environmental Quality Board (EQB) a proposal for an ETS covering CO<sub>2</sub> emissions from the electric power sector and its linkage to the Regional Greenhouse Gas Initiative (RGGI). The legal basis for developing an ETS is the state's "Air Pollution Control Act", which regulates air resources necessary for the protection of public health.

In April 2022, the final regulation to establish an ETS in Pennsylvania and to participate in RGGI was published. It set a base cap of 78 million short tons (70.8 MtCO<sub>2</sub>) if Pennsylvania was a participating state of RGGI as of 1 January 2022. The cap decreases by 3% annually to 58.1 million short tons (52.7 MtCO<sub>2</sub>) in 2030. The regulation includes the implementation of both emissions containment and cost containment reserves, as well as quarterly auctions to allocate allowances. It includes additional features such as set-aside accounts (accounts from which allowances may be transferred to the accounts of regulated units or retired on their behalf) for waste coal and cogeneration units (including combined heat and power systems), and a limited exemption for cogeneration units that supply less than 15% of their total energy to the electricity grid.

Pennsylvania's participation in RGGI would have represented 44% of the 2023 RGGI cap (see 'Year in Review' section).

#### ETS Status

under development

#### Jurisdictions

Pennsylvania

#### Year in Review

Prior to its April 2022 publication, the regulation had been challenged by members of Pennsylvania's legislature. It was also subsequently disputed by a collection of local coal stakeholders, including power plant owners, coal mine owners, and workers' unions, who filed a lawsuit in front of the Commonwealth Court after it was published.

In April 2023, Governor Josh Shapiro convened a working group to assess Pennsylvania's participation in RGGI in the context of a three-part "test" (protection and creation of energy jobs, addressing climate change, and ensuring that the state had reliable, affordable, and clean power). The working group found consensus that cap-and-invest would be the optimal approach for Pennsylvania, but failed to reach consensus on a specific form the program would take.

In November, the Commonwealth Court ruled that money raised through the regulation constitutes a tax imposed by the DEP and EQB, and thus is in violation of the state's constitution. According to the ruling, participation in RGGI is only possible through legislation passed by the Pennsylvania General Assembly. Shortly after the Commonwealth Court's ruling, the Shapiro administration appealed the decision to the state's Supreme Court. There is currently no timeframe on when a decision could be reached.

#### Sectoral coverage

## Emissions & Targets

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### Overall GHG Emissions excl. LULUCF (MtCO<sub>2</sub>e)

238.7 MtCO<sub>2</sub>e (2020)

### GHG reduction targets

**By 2025:** 26% reduction below 2005 levels (Executive Order 2019-1)

**By 2050:** 80% reduction below 2005 levels (Executive Order 2019-1)

## Other Information

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### Institutions involved

**Pennsylvania Department of Environmental Protection (DEP):** Government agency responsible for implementing, administering, and enforcing the CO<sub>2</sub> Budget Trading Program (RGGI regulation)

### Regulatory Framework

[Executive Order 2019-07](#)

[CO<sub>2</sub> Budget Trading Program](#)

[Pennsylvania Commonwealth Court Ruling](#)

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