



Pennsylvania is One Step Closer to Joining RGGI

On April 4, 2022, the Pennsylvania Senate failed by one vote to reach the two-thirds majority vote needed to override Governor Tom Wolf's January 10th veto of Senate Concurrent Regulatory Review Resolution 1, which was intended to block the Pennsylvania Department of Environmental Protection's regulation to join the Regional Greenhouse Gas Initiative. However, the following evening, April 5, the Commonwealth Court issued a stay preventing the Legislative Reference Bureau from publishing the regulation as a final, immediately-effective rule in the *Pennsylvania Bulletin* and scheduling a hearing for May 4, 2022 on litigation that DEP initiated in February to force publication of the final regulation.

RGGI is the country's first regional, market-based cap-and-trade program, designed to reduce carbon dioxide emissions from fossil-fuel-fired electric power generators with a capacity of 25 megawatts or greater that send more than 10 percent of their annual gross generation to the electric grid. Regulated sources must hold allowances equal to their CO₂ emissions over a three-year compliance period. Each allowance is equal to one short ton of CO₂. Regulated sources may purchase state-issued allowances at quarterly auctions or through secondary markets and can use allowances issued by any RGGI state to comply. Regulated sources may also use offsets awarded for certain environmental projects to meet a maximum of 3.3 percent of their allowances.

If the rule is published in the *Pennsylvania Bulletin* before July 1, 2022, the partial year emissions cap for Pennsylvania would be 40.7 million tons of CO₂ for the remainder of 2022. The total annual emissions cap would gradually decline to 58 million in 2030. Affected units would need to start monitoring emissions on July 1, 2022 to be able to purchase allowances for CO₂ emitted on or after that date.

RGGI operates on a three-year compliance schedule whereby only partial compliance is required within the first two years, and then full compliance is required after the end of the third year. The current RGGI three-year compliance period began in 2021, so 2021 and 2022 are interim compliance years while 2023 is a full compliance year. If the regulation is published before July 1, 2022, regulated sources must acquire 50 percent of the necessary CO₂ allowances by March 1, 2023 and acquire 100 percent of their allowances by March 1, 2024. The allowance price was \$13.50 at the last RGGI auction on March 11, 2022.

Litigation to challenge the regulation is expected after it is published in the *Pennsylvania Bulletin*, which cannot occur until after the May 4 hearing following the Commonwealth Court's April 5 stay of publication.

If you would like further information about RGGI, please contact Kevin Garber at 412-394-5404 or kgarber@babstcalland.com or Gina Falaschi at 202-853-3483 or gfasalchi@babstcalland.com.

APRIL 7, 2022

CONTACT

KEVIN J. GARBER
kgarber@babstcalland.com
412.394.5404

GINA N. FALASCHI
gfasalchi@babstcalland.com
202.853.3483

Pittsburgh, PA
Two Gateway Center
603 Stanwix Street
Sixth Floor
Pittsburgh, PA 15222
412.394.5400

Washington, DC
Suite 700
505 9th Street NW
Washington, DC 20004
202.853.3455

BABSTCALLAND.COM

PITTSBURGH, PA | CHARLESTON, WV | SEWELL, NJ | STATE COLLEGE, PA | WASHINGTON, DC

Babst Calland was founded in 1986 and has represented environmental, energy and corporate clients since its inception. Our attorneys concentrate on the current and emerging needs of clients in a variety of industry sectors, with focused legal practices in construction, corporate and commercial, creditors' rights and insolvency, emerging technologies, employment and labor, energy and natural resources, environmental, land use, litigation, public sector, real estate and transportation safety. For more information about Babst Calland and our practices, locations or attorneys, visit babstcalland.com.

This communication was sent by Babst Calland, headquartered at Two Gateway Center, Pittsburgh, PA 15222.

This communication is privately distributed by Babst, Calland, Clements and Zomnir, P.C., for the general information of its clients, friends and readers and may be considered a commercial electronic mail message under applicable regulations. It is not designed to be, nor should it be considered or used as, the sole source of analyzing and resolving legal problems. If you have, or think you may have, a legal problem or issue relating to any of the matters discussed, consult legal counsel.

This communication may be considered advertising in some jurisdictions. To update your subscription preferences and contact information, please [click here](#). If you no longer wish to receive this communication, please [reply here](#). To unsubscribe from all future Babst Calland marketing communications, please [reply here](#).

©2022 Babst, Calland, Clements and Zomnir, P.C. All Rights Reserved.