

## Environmental and Renewable Energy Regulations

Environmental requirements and renewable energy mandates have a significant impact on PJM markets. The investments required for environmental compliance have affected offer behavior in the capacity market. Expectations about the cost and life of such investments and about future capacity and energy prices have affected retirement decisions. The markets have also provided incentives for new, lower emission units to enter.

### Overview

#### Federal Environmental Regulation

- **MATS.** The U.S. Environmental Protection Agency's (EPA) Mercury and Air Toxics Standards rule (MATS) applies the Clean Air Act (CAA) maximum achievable control technology (MACT) requirement to new or modified sources of emissions of mercury and arsenic, acid gas, nickel, selenium and cyanide.<sup>1</sup> On May 22, 2020, the EPA published its determination that MATS is not appropriate and necessary based on a cost-benefit analysis.<sup>2</sup> The list of coal steam units subject to MATS, however, remains in place.<sup>3</sup> All coal steam units in PJM are compliant with the state and federal emissions limits established by MATS. On January 31, 2022, the EPA proposed to reaffirm that it remains appropriate and necessary to regulate hazardous air pollutants (HAP), including mercury, from power plants after considering cost. This action revokes a 2020 finding that it was not appropriate and necessary to regulate coal and oil fired power plants under CAA § 112, and would restore the basis for the MATS rule.
- **Air Quality Standards (NO<sub>x</sub> and SO<sub>2</sub> Emissions).** The CAA requires each state to attain and maintain compliance with fine particulate matter (PM) and ozone national ambient air quality standards (NAAQS). The CAA also requires that each state prohibit emissions that significantly interfere

with the ability of another state to meet NAAQS.<sup>4</sup> On March 15, 2021, the EPA finalized decreases to allowable emissions under the Cross-State Air Pollution Rule (CSAPR) and the 2008 ozone NAAQS for 10 PJM states.<sup>5</sup> On February 28, 2022, the EPA proposed a Federal Implementation Plan (FIP), to be known as the "Transport Rule," for 26 states that addresses the contribution of those states to problems in other states in attaining and maintaining the 2015 Ozone NAAQS.<sup>6</sup> The proposed FIP requirements would establish ozone season NO<sub>x</sub> emissions budgets for electric generating units in the PJM states, excluding North Carolina and the District of Columbia.

- **NSR.** On August 1, 2019, the EPA proposed to reform the New Source Review (NSR) permitting program.<sup>7</sup> NSR requires new projects and existing projects receiving major overhauls that significantly increase emissions to obtain permits. Recent EPA proposals would reduce the number of projects that require permits.
- **RICE.** Stationary reciprocating internal combustion engines (RICE) are electrical generation facilities like diesel engines typically used for backup, emergency or supplemental power. RICE must be tested annually.<sup>8</sup> RICE do not have to meet the same emissions standards if they are emergency stationary RICE. Environmental regulations allow emergency stationary RICE participating in demand response programs to operate for up to 100 hours per calendar year when providing emergency demand response when there is a PJM declared NERC Energy Emergency Alert Level 2 or there are five percent voltage/frequency deviations.

PJM does not prevent emergency stationary RICE that cannot meet its capacity market obligations as a result of EPA emissions standards from participating in PJM markets as DR. Some emergency stationary RICE that cannot meet its capacity market obligations as a result of emissions standards are now included in DR portfolios. Emergency stationary RICE

<sup>1</sup> *National Emission Standards for Hazardous Air Pollutants From Coal and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil Fuel Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units*, EPA Docket No. EPA-HQ-OAR-2009-0234, 77 Fed. Reg. 9304 (Feb. 16, 2012).

<sup>2</sup> *See National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units—Reconsideration of Supplemental Finding and Residual Risk and Technology Review*, Docket No. EPA-HQ-OAR-2018-0794, 85 Fed. Reg. 31286.

<sup>3</sup> *Id.* at 31291.

<sup>4</sup> CAA § 110(a)(2)(D)(i)(I).

<sup>5</sup> *Revised Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS*, Docket No. EPA-HQ-OAR-2020-0272; FRL-10013-42- OAR, 85 Fed. Reg. 23054 (Apr. 30, 2021).

<sup>6</sup> *See Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard*, Docket No. EPA-HQ-OAR-2021-0668; FRL 8670-01-OAR, 87 Fed. Reg. 20036 (April 6, 2022).

<sup>7</sup> *Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Emissions Accounting*, EPA Docket No. EPA-HQ-OAR-2018-0048; FRL-9997-95-OAR, 84 Fed. Reg. 39244 (Aug. 9, 2019).

<sup>8</sup> *See* 40 CFR § 63.6640(f).

should be prohibited from participation as DR either when registered individually or as part of a portfolio if it cannot meet its capacity market obligations as a result of emissions standards.

- **Greenhouse Gas Emissions.** On June 30, 2022, the Supreme Court held that Section 111(d) of the CAA did not provide authority under the major questions doctrine to regulate carbon emissions in the manner proposed.<sup>9</sup> Both the EPA's Affordable Clean Energy (ACE) rule and the Clean Power Plan (CPP), which were promulgated under Section 111(d) of the CAA, can be expected to be vacated on remand.
- **Cooling Water Intakes.** An EPA rule implementing Section 316(b) of the Clean Water Act (CWA) requires that cooling water intake structures reflect the best technology available for minimizing adverse environmental impacts.<sup>10</sup>
- **Waters of the United States.** On November 18, 2021, the EPA and the Department the Army announced the signing of a proposed rule to revise the definition of "waters of the United States" to restore the pre 2015 definition of "waters of the United States." The proposed rule, if adopted, would make permanent the pre 2015 regulatory regime for interpreting WOTUS that is now effective.
- **Effluents.** Under the CWA, the EPA regulates (National Pollutant Discharge Elimination System (NPDES)) discharges from and intakes to power plants, including water cooling systems at steam electric power generating stations. The EPA has recently been strengthening certain discharge limits applicable to steam generating units, and some plant owners have already indicated an intent to close certain generating units as a result.
- **Coal Ash.** The EPA administers the Resource Conservation and Recovery Act (RCRA), which governs the disposal of solid and hazardous waste.<sup>11</sup> The EPA has adopted significant changes to the implementing regulations that will require closing noncompliant impoundments, and, potentially, the host power plant. The EPA is implementing a process for extensions to as late as October 17, 2028. The EPA is reviewing applications received

<sup>9</sup> *West Virginia v. EPA*, No. 20–1530 (S. Ct. of the U.S.).

<sup>10</sup> See EPA, *National Pollutant Discharge Elimination System—Final Regulations to Establish Requirements for Cooling Water Intake Structures at Existing Facilities and Amend Requirements at Phase I Facilities*, EPA-HQ-OW-2008-0667, 79 Fed. Reg. 48300 (Aug. 15, 2014).

<sup>11</sup> 42 U.S.C. §§ 6901 et seq.

from PJM plant owners. So far, the EPA has proposed to reject applications for Gavin and Clifty Creek, and proposed to grant, with conditions, an application from Spurlock.

## State Environmental Regulation

- **Regional Greenhouse Gas Initiative (RGGI).** The Regional Greenhouse Gas Initiative (RGGI) is a CO<sub>2</sub> emissions cap and trade agreement among Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont and Virginia that applies to power generation facilities. New Jersey rejoined on January 1, 2020.<sup>12</sup> Virginia joined RGGI on January 1, 2021. Pennsylvania took action to join RGGI on April 23, 2022, but such action has been enjoined by court order on appeal.<sup>13 14 15</sup> A decision on the merits of the appeal is pending. The auction price in the September 1, 2022 auction was \$13.45 per short ton, or \$14.83 per metric tonne.
- **Illinois Climate and Equitable Jobs Act (CEJA).** On September 16, 2021, the Climate and Equitable Jobs Act (CEJA) became effective. CEJA created an expanded nuclear subsidy program. CEJA mandates that all fossil fuel plants close by 2045. CEJA established emissions caps for investor owned, gas-fired units with three years of operating history, effective October 1, 2021, on a rolling 12 month basis going forward. More than 10,000 MW of capacity are currently affected.
- **Carbon Price.** If the price of carbon were \$50.00 per metric tonne, short run marginal costs would increase by \$24.45 per MWh or 35.2 percent for a new combustion turbine (CT) unit, \$16.66 per MWh or 36.2 percent for a new combined cycle (CC) unit and \$43.09 per MWh or 58.1 percent for a new coal plant (CP) for 2022.

<sup>12</sup> "Statement on New Jersey Greenhouse Gas Rule," RGGI Inc., (June 17, 2019) <[https://www.rggi.org/sites/default/files/Uploads/Press-Releases/2019\\_06\\_17\\_NJ\\_Announcement\\_Release.pdf](https://www.rggi.org/sites/default/files/Uploads/Press-Releases/2019_06_17_NJ_Announcement_Release.pdf)>.

<sup>13</sup> "Statement on Virginia Greenhouse Gas Rule," RGGI, (July 8, 2020) <<https://www.rggi.org/news-releases/rggi-releases>>.

<sup>14</sup> CO2 Budget Trading Program, 52 Pa.B. 2471 (April 23, 2022), codified 25 Pa. Code Ch. 145; see also Executive Order–2019–07. Commonwealth Leadership in Addressing Climate Change through Electric Sector Emissions Reductions, Tom Wolf, Governor, October 3, 2019, <<https://www.governor.pa.gov/newsroom/executive-order-2019-07-commonwealth-leadership-in-addressing-climate-change-through-electric-sector-emissions-reductions/>> .

<sup>15</sup> See *Ramez Ziadeh, et al. v. Pennsylvania Legislative Reference Bureau*, Memorandum Opinion, Commonwealth Court of Pennsylvania Case No. No. 41 M.D. 2022 (July 8, 2022); *Ramez Ziadeh, et al. v. Pennsylvania Legislative Reference Bureau*, Order Granting Application to Vacate, Commonwealth Court of Pennsylvania Case No. No. 41 M.D. 2022 (July 25, 2022).

## State Renewable Portfolio Standards

- **RPS.** In PJM, ten of 14 jurisdictions have enacted legislation requiring that a defined percentage of retail suppliers' load be served by renewable resources, for which definitions vary. These are typically known as renewable portfolio standards, or RPS. As of September 30, 2022, Delaware, Illinois, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia and Washington, DC have renewable portfolio standards. Virginia had a voluntary RPS in 2020, but a new mandatory RPS became effective on January 1, 2021. Indiana has voluntary renewable portfolio standards. Kentucky, Tennessee and West Virginia do not have renewable portfolio standards.
- **RPS Cost.** The cost of complying with RPS, as reported by the states, is \$7.2 billion over the seven year period from 2014 through 2020, an average annual RPS compliance cost of \$1.0 billion. The compliance cost for 2020, the most recent year with almost complete data, was \$1.5 billion.<sup>16</sup>

## Emissions Controls in PJM Markets

- **Regulations.** Environmental regulations affect decisions about emission control investments in existing units, investment in new units and decisions to retire units. As a result of environmental regulations and agreements to limit emissions, many PJM units burning fossil fuels have installed emission control technology.
- **Emissions Controls.** In PJM, as of September 30, 2022, 96.0 percent of coal steam MW had some type of flue-gas desulfurization (FGD) technology to reduce SO<sub>2</sub> emissions, while 99.8 percent of coal steam MW had some type of particulate control, and 99.8 percent of fossil fuel fired capacity had NO<sub>x</sub> emission control technology. All coal steam units in PJM are compliant with the state and federal emissions limits established by MATS.

<sup>16</sup> The 2020 compliance cost value for PJM states does not include Illinois, Michigan or North Carolina. Based on past data these states generally account for 3.0 percent of the total RPS compliance cost of PJM states.

## Renewable Generation

- **Renewable Generation.** Wind and solar generation was 4.6 percent of total generation in PJM in the first nine months of 2022. RPS Tier I generation was 5.8 percent of total generation in PJM and RPS Tier II generation was 2.2 percent of total generation in PJM in the first nine months of 2021. Only Tier I generation is defined to be renewable but Tier 1 includes some carbon emitting generation. RPS programs in the PJM states are heavily dependent upon imports. In the first nine months of 2022, Tier I generation in PJM was sufficient to meet 43.7 percent of the Tier I RPS requirements.

## Recommendations

- The MMU recommends that renewable energy credit markets based on state renewable portfolio standards be brought into PJM markets as they are an increasingly important component of the wholesale energy market. The MMU recommends that there be a single PJM operated forward market for RECs, for a single product based on a common set of state definitions of renewable technologies, with a single clearing price, traded up to real-time delivery. (Priority: High. First reported 2010. Status: Not adopted.)
- The MMU recommends that PJM provide a full analysis of the impact of carbon pricing on PJM generating units and carbon pricing revenues to the PJM states in order to permit the states to consider a potential agreement on the development of a multistate framework for carbon pricing and the distribution of carbon revenues. (Priority: High. First reported 2018. Status: Not adopted.)
- The MMU recommends that jurisdictions with a renewable portfolio standard make the price and quantity data on supply and demand more transparent. (Priority: Low. First reported 2018. Status: Not adopted.)
- The MMU recommends that the Commission reconsider its disclaimer of jurisdiction over RECs markets because, given market changes since that decision, it is clear that RECs materially affect jurisdictional rates. (Priority: Low. First reported 2018. Status: Not adopted.)

- The MMU recommends that load and generation located at separate nodes be treated as separate resources in order to ensure that load and generation face consistent incentives throughout the markets. (Priority: High. First reported 2019. Status: Not adopted.)
- The MMU recommends that emergency stationary RICE be prohibited from participation as DR either when registered individually or as part of a portfolio if it cannot meet the capacity market requirements to be DR as a result of emissions standards that impose environmental run hour limitations. (Priority: Medium. First reported 2019. Status: Not adopted.)

## Conclusion

Environmental requirements and renewable energy mandates at both the federal and state levels have a significant impact on the cost of energy and capacity in PJM markets.

Environmental requirements and initiatives at both the federal and state levels, and state renewable energy mandates and associated incentives have resulted in the construction of substantial amounts of renewable capacity in the PJM footprint, especially wind and solar resources and the retirement of emitting resources. Renewable energy credit (REC) markets created by state programs, and federal tax credits have significant impacts on PJM wholesale markets. But state renewables programs in PJM are not coordinated with one another, are generally not consistent with the PJM market design or PJM prices, have widely differing objectives, including supporting some emitting resources, have widely differing implied prices of carbon and are not transparent on pricing and quantities. The effectiveness of state renewables programs would be enhanced if they were coordinated with one another and with PJM markets, and if they increased transparency. States could evaluate the impacts of a range of carbon prices if PJM would provide a full analysis of the impact of carbon pricing on PJM generating units and carbon pricing revenues to the PJM states in order to permit the states to consider a potential agreement on the development of a multistate framework for carbon pricing and the distribution of carbon revenues. A single carbon price across PJM, established by the states, would be the most efficient way to reduce carbon output, if that is the goal.

But in the absence of a PJM market carbon price, a single PJM market for RECs would contribute significantly to market efficiency and to the procurement of renewable resources in a least cost manner. Ideally, there would be a single PJM operated forward market for RECs, for a single product based on a common set of state definitions of renewable technologies, with a single clearing price, trued up to real-time delivery. States would continue to have the option to create separate RECs for additional products that did not fit the product definition, e.g. waste coal, trash incinerators, or black liquor.

RECs are an important mechanism used by PJM states to implement environmental policy. RECs clearly affect prices in the PJM wholesale power market. Some resources are not economic except for the ability to purchase or sell RECs. RECs provide out of market payments to qualifying renewable resources, primarily wind and solar. The credits provide an incentive to make negative energy offers and more generally provide an incentive to enter the market, to remain in the market and to operate whenever possible. These subsidies affect the offer behavior and the operational behavior of these resources in PJM markets and in some cases the existence of these resources and thus the market prices and the mix of clearing resources.

RECs markets are, as an economic fact, integrated with PJM markets including energy and capacity markets, but are not formally recognized as part of PJM markets. It would be preferable to have a single, transparent market for RECs operated by the PJM RTO on behalf of the states that would meet the standards and requirements of all states in the PJM footprint. This would provide better information for market participants about supply and demand and prices and contribute to a more efficient and competitive market and to better price formation. This could also facilitate entry by qualifying renewable resources by reducing the risks associated with lack of transparent market data.

Existing REC markets are not consistently or adequately transparent. Data on REC prices, clearing quantities and markets are not publicly available for all PJM states. The economic logic of RPS programs and the associated REC and SREC prices is not always clear. The price of carbon implied by REC prices ranges from \$17.14 per tonne in Ohio to \$27.65 per tonne in Maryland. The price of carbon implied by SREC prices ranges from \$84.74 per tonne in

Pennsylvania to \$847.59 per tonne in Washington, DC. The effective prices for carbon compare to the RGGI clearing price in September 2022 of \$14.83 per tonne and to the social cost of carbon which is estimated in the range of \$50 per tonne.<sup>17</sup> The impact on the cost of generation from a new combined cycle unit of a \$50 per tonne carbon price would be \$16.66 per MWh.<sup>18</sup> The impact of an \$800 per tonne carbon price would be \$266.50 per MWh. This wide range of implied carbon prices is not consistent with an efficient, competitive, least cost approach to the reduction of carbon emissions.

In addition, even the explicit environmental goals of RPS programs are not clear. While RPS is frequently considered to target carbon emissions, Tier 1 resources include some carbon emitting generation and Tier 2 resources include additional carbon emitting generation.

PJM markets provide a flexible mechanism for incorporating the costs of environmental controls and meeting environmental requirements in a cost effective manner. Costs for environmental controls are part of offers for capacity resources in the PJM Capacity Market. The costs of emissions credits are included in energy offers. PJM markets also provide a flexible mechanism that incorporates renewable resources and the impacts of renewable energy credit markets, and ensures that renewable resources have access to a broad market. PJM markets provide efficient price signals that permit valuation of resources with very different characteristics when they provide the same product.

If the states chose this policy option, PJM markets could also provide a flexible mechanism to limit carbon output, for example by incorporating a consistent carbon price in unit offers which would be reflected in PJM's economic dispatch. If there is a social decision to limit carbon output, a consistent carbon price would be the most efficient way to implement that decision. The states in PJM could agree, if they decided it was in their interests, with the appropriate information, on a carbon price and on how to allocate

the revenues from a carbon price that would make all states better off. A mechanism like RGGI leaves all decision making with the states. The carbon price would not be FERC jurisdictional or subject to PJM decisions. The MMU continues to recommend that PJM provide a full analysis of the impact of carbon pricing on PJM generating units and carbon pricing revenues to the PJM states in order to permit the states to consider a potential agreement on the development of a multistate framework for carbon pricing and the distribution of carbon revenues. The results of the analysis would include the impact on the dispatch of every unit, the impact on energy prices and the carbon pricing revenues that would flow to each state.

For example, states receiving high levels of revenue could shift revenue to states disproportionately hurt by a carbon price if they believed that all states would be better off as a result. A carbon price would also be an alternative to specific subsidies to individual nuclear power plants and to the current wide range of implied carbon prices embedded in RPS programs and instead provide a market signal to which any resource could respond. The imposition of specific and prescriptive environmental dispatch rules would, in contrast, pose a threat to economic dispatch and efficient markets and create very difficult market power monitoring and mitigation issues. The provision of subsidies to individual units creates a discriminatory regime that is not consistent with competition. The use of inconsistent implied carbon prices by state is also inconsistent with an efficient market and inconsistent with the least cost approach to meeting state environmental goals.

The annual average cost of complying with RPS over the seven year period from 2014 through 2020 for the nine jurisdictions that had RPS was \$1.0 billion, or a total of \$7.2 billion over seven years. The RPS compliance cost for 2020, the most recent year for which there is almost complete data, was \$1.5 billion.<sup>19</sup> RPS costs are payments by customers to the sellers of qualifying resources. The revenues from carbon pricing flow to the states.

If all the PJM states participated in a regional carbon market, the estimated revenue returned to the states/customers from selling carbon allowances would be approximately \$3.8 billion per year if the carbon price were \$13.45

<sup>17</sup> "Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis – Under Executive Order 12899," Interagency Working Group on the Social Cost of Greenhouse Gases, United States Government, (Aug. 2016), <[https://19january2017snapshot.epa.gov/sites/production/files/2016-12/documents/sc\\_co2\\_tsd\\_august\\_2016.pdf](https://19january2017snapshot.epa.gov/sites/production/files/2016-12/documents/sc_co2_tsd_august_2016.pdf)>.

<sup>18</sup> The cost impact calculation assumes a heat rate of 6.296 MMBtu per MWh and a carbon emissions rate of 0.05290995 tonne per MMBtu. The \$800 per tonne carbon price represents the approximate upper end of the carbon prices implied by the 2022 REC and SREC prices in the PJM jurisdictions with RPS. Additional cost impacts are provided in Table 8-7.

<sup>19</sup> The 2020 compliance cost value for PJM states does not include Illinois, Michigan or North Carolina. Based on past data these states generally account for 3.0 percent of the total RPS compliance cost of PJM states.



per short ton and emissions levels were five percent below 2021 emission levels. If all the PJM states participated in a regional carbon market, the estimated revenue returned to the states/customers from selling carbon allowances would be approximately \$14.1 billion if the carbon price were \$50 per short ton and emission levels were five percent below 2021 levels. If only the current RPS states participated in a regional carbon market, the estimated revenue returned to the states/customers from selling carbon allowances at \$13.45 per short ton would be about \$2.5 billion. The costs of a carbon price are the impact on energy market prices, net of the revenue returned to states/customers.

## Federal Environmental Regulation

The U.S. Environmental Protection Agency (EPA) administers the Clean Air Act (CAA), the Clean Water Act (CWA) and the Resource Conservation and Recovery Act (RCRA), all of which address pollution created by electric power production. The administration of these statutes is relevant to the operation of PJM markets.<sup>20</sup>

The CAA regulates air emissions by providing for the establishment of acceptable levels of emissions of hazardous air pollutants. The EPA issues technology based standards for major sources and area sources of emissions.<sup>21 22</sup>

The CWA regulates discharges from point sources that affect water quality and temperature.

The Resource Conservation and Recovery Act (RCRA) regulates the disposal of solid and hazardous waste.<sup>23</sup> Regulation of coal ash or coal combustion residuals affects coal fired power plants.

The EPA's actions have affected and will continue to affect the cost to build and operate generating units in PJM, which in turn affects wholesale energy prices and capacity prices.

<sup>20</sup> For more details, see the 2019 State of the Market Report for PJM, Vol. II, Appendix H: "Environmental and Renewable Energy Regulations."

<sup>21</sup> 42 U.S.C. § 7401 et seq. (2000).

<sup>22</sup> The EPA defines a "major source" as a stationary source or group of stationary sources that emit or have the potential to emit 10 tons per year or more of a hazardous air pollutant or 25 tons per year or more of a combination of hazardous air pollutants. An "area source" is any stationary source that is not a major source.

<sup>23</sup> 42 U.S.C. §§ 6901 et seq.

## CAA: NESHAP/MATS

Section 112 of the CAA requires the EPA to promulgate emissions control standards, known as the National Emission Standards for Hazardous Air Pollutants (NESHAP), from both new and existing area and major sources. On December 21, 2011, the EPA issued its Mercury and Air Toxics Standards rule (MATS), which applies the CAA maximum achievable control technology (MACT) requirement to new or modified sources of emissions of mercury and arsenic, acid gas, nickel, selenium and cyanide.

On January 31, 2022, the EPA proposed to reaffirm that it remains appropriate and necessary to regulate hazardous air pollutants (HAP), including mercury, from power plants after considering cost.<sup>24</sup> This action revokes a 2020 finding that it was not appropriate and necessary to regulate coal and oil fired power plants under CAA § 112, and would restore the basis for the MATS rule. This action revokes a 2020 finding that it was not appropriate and necessary to regulate coal and oil fired power plants under CAA § 112.<sup>25</sup> The immediate practical effect is limited because the emission standards and other requirements of the 2012 MATS rule remain in place and the list of coal and oil fired power plants regulated under Section 112 of the Act remains in place.<sup>26</sup> Restoration of the appropriate and necessary finding removes the possibility of a challenge to the MATS rule if applied to the proposed construction or upgrade of a power plant.

On January 20, 2021, an executive order was issued stating national objectives "to listen to the science; to improve public health and protect our environment; to ensure access to clean air and water; to limit exposure to dangerous chemicals and pesticides; to hold polluters accountable, including those who disproportionately harm communities of color and low-income communities; to reduce greenhouse gas emissions; to bolster resilience to the impacts of climate change; to restore and expand our national treasures and

<sup>24</sup> See *Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units—Revocation of the 2020 Reconsideration, and Affirmation of the Appropriate and Necessary Supplemental Finding*, Notice of Proposed Rulemaking, EPA-HQ-OAR-2018-0794, 87 Fed. Reg. 7624 (February 9, 2022).

<sup>25</sup> See *National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units—Reconsideration of Supplemental Finding and Residual Risk and Technology Review*, Docket No. EPA-HQ-OAR-2018-0794, 85 Fed. Reg. 31286.

<sup>26</sup> *Id.* at 31291. The EPA explains (*id.*): "The Court's holding in *New Jersey* [517 F.3d 574 (D.C. Cir. 2008)] plainly states that CAA section 112(c)(9) "unambiguously limit[s] EPA's discretion to remove sources, including EGUs, from the section 112(c)(1) list once they have been added to it." 517 F.3d 574, 583 (D.C. Cir. 2008)."

monuments; and to prioritize both environmental justice and the creation of the well-paying union jobs necessary to deliver on these goals” (“Executive Order 13990”).<sup>27</sup> The order directs government agencies to immediately review, and as appropriate and consistent with applicable law, “take action to address the promulgation of Federal regulations and other actions during the last 4 years that conflict with these important national objectives, and to immediately commence work to confront the climate crisis.”<sup>28</sup> The May 22, 2021, supplemental finding on MATS is an action specified for review.<sup>29</sup>

On April 9, 2020, the EPA finalized a rule establishing a new sub category in the MATS with less stringent requirements for units fueled by eastern bituminous refuse coal, waste coal.<sup>30</sup> The rule allows four refuse coal plants, Grant Town Power Plant (Unit 1A and 1 B (40 MW each)) in West Virginia; and Colver Power Project (110 MW), Ebensburg Power Plant (50 MW), and Scrubgrass Generating Co. (Units 1 and 2 (42 MW each)) in Pennsylvania; to emit higher levels of acid gases and SO<sub>2</sub>.<sup>31</sup> The EPA stated that it was concerned that units would close and leave coal refuse piles, which are prone to smoldering and emit uncontrolled acid gases and other HAP.<sup>32</sup>

## CAA: NAAQS/CSAPR

The CAA requires each state to attain and maintain compliance with fine particulate matter and ozone national ambient air quality standards (NAAQS). Under NAAQS, the EPA establishes emission standards for six air pollutants, including NO<sub>x</sub>, SO<sub>2</sub>, O<sub>3</sub> at ground level, PM, CO, and Pb, and approves state plans to implement these standards, known as State Implementation Plans (SIPs).

In January 2015, the EPA began implementation of the Cross-State Air Pollution Rule (CSAPR) to address the CAA’s requirement that each state prohibit emissions that significantly interfere with the ability of another state

to meet NAAQS. CSAPR requires specific states in the eastern and central United States to reduce power plant emissions of SO<sub>2</sub> and NO<sub>x</sub> that cross state lines and contribute to ozone and fine particle pollution in other states. CSAPR requires reductions to levels consistent with the 1997 ozone and fine particle and 2006 fine particle NAAQS. CSAPR covers 28 states, including all of the PJM states except Delaware, and also excluding the District of Columbia.<sup>33</sup>

On March 15, 2021, in response to a court holding in *Wisconsin v. EPA*,<sup>34</sup> the EPA finalized increases to the good neighbor obligations (i.e. reduced allowable emissions) under the 2008 ozone NAAQS for 12 states.<sup>35</sup> Eleven of the affected states are PJM states: Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia. The EPA determined that Tennessee’s emissions budget “fully eliminated the state’s significant contribution to downwind nonattainment and interference with maintenance of the 2008 ozone NAAQS.”<sup>36</sup> For the remaining PJM states, projected 2021 emissions were found to contribute at or above a threshold of 1 percent of the NAAQS (0.75 ppb) to the identified nonattainment and/or maintenance problems in downwind states.<sup>37</sup> Starting with the 2021 ozone season for emissions trading under CSAPR, the new FIPs require power plants in the affected states (also including Louisiana and New York) to participate in a new CSAPR NO<sub>x</sub> Ozone Season Group 3 Trading Program.<sup>38</sup> Participation in the more stringent new program would replace the obligation to participate in the existing CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program.<sup>39</sup> <sup>40</sup>

<sup>33</sup> Section 126 of the CAA permits a downwind state to file a petition with the EPA to regulate the emissions from particular resources in another state. On October 5, 2018, EPA denied petitions filed under this provision filed by Delaware and Maryland. See *Response to Clean Air Act Section 126(b) Petitions From Delaware and Maryland*, EPA Docket No. EPA-HQ-OAR-2018-0295, 83 Fed. Reg. 50444 (Oct. 5, 2018). Delaware filed a petition requesting that the EPA regulate emissions from the Brunner Island coal plant in Pennsylvania, the Harrison coal plant in West Virginia, the Homer City coal plant in Pennsylvania and the Conemaugh coal plant in Pennsylvania. Maryland filed a petition requesting that the EPA regulate 36 generating units at coal plants located in Indiana, Kentucky, Ohio, Pennsylvania and West Virginia. U.S. Court of Appeals for the D.C. Circuit Case No. 18-1285. On May 15, 2020, the Court denied an appeal of the EPA decision filed by Maryland, except that the Court agreed that EPA did not sufficiently support its rejection based on the cost effectiveness of Maryland’s request that two waste coal plants, Cambria Cogeneration (Pa.) and Grant Town Cogen (W.Va.), be required to operate selective noncatalytic reduction (SNCR) controls, and remanded the decision. *Maryland v. Wheeler*, Case No. 18-1285 (D.C. Cir May 19, 2020).

<sup>34</sup> *Wisconsin v. EPA*, 938 F.3d 303, 318–20 (D.C. Cir. 2019).

<sup>35</sup> *Revised Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS*, Docket No. EPA-HQ-OAR-2020-0272; FRL-10013-42- OAR, 85 Fed. Reg. 23054 (Apr. 30, 2021).

<sup>36</sup> *Id.* at 23066.

<sup>37</sup> *Id.* at 23085–23086.

<sup>38</sup> *Id.* at 23121.

<sup>39</sup> *Id.*

<sup>40</sup> On April 30, 2021, the MMU sent a market message to PJM market participants explaining how to account for the changes in cost-based offers. See “CSAPR Ozone Season Changes,” <[https://www.monitoringanalytics.com/reports/Market\\_Messages/IMM\\_CSAPR\\_Ozone\\_Season\\_Changes\\_20210430.pdf](https://www.monitoringanalytics.com/reports/Market_Messages/IMM_CSAPR_Ozone_Season_Changes_20210430.pdf)>

<sup>27</sup> See President Joseph R. Biden Jr., Executive Order 13990 re “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis” (“Executive Order 13990”).

<sup>28</sup> *Id.* (Sec. 1).

<sup>29</sup> *Id.* at Sec. 2(iv).

<sup>30</sup> See *National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units—Subcategory of Certain Existing Electric Utility Steam Generating Units Firing Eastern Bituminous Coal Refuse for Emissions of Acid Gas Hazardous Air Pollutants*, Docket No. EPA-HQ-OAR-2018-0794, 85 Fed. Reg. 20838 (April 15, 2020).

<sup>31</sup> *Id.* at 20841.

<sup>32</sup> *Id.* at 20847.

On February 28, 2022, EPA proposed a Federal Implementation Plan (FIP), to be known as the “Transport Rule,” for 26 states that addresses the contribution of those states to problems in other states in attaining and maintaining the 2015 Ozone NAAQS.<sup>41</sup> The proposal would fully resolve the CAA good neighbor obligations of the 26 states for the 2015 Ozone NAAQS. The proposed FIP requirements would establish ozone season NO<sub>x</sub> emissions budgets for electric generating units in the following PJM states: Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, Tennessee, Virginia and West Virginia. The list of PJM jurisdictions excludes North Carolina and the District of Columbia, but includes Delaware. Electric generating units in the indicated states would be required to participate in a revised version of the CSAPR NO<sub>x</sub> Ozone Season Group 3 Trading Program that was previously established in the 2021 CSAPR Update.

The EPA’s new emissions budgets for each PJM state for each ozone season for 2021 through 2024, and beyond are shown in Table 8-1. Table 8-1 also includes the states budgets that would have been in effect had the rules not been revised.

**Table 8-1 CSAPR NO<sub>x</sub> ozone season group 3 state budgets: 2021 through 2024<sup>42 43</sup>**

PJM State	Emissions Budget (Tons)							
	Budget without revised rule				Revised Budget			
	2021	2022	2023	2024+	2021	2022	2023	2024+
Illinois	9,368	9,368	8,413	8,292	9,102	9,102	8,179	8,059
Indiana	15,856	15,383	15,357	12,232	13,051	12,582	12,553	9,564
Kentucky	15,588	15,588	15,588	15,588	15,300	14,051	14,051	14,051
Maryland	1,501	1,267	1,267	1,350	1,499	1,266	1,266	1,348
Michigan	13,898	13,459	11,182	10,968	12,727	12,290	9,975	9,786
New Jersey	1,346	1,346	1,346	1,346	1,253	1,253	1,253	1,253
Ohio	15,829	15,927	15,927	15,927	9,690	9,773	9,773	9,773
Pennsylvania	11,896	11,896	11,896	11,896	8,379	8,373	8,373	8,373
Virginia	4,664	4,274	4,361	4,025	4,516	3,897	3,980	3,663
West Virginia	15,165	15,165	15,165	15,165	13,334	12,884	12,884	12,884

<sup>41</sup> See *Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard*, Docket No. EPA-HQ-OAR-2021-0668; FRL 8670-01-OAR, 87 Fed. Reg. 20036 (April 6, 2022).

<sup>42</sup> *Id.* at 23123-23124 (Table VII.C.2-1-4).

<sup>43</sup> See “State Budgets under the Revised Cross-State Air Pollution Rule Update,” EPA, <<https://www.epa.gov/esapr/state-budgets-under-revised-cross-state-air-pollution-rule-update>>.

Figure 8-1 shows average, monthly settled prices for NO<sub>x</sub> and SO<sub>2</sub> emissions allowances including CSAPR related allowances for January 2020 through September 2022. Figure 8-1 also shows the average, monthly settled price for the Regional Greenhouse Gas Initiative (RGGI) CO<sub>2</sub> allowances.

In the first nine months of 2022, CSAPR annual NO<sub>x</sub> prices were 0.8 percent lower on average than in the first nine months of 2021. The group 2 CSAPR Seasonal NO<sub>x</sub> price averaged \$2,159.34 in the first nine months of 2022, a 820.9 percent increase over the group 2 CSAPR Seasonal NO<sub>x</sub> price for the first nine months 2021.<sup>44</sup> The group 3 CSAPR Seasonal NO<sub>x</sub> price averaged \$21,023.58 in the first nine months of 2022, a 669.5 percent increase over the group 3 CSAPR Seasonal NO<sub>x</sub> price for the first nine months of 2021.<sup>45</sup> The components of LMP analysis shows that NO<sub>x</sub> cost contributed \$3.03 to the load-weighted average LMP in the first nine months of 2022, compared to \$0.16 in the first nine months of 2021.<sup>46</sup>

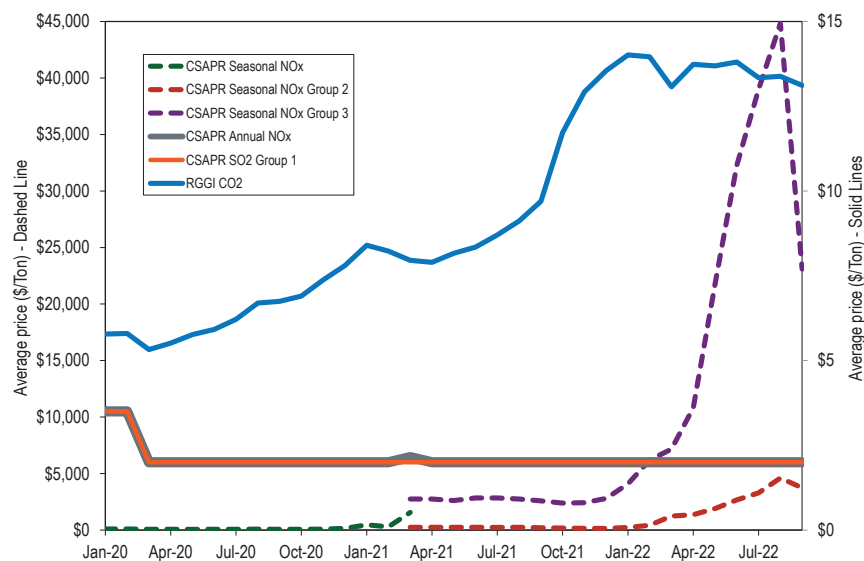
<sup>44</sup> Tennessee is the only PJM state that remains in the CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program.

<sup>45</sup> Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, Virginia, and West Virginia participate in the CSAPR NO<sub>x</sub> Ozone Season Group 3 Trading Program.

<sup>46</sup> See Components of LMP in 2022 Quarterly State of the Market Report for PJM: January through September, Section 3: Energy Market (November 10, 2022).



**Figure 8-1 Spot monthly average emission price comparison: January 2020 through September 2022**



## CAA: NSR

Parts C and D of Title I of the CAA provide for New Source Review (NSR) in order to prevent new projects and projects receiving major modifications from increasing emissions in areas currently meeting NAAQS or from inhibiting progress in areas that do not.<sup>47</sup> NSR requires permits before construction commences. In PJM, permits are issued by state environmental regulators, or in a process involving state and regional EPA regulators.<sup>48</sup>

NSR review applies a two part analysis to projects at facilities such as power plants, some of which involve multiple units and combinations of new and existing units. The first part considers whether a modification would cause a “significant emission increase” of a regulated NSR pollutant. The second part

<sup>47</sup> 42 U.S.C § 7470 et seq.

<sup>48</sup> CAA permitting in EPA Region 2 (New Jersey) is the responsibility of the state's environmental regulatory authority; CAA permitting in Region 3 (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia) is the shared responsibility of each state's environmental regulatory authority and EPA Region 3; CAA permitting in Region 4 (Kentucky and North Carolina) is the shared responsibility of each state's environmental regulatory authority and EPA Region 4; CAA permitting in EPA Region 5 (Illinois, Indiana, Michigan and Ohio) is the responsibility of each state's environmental regulatory authority.

considers whether any identified increase is also a “significant net emission increase.”

On August 1, 2019, the EPA proposed revisions to the NSR permitting program under which, both emissions increases and decreases from a major modification would be considered in the first part of the NSR applicability test.<sup>49</sup> Under the revised rule the need for a permit and associated investments in pollution controls would be more frequently avoided than under the current rule.

On March 25, 2020, the EPA released a memorandum changing the EPA's longstanding interpretation of “begin actual construction” under the NSR preconstruction permitting regulations.<sup>50 51</sup> EPA policy has been to preclude almost every physical onsite construction activity that is of a permanent nature prior to issuance of a permit. Under the new interpretation, which focuses on the statutory meaning of “emissions unit,”<sup>52</sup> the policy precludes only the construction of the emissions unit. The EPA clarified that the costs and consequences of pre permit construction are risks born by the owner/operators if no permit issues, or issues without the expected terms or conditions. The new interpretation significantly expands the scope of activity that an owner/operator willing to assume the risks may undertake prior to receiving an NSR permit when constructing a project that will include an emissions unit.

On April 21, 2022, EPA issued for public input a draft technical non regulatory white paper on control techniques and measures that could reduce GHG emissions from new stationary CTs.<sup>53</sup>

## CAA: RICE

On January 14, 2013, the EPA signed a final rule amending its rules regulating emissions from a wide variety of stationary reciprocating internal combustion engines (RICE). RICE include certain types of electrical generation facilities like diesel engines typically used for backup, emergency or supplemental power,

<sup>49</sup> *Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Emissions Accounting*, EPA Docket No. EPA-HQ-OAR-2018-0048; FRL-9997-95-OAR, 84 Fed. Reg. 39244 (Aug. 9, 2019).

<sup>50</sup> See Anne L. Idsal, Principal Deputy Assistant Administrator, Memorandum re Interpretation of “Begin Actual Construction” Under the New Source Review Preconstruction Permitting Regulations (“March 25<sup>th</sup> Memo”).

<sup>51</sup> See 40 CFR § 52.21(b)(11); 40 CFR § 52.21(a)(2)(iii).

<sup>52</sup> 40 CFR § 52.21(b)(7) (“any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric utility steam generating unit...”).

<sup>53</sup> The draft white paper can be accessed here: <[https://www.epa.gov/system/files/documents/2022-04/epa\\_ghg-controls-for-combustion-turbine-egus\\_draft-april-2022.pdf](https://www.epa.gov/system/files/documents/2022-04/epa_ghg-controls-for-combustion-turbine-egus_draft-april-2022.pdf)>.

including facilities located behind the meter. These rules include: National Emission Standard for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines (RICE); New Source Performance Standards (NSPS) of Performance for Stationary Spark Ignition Internal Combustion Engines; and Standards of Performance for Stationary Compression Ignition Internal Combustion Engines (collectively RICE Rules). The RICE Rules apply to emissions such as formaldehyde, acrolein, acetaldehyde, methanol, CO, NO<sub>x</sub>, volatile organic compounds (VOCs) and PM.

EPA regulations require that RICE that do not meet EPA emissions standards (emergency stationary RICE) may operate for only 100 hours per year and only to provide emergency DR during an Energy Emergency Alert 2 (EEA2), or if there are five percent voltage/frequency deviations.<sup>54</sup> Under PJM rules, an EEA2 is automatically triggered when PJM initiates an emergency load response event. Demand resources that rely on RICE to provide load reductions are constrained to a maximum of 100 hours.

PJM does not prevent emergency stationary RICE that does not meet emissions standards from participating in PJM markets as DR. Some emergency stationary RICE that does not meet emissions standards are now included in DR portfolios. Emergency stationary RICE should be prohibited from participation as DR either when registered individually or as part of a portfolio if it does not meet emissions standards. Emergency RICE with a limit of 100 hours per year cannot comply with the requirement to be available during the entire delivery year to be a capacity resource. PJM should not allow locations that rely upon emergency stationary RICE to register individually or in portfolios. Registration of DR should be based on a finding that registered locations are capable of providing load reductions without an hourly limit. Reliance on the prospect of penalties to deter registration of ineligible resources as DR in lieu of a substantive ex ante review is not appropriate. The MMU recommends that emergency stationary RICE be prohibited from participation as DR either when registered individually or as part of a portfolio if it cannot meet the capacity market requirements to be DR as a result of emissions standards that impose environmental run hour limitations.

<sup>54</sup> Emergency Operations, EOP-011-1, North American Electric Reliability Corporation, <<https://www.nerc.com/pa/Stand/Reliability%20Standards/EOP-011-1.pdf>> (Accessed March 2, 2020).

## CAA: Greenhouse Gas Emissions

The EPA regulates CO<sub>2</sub> as a pollutant using CAA provisions that apply to pollutants not subject to NAAQS.<sup>55 56</sup>

The U.S. Court of Appeals for the Seventh Circuit has determined that a government agency can reasonably consider the global benefits of carbon emissions reduction against costs imposed in the U.S. by regulations in analyses known as the “Social Costs of Carbon.”<sup>57</sup> The Court rejected claims raised by petitioners that raised concerns that the Social Cost of Carbon estimates were arbitrary, were not developed through transparent processes, and were based on inputs that were not peer reviewed.<sup>58</sup> Although the decision applies only to the Department of Energy’s regulations of manufacturers, it bolsters the ability of the EPA and state regulators to rely on Social Cost of Carbon analyses.

Executive Order 13990, Section 6, establishes an Interagency Working Group on the Social Cost of Greenhouse Gases. The group is tasked to develop estimates in the form of monetized damages for the “social cost of carbon” (SCC), the “social cost of nitrous oxide” (SCN), and the “social cost of methane” (SCM), associated with incremental increases in greenhouse gas emissions. The cost estimates would be used by EPA and other agencies to determine the social benefits of reducing greenhouse gas emissions when conducting cost-benefit analyses of regulatory and other actions.

Effective October 23, 2015, the EPA placed national limits on the amount of CO<sub>2</sub> that new, modified or reconstructed fossil fuel fired steam power plants would be allowed to emit based on the best system of emission reductions (BSER) determined by the EPA (2015 GHG NSR Rule).<sup>59</sup> On December 12,

<sup>55</sup> See CAA § 111.

<sup>56</sup> On April 2, 2007, the U.S. Supreme Court overruled the EPA’s determination that it was not authorized to regulate greenhouse gas emissions under the CAA and remanded the matter to the EPA to determine whether greenhouse gases endanger public health and welfare. *Massachusetts v. EPA*, 549 U.S. 497. On December 7, 2009, the EPA determined that greenhouse gases, including carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, endanger public health and welfare. See *Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act*, 74 Fed. Reg. 66496, 66497 (Dec. 15, 2009). In a decision dated June 26, 2012, the U.S. Court of Appeals for the D.C. Circuit upheld the endangerment finding, rejecting challenges brought by industry groups and a number of states. *Coalition for Responsible Regulation, Inc., et al. v. EPA*, No 09-1322.

<sup>57</sup> See *Zero Zone, Inc., et al., v. U.S. Dept. of Energy, et al.*, Case Nos. 14-2147, et al., Slip Op. (Aug. 8, 2016).

<sup>58</sup> *Id.*

<sup>59</sup> *Standards of Performance for Greenhouse Gas Emissions from New Stationary Sources: Electric Utility Generating Units*, Proposed Rule, EPA-HQ-OAR-2013-0495, 90 Fed. Reg. 205 (October 23, 2015) (“2015 GHG NSR Rule”); 40 CFR Part 60, subpart TTTT.

2018, the EPA proposed to revise the 2015 GHG NSR Rule by increasing the allowable emissions and eliminating the requirement for carbon capture for new coal units.<sup>60</sup>

On January 19, 2021, the U.S. Court of Appeals for the District of Columbia Circuit vacated the EPA's Affordable Clean Energy (ACE) rule which would have permitted more CO<sub>2</sub> emissions than under the Clean Power Plan, which ACE had replaced. On February 12, 2021, the EPA issued a memo stating that as a result of the court vacating ACE without reinstating the Clean Power Plan ("CPP"), there are no effective regulations under CAA section 111(d) with respect to greenhouse gas emissions from electric generating units at this time, and states are not currently required to submit plans.<sup>61</sup> The memo also noted: "ongoing changes in electricity generation mean that the emission reduction goals that the CPP set for 2030 have already been achieved."<sup>62</sup>

On June 30, 2022, the Supreme Court held that Section 111(d) of the CAA did not provide authority under the major questions doctrine to regulate carbon emissions in the manner proposed.<sup>63</sup> Both the EPA's Affordable Clean Energy (ACE) rule and the Clean Power Plan (CPP), which were promulgated under Section 111(d) of the CAA, can be expected to be vacated on remand.

## CWA: WOTUS Definition and Effluents

### WOTUS

The Clean Water Act (CWA) applies to navigable waters, which are defined as waters of the United States (WOTUS).<sup>64</sup> <sup>65</sup> The definition of WOTUS is a threshold issue that determines the hydrological scope of the CWA's applicability. Over the past decade, attempts to define WOTUS have been repeatedly addressed

by the Courts, and no durable definition has resulted.<sup>66</sup> Establishing a durable definition is important to the electric industry, which needs to plan for compliance with the CWA and related regulations.

October 22, 2019, a new rule that would have defined WOTUS more narrowly was vacated by the U.S. District Court District of Arizona.<sup>67</sup> <sup>68</sup> The new rule was never implemented.

Based on the Court action, the EPA now interprets WOTUS consistent with the pre 2015 regulatory regime. On November 18, 2021, the EPA and the Department the Army announced the signing of a proposed rule to revise the definition of "waters of the United States" to restore the pre-2015 definition of "waters of the United States," updated to reflect consideration of Supreme Court decisions.<sup>69</sup>

The scope of the CWA has expanded as a result of a decision of the U.S. Supreme Court in *County of Maui v. Hawaii Wildlife Fund*, which held that the discharge of pollutants via groundwater requires a CWA permit.<sup>70</sup> Groundwater is not itself WOTUS. However, if pollutants pass through groundwater from a point source to WOTUS, a permit may be required.<sup>71</sup> The Court held that discharge into groundwater "is the functional equivalent of a direct discharge."<sup>72</sup> The existence of a functional discharge will depend on an analysis including time and distance, and other factors.<sup>73</sup> Additional litigation or administrative action may clarify the functional discharge analysis.<sup>74</sup> *County of Maui* reduces the

60 See, e.g., *Rapanos v. U.S.*, 547 U.S. 715 (2006); *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001); *U.S. v. Riverside Bayview Homes, Inc.*, 474 U.S. 121 (1985).

67 See *The Navigable Waters Protection Rule: Definition of "Waters of the United States"*, EPA Docket No. EPA-HQ-OW-2018-0149, 85 Fed. Reg. 22250 (April 21, 2020).

68 See *Pascua Yaqui Tribe v. U.S. EPA*, No. CV-20-00266-TUC-RM, \_\_\_ F.Supp.3d \_\_\_ (USDC Ariz. 2021).

69 See *Revised Definition of "Waters of the United States"*, Docket No. EPA-HQ-OW-2021-0602; FRL-6027.4-03- OW, 86 Fed. Reg. 69372 (December 7, 2021); *Pasqua Yaqui Tribe v. EPA*, Case No. CV-20-00266-TUC-RM, \_\_\_ F.Supp.3d \_\_\_ (USDC D. Ariz. 2021).

70 Slip. Op. No. 18-260 (April 23, 2020).

71 *Id.*

72 *Id.* at 1.

73 *Id.* at 16 ("The difficulty with this approach, we recognize, is that it does not, on its own, clearly explain how to deal with middle instances. But there are too many potentially relevant factors applicable to factually different cases for this Court now to use more specific language. Consider, for example, just some of the factors that may prove relevant (depending upon the circumstances of a particular case): (1) transit time, (2) distance traveled, (3) the nature of the material through which the pollutant travels, (4) the extent to which the pollutant is diluted or chemically changed as it travels, (5) the amount of pollutant entering the navigable waters relative to the amount of the pollutant that leaves the point source, (6) the manner by or area in which the pollutant enters the navigable waters, (7) the degree to which the pollution [at that point] has maintained its specific identity. Time and distance will be the most important factors in most cases, but not necessarily every case.")

74 *Id.*

60 *Review of Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units*, EPA-HQ-OAR-2013-0495; FRL-9987-85- OAR, 83 Fed. Reg. 65424, 65427 (Dec. 20, 2018) ("2018 Proposed Rev. GHG NSR").

61 See Joseph Goffman, Acting Assistant Administrator, EPA, Memo re Status of Affordable Clean Energy Rule and Clean Power Plan (February 12, 2021).

62 *Id.*, citing "Regulatory Impact Analysis for the Repeal of the Clean Power Plan, and the Emission Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units," EPA-452/R-19-003 (June 2019), at 2-14 to 2-15.

63 *West Virginia v. EPA*, No. 20-1530 (S. Ct. of the U.S.).

64 33 U.S.C. 1251 et seq.; 33 U.S.C. § 1362(7) ("The term "navigable waters" means the waters of the United States, including the territorial seas.")

65 For more details, see the 2019 *State of the Market Report for PJM*, Volume II, Appendix H: "Environmental and Renewable Energy Regulations."

importance of the precise definition of WOTUS because WOTUS is generally part of the watershed.<sup>75</sup>

## Effluents

The EPA regulates under its National Pollutant Discharge Elimination System (NPDES) permitting authority discharges from and intakes to power plants, including water cooling systems at steam electric power generating stations, under the CWA.<sup>76</sup>

Executive Order 13990 called for review and improvement of the existing 2020 Steam Electric Reconsideration Rule. The EPA intends to issue a proposed rule in the fall of 2022 to strengthen certain discharge limits applicable to steam generating units.<sup>77</sup>

On June 9, 2022, the EPA proposed the Water Quality Certification Improvement Rule (WQCIR), which would expand the grounds on which states may condition or block, projects in federal permit proceedings.<sup>78</sup> The WQCIR would provide each state certifying agency a role in determining the “reasonable period of time” to review the request and encourage their adoption of an “activity as a whole” analytical approach that would consider the impacts of the entire project rather than just the specific discharge needing certification.<sup>79</sup>

The EPA is currently implementing its 2015 and 2020 rules.<sup>80</sup> <sup>81</sup> The 2015 Rule established limitations and standards applicable to discharges from steam electric generating units from bottom ash (BA) transport water, flue gas desulfurization (FGD) wastewater, fly ash (FA) transport water, flue gas mercury control wastewater, gasification wastewater, combustion residual leachate, and non chemical metal cleaning wastes. The 2020 Rule revised the limitations and standards for BA transport water and FGD wastewater,

leaving the other limitations and standards in place. The 2020 Rule applied less stringent effluent limits to three new subcategories of units: High FGD flow plants, low utilization generating units, and generating units that will permanently cease the combustion of coal by 2028.

Units subject to the generally applicable limits had to comply with the 2020 Rule as soon as possible on or after October 13, 2021, but no later than December 31, 2025.<sup>82</sup> Some owners have already indicated an intent to close generating units based on the discharge limits in the 2020 Rule.

The EPA is now implementing its Effluent Guidelines. The EPA has also proposed to tighten those guidelines.<sup>83</sup> The Effluent Guidelines establish effluent limitations and pretreatment standards applicable to steam electric generating units. Plants are required to inform regulators of their plans to comply with the new rule by upgrading their plants with pollution control equipment or retiring their units by 2028.<sup>84</sup>

## RCRA: Coal Ash

The EPA administers the Resource Conservation and Recovery Act (RCRA), which governs the disposal of solid and hazardous waste.<sup>85</sup> Solid waste is regulated under subtitle D. Subtitle D criteria are not directly enforced by the EPA. Subtitle C governs the disposal of hazardous waste. Hazardous waste is subject to direct regulatory control by the EPA from the time it is generated until its ultimate disposal.

In April 2015, the EPA issued a rule under RCRA, the Coal Combustion Residuals rule (2015 CCRR), which sets criteria for the disposal of coal combustion residues (CCRs), or coal ash, produced by electric utilities and independent power producers.<sup>86</sup> CCRs include fly ash (trapped by air filters), bottom ash (scooped out of boilers) and scrubber sludge (filtered using wet

<sup>75</sup> See *id.* at 5 (“Virtually all water, polluted or not, eventually makes its way to navigable water. This is just as true for groundwater.”).

<sup>76</sup> See 40 CFR Part 423. For more details, see the 2019 *State of the Market Report for PJM*, Volume II, Appendix H: “Environmental and Renewable Energy Regulations.”

<sup>77</sup> See *Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category*, EPA Docket No. FRL 8794-04-OW, 86 Fed. Reg. 41801 (August 3, 2021).

<sup>78</sup> See *Clean Water Act Section 401 Water Quality Certification Improvement Rule*, Proposed Rule, 87 Fed. Reg. 35318 (June 9, 2022).

<sup>79</sup> *Id.* at 35343-35349.

<sup>80</sup> See *Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category*, Docket No. EPA-HQ-OW-2009-0819; FRL-9930-48-OW, 80 Fed. Reg. 67838 (November 3, 2015).

<sup>81</sup> See *Steam Electric Reconsideration Rule*, Docket No. EPA-HQ-OW-2009-0819; FRL-10014-41-OW, 85 Fed. Reg. 64650 (October 13, 2020).

<sup>82</sup> *Id.* at 64652.

<sup>83</sup> See *Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category*, EPA Docket No. FRL 8794-04-OW, 86 Fed. Reg. 41801 (August 3, 2021); *Steam Electric Reconsideration Rule*, Docket No. EPA-HQ-OW-2009-0819; FRL-10014-41-OW, 85 Fed. Reg. 64650 (October 13, 2020); *Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category*, Docket No. EPA-HQ-OW-2009-0819; FRL-9930-48-OW, 80 Fed. Reg. 67838 (November 3, 2015) (collectively “Effluent Guidelines”).

<sup>84</sup> 85 Fed. Reg. 64650, 64679-82.

<sup>85</sup> 42 U.S.C. §§ 6901 *et seq.*

<sup>86</sup> See *Hazardous and Solid Waste Management System; Disposal of Coal Combustion Residuals from Electric Utilities*, 80 Fed. Reg. 21302 (April 17, 2015).

limestone scrubbers). These residues are typically stored on site in ponds (surface impoundments) or sent to landfills.

In 2016, RCRA was amended to establish a permitting scheme allowing states to apply to the EPA for approval to operate a permit program that implements the CCR rule. Such state programs could include alternative state standards, provided that EPA determines that they are “at least as protective as” the EPA CCR regulations.<sup>87</sup>

Effective August 9, 2018, the EPA approved certain revisions to the 2015 CCRR (“2018 CCRR Revisions”) partly in response to the 2016 amendments.<sup>88</sup>

The 2018 CCRR Revisions provide for two types of alternative performance standards. The first type of standards allows a state director (if a state has an EPA approved CCR permit program) or the EPA (if no state program) to suspend groundwater monitoring requirements if there is evidence that there is no potential for migration of hazardous constituents to the uppermost aquifer during the active life of the unit and during post closure care. The second type allows issuance of technical certifications by a state director in lieu of a professional engineer.

The 2018 CCRR Revisions revised the groundwater protection standards for health-based levels for four contaminants: cobalt at 6 mg/L; lithium at 40 mg/L; molybdenum at 100 mg/L and lead at 15 mg/L. Standards for other monitored contaminants follow the Maximum Contaminant Level (MCL) established under the Safe Water Drinking Act.

The 2018 CCRR Revisions extended the deadline for closing coal ash units in two situations: (i) detection of a statistically significant increase above a groundwater protection standard from an unlined surface impoundment; or (ii) inability to comply with the location restriction regarding placement above the uppermost aquifer. The exceptions in the 2018 CCRR to the standards in the 2015 CCRR and relaxation of the deadlines create a less stringent federal rule.

<sup>87</sup> The Water Infrastructure Improvements for the Nation Act (WIIN Act).

<sup>88</sup> See *Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Amendments to the National Minimum Criteria (Phase One, Part One)*, EPA Docket No. EPA-HQ-OLEM-2017-0286, 83 Fed. Reg. 36435 (July 30, 2018).

The U.S. Court of Appeals for the D.C. Circuit invalidated certain provisions of the 2015 CCRR and remanded it to the EPA.<sup>89</sup> On July 29, 2020, the EPA finalized revisions to CCRR in compliance with the court orders (“Revised CCRR”).<sup>90</sup> The Revised CCRR requires (i) unlined surface impoundments (ponds) and ponds failing restrictions on the minimum depth to or interaction with an aquifer to cease receiving waste as soon as technically feasible and no later than April 11, 2021; and (ii) removal of compacted soil lined and clay lined ponds from classification as lined and exempt from CCRR.<sup>91</sup> Impoundment facilities unable to meet the earliest deadline would be able to obtain extensions until an alternative can be “technically feasibly implemented.”<sup>92</sup> Utilities had until November 30, 2020, to obtain an automatic extension upon certification of need for additional time.<sup>93</sup> Upon receipt of required documentation satisfying certain criteria, the EPA could grant certain extensions, including to as late as October 17, 2028, for a facility with a surface impoundment of 40 acres or greater that commits to a deadline for ending operations of its boiler.<sup>95</sup>

The EPA has under review 16 completed applications from PJM plants for extensions of the deadline for compliance with the Revised CCRR. The EPA has proposed action on three applications.

The EPA has proposed to deny two applications affecting PJM power stations: The General James M. Gavin Plant (2,600 MW) owned by Lightstone Generation LLC, a 50-50 joint venture of funds managed by ArcLight Capital Partners and Blackstone Group, Inc., and is located in Cheshire, Ohio (Gavin);<sup>96</sup> and the Clifty Creek Power Plant (1,300 MW) owned by Ohio Valley Electric Corp. (OVEC) and located in Madison, Indiana (Clifty Creek).<sup>97</sup> The comment period for the proposed denial for both plants ends February 23, 2022. The EPA proposes that both Gavin and Clifty Creek cease receipt of waste and initiate

<sup>89</sup> *Utility Solid Waste Activities Group, et al. v. EPA*, No. 15-1219 (D.C. Cir. August 21, 2018); *Waterkeeper Alliance Inc. et al. v. EPA*, No. 18-1289 (D.C. Cir. March 13, 2019).

<sup>90</sup> See *Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; A Holistic Approach to Closure Part A: Deadline To Initiate Closure*, EPA-HQ-OLEM-2019-0172; FRL-10002-02-OLEM, 85 Fed. Reg. 53516 (August 28, 2020).

<sup>91</sup> *Id.* at 53516-53517, 53536.

<sup>92</sup> *Id.* at 53546; 40 CFR § 257.103(f)(1).

<sup>93</sup> *Id.* at 65942.

<sup>94</sup> A number of plants in PJM timely filed for extensions.

<sup>95</sup> *Id.*

<sup>96</sup> Proposed Denial of Alternative Closure Deadline for General James M. Gavin Plant, Proposed Decision, Docket No.: EPA-HQ-OLEM-2021-0590 (January 11, 2022) (“Gavin Proposed Denial Order”).

<sup>97</sup> Proposed Denial of Alternative Closure Deadline for Clifty Creek Power Station, Proposed Decision, Docket No. EPA-HQ-OLEM-2021-0587 (January 11, 2022) (“Clifty Creek Proposed Denial Order”).



closure of its surface impoundment no later than 135 days from the date of the EPA's final decision.<sup>98</sup> The EPA provides the potential for an extension for such period that PJM may determine that Gavin or Clifty Creek is needed for reliability and the EPA agrees is appropriate.<sup>99</sup>

The EPA proposed to approve East Kentucky Power Cooperative's request to extend its deadline to discontinue use of an unlined ash pond to November 30, 2022, for its H.L. Spurlock Plant (1,350 MW) in Maysville, Kentucky.<sup>100</sup> The proposed extension is on condition that groundwater monitoring issues are addressed.<sup>101</sup>

The EPA proposed on July 12, 2022, to approve Appalachian Power Company's (AEP) request to extend its deadline to discontinue use of an unlined ash pond to January 9, 2023, for its Mountaineer Power Plant (1,300 MW) in Letart, West Virginia.<sup>102</sup> The proposed extension is on condition that groundwater monitoring issues are addressed.<sup>103</sup>

In response to the RCRA amendments, the EPA proposed a new rule to implement a federal CCR permit program in non participating states, noticed February 20, 2020.<sup>104</sup> This proposal includes requirements for federal CCR permit applications, content and modification, as well as procedural requirements. The EPA would implement this permit program at CCR units located in states that have not submitted their own CCR permit program for approval. No PJM state has yet applied for EPA approval of its own CCR permit program.

In Virginia, the Waste Management Board amended the Virginia Solid Waste Management Regulations in December 2015, to incorporate the EPA's 2015 CCRR, and did not adopt the less stringent 2018 CCRR Revisions. On July 1, 2019, Virginia enacted legislation directing the closure of coal ash ponds located

<sup>98</sup> Gavin Proposed Denial Order at 88; Clifty Creek Proposed Denial Order at 77.

<sup>99</sup> Gavin Proposed Denial Order at 86; Clifty Creek Proposed Denial Order at 76-77.

<sup>100</sup> Conditional Approval of an Alternative Closure Deadline for H.L. Spurlock Power Station, Maysville, Kentucky, Proposed Decision, Docket No. EPA-HQ-OLEM-2021-0595 (January 11, 2022) at 32.

<sup>101</sup> *Id.* at 48-62.

<sup>102</sup> Proposed Conditional Approval of Alternative Closure Deadline for Mountaineer Plant, Proposed Decision, Docket No. EPA-HQ-OLEM-2021-0842 at 53.

<sup>103</sup> *Id.* at 55-60.

<sup>104</sup> See *Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; Federal CCR Permit Program*, 85 Fed. Reg. 9940 (Feb. 20, 2020).

in the Chesapeake Bay Watershed and owned by Dominion Energy.<sup>105</sup> Dominion is currently developing plans to remove coal ash ponds at power stations in the Chesapeake Bay Watershed. The removed coal ash must be recycled (at least 6.8 million cubic yards) or disposed of in a modern, lined landfill. The Virginia DEQ is addressing closing ash ponds under two types of environmental permits: wastewater discharge permits covering the removal of treated water from the ponds; or solid waste permits covering the permanent closure of the ponds.

Table 8-2 shows the compliance status of affected units:<sup>106</sup>

**Table 8-2 Compliance status of affected units**

Plant	CCR Compliance Status
Bremo Bluff Power Station	As of April 2020, ash has been removed from the East and West Ponds. Plans for closure by removal of ash from the remaining North Pond impoundment are under development and will be addressed by the Virginia DEQ in a separate future permitting action.
Chesapeake Energy Center	The facility is currently developing plans for closure by removal of ash from the landfill, historical area, and impoundment.
Chesterfield Power Station	Dominion Energy Virginia submitted the required solid waste permit application for closure by removal and groundwater monitoring of the Upper and Lower Ash Ponds in February 2020, and it is currently under review. The application outlines the removal of ash to either an offsite permitted landfill or offsite beneficial reuse. The application estimates that it will take approximately 13 years to complete closure by removal activities.
Clinch River Power Station	The ash pond was closed and capped prior to January 1, 2019. Clinch River Plant ceased burning coal in 2015 and no longer produces CCR material. The Plant now uses natural gas as fuel. All units are currently being monitored and maintained in post-closure care.
Clover Power Station	The station also has had a permitted CCR landfill since 1993. The permit is currently under revision to incorporate EPA CCR Rule requirements applicable to existing landfills.
Possum Point	As of June 2019, ash has been removed from Ponds A, B, C, and E. Plans for closure by removal of ash from the remaining impoundment (Pond D) are under development. Closure by removal of Pond D will be addressed in a future and separate DEQ permitting action.

On March 30, 2020, in response to a statutory mandate,<sup>107</sup> the Illinois Environmental Protection Agency (Illinois EPA) proposed rules for coal combustion residual surface impoundments with the Illinois Pollution Control Board.<sup>108</sup> The proposed rules contain standards for the storage and disposal

<sup>105</sup> Va. Code § 10.1-1402.03.

<sup>106</sup> Virginia Department of Environmental Quality website: <https://www.deq.virginia.gov/permits-regulations/permits/waste/coal>.

<sup>107</sup> Ill. Public Act 101-171 (a.k.a. SB 09).

<sup>108</sup> The proposed rule amends the Illinois Administrative Code to create a new Part 845 in Title 35.

of coal combustion residuals in surface impoundments. The proposed rules include a permitting program and are intended to meet federal standards.<sup>109</sup> Presumably the rules, once finalized, would be the basis for an application under RCRA allowing the Illinois EPA to also administer the federal regulatory program. The Illinois EPA has identified 73 coal combustion residuals surface impoundments at power stations, some lined with impermeable materials and some not.<sup>110</sup> The Illinois EPA believes that as many as six lined surface impoundments may comply with the federal liner standards.<sup>111</sup>

The North Carolina Department of Environmental Quality (NCDEQ) has initiated a rule making on rules for the disposal or recycling of coal combustion residuals. None of the affected power stations or power station impoundments are located in the PJM Dominion Zone (which includes a portion of northeast coastal North Carolina).

The Maryland Department of Environment (MDE) indicated in April 2020, that it would require GenOn Holdings Inc. to meet a November 1, 2020, deadline for compliance with effluent guidelines at Chalk Point Generating Station, Dickerson Generating Station and Morgantown Generating Station.<sup>112</sup> On May 15, 2020, GenOn announced its decision to retire the Dickerson Generating Station.<sup>113</sup> Dickerson Generating Station was retired effective August 13, 2020. The Chalk Point coal units were retired effective June 1, 2021. On June 9, 2021, GenOn reported that it would retire its Morgantown coal fired unit by May 31, 2022, five years earlier than previously announced.<sup>114</sup>

<sup>109</sup> See *In the Matter of Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments*, No. R 2020-019 (March 30, 2020) at 1 (Proposed New 35 Ill. Adm. Code 845) ("Proposed Illinois CCR Rules").

<sup>110</sup> Proposed Illinois Rules at 3.

<sup>111</sup> *Id.* at 3.

<sup>112</sup> See Potomac Riverkeeper Network, Press Release, "Maryland Proposes to Reject Effort to Delay Pollution Reductions" (Posted April 4, 2020), <<https://www.potomacriverkeepernetwork.org/maryland-proposes-to-reject-effort-to-delay-pollution-reductions/>>.

<sup>113</sup> See "GenOn Holdings, Inc. Announces Retirement of Dickerson Coal Plant" (May 15, 2020) <<https://www.genon.com/genon-news/genon-holdings-inc-announces-retirement-of-dickerson-coal-plant/>>.

<sup>114</sup> See "GenOn Holdings, LLC Announces Retirement of Three Coal-Fired Power Plants" (June 9, 2021) <<https://www.genon.com/genon-news/genon-holdings-llc-announces-retirement-of-three-coal-fired-power-plants/>>.

## State Environmental Regulation

### State Emissions Regulations

States have in some cases enacted emissions regulations more stringent or potentially more stringent than federal requirements:<sup>115</sup>

- **Illinois Climate and Equitable Jobs Act (CEJA).** On September 16, 2021, Illinois Governor J.B. Pritzker signed the Climate and Equitable Jobs Act (CEJA). CEJA created an expanded nuclear subsidy program. CEJA mandates that all fossil fuel plants close by 2045. CEJA established emissions caps for investor owned, gas-fired units with three years of operating history, effective October 1, 2021, on a rolling 12 month basis going forward.<sup>116</sup> <sup>117</sup> New investor owned, gas-fired units will have emissions caps after three years. The emissions caps are based on average emissions over a three year period from 2018 through 2020. The capped emissions are CO<sub>2</sub>e and co-pollutants.<sup>118</sup> <sup>119</sup> The resultant emissions caps are very low for some units and much higher for others. More than 10,000 MW of capacity is currently affected, about half of which have requested that the MMU calculate a unit specific opportunity cost. The MMU is calculating opportunity costs for units that make requests and provide required data.

In addition to the provisions creating nuclear subsidies, mandating closure of fossil fuel generation by 2045, and limiting emissions from natural gas-fired resources, the CEJA includes provisions promoting the development of batteries and utility scale solar at the sites of up to five

<sup>115</sup> For more details, see the *2019 State of the Market Report for PJM*, Volume 2, Appendix H: "Environmental and Renewable Energy Regulations."

<sup>116</sup> Letter of John J. Kim, Director, Illinois Environmental Protection Agency, to Dr. Joseph Bowring, Market Monitor (January 21, 2022) ("IEPA January 21<sup>st</sup> Letter") <[https://www.monitoringanalytics.com/reports/Market\\_Messages/Messages/IL\\_EPA\\_CEJA\\_Response\\_to\\_the\\_IMM\\_20220121.pdf](https://www.monitoringanalytics.com/reports/Market_Messages/Messages/IL_EPA_CEJA_Response_to_the_IMM_20220121.pdf)>.

<sup>117</sup> The IEPA January 21<sup>st</sup> Letter explains: "All of this information is already reported to USEPA by sources subject to Section k-5, per 40 CFR Part 98, and Illinois does not intend for any changes in existing methodologies in that regard. Specifically, Part 98.2(a)(1) requires Part 98 reporting of sources that are subject to Part 75. CO<sub>2</sub>e emissions are calculated using Equation A-1 from 40 CFR 98.2(b)(4), and emissions data for specific contributing pollutants are taken from a combination of CEMS data and other measurement or estimation methods. Part 98.3 requires reporting of CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>O, and each fluorinated GHG. This covers all pollutants used to calculate CO<sub>2</sub>e that would be emitted by sources subject to Section k-5. Part 75.13 requires use of CO<sub>2</sub> CEMS or alternate methods that are acceptable continuous monitoring methods detailed in Appendices F and G to Part 75. Part 98 Tables C-1 and C-2 have default values for CH<sub>4</sub>, N<sub>2</sub>O, and other GHGs, based on fuel type, that sources should continue to use for requirements pursuant to Section k-5; they are essentially considered to be continuous parameter monitoring based on fuel consumption."

<sup>118</sup> Carbon dioxide equivalent (CO<sub>2</sub>e) emissions means the total emissions of six greenhouse gases (carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride). Co-pollutants mean the six criteria pollutants identified by the US EPA pursuant to the Clean Air Act: Carbon Monoxide, Lead, Nitrogen Dioxide, Ozone, Particle Pollution, and Sulfur Dioxide.

<sup>119</sup> See Energy Transition Act, Public Act 102-0662, Section 90-55, which amends section 9.15 (k-5) FOR the Illinois Environmental Protection Act.

closed coal plants, two of which may be located in PJM. CEJA grants a subsidy of \$110,000/MW for battery projects with at least 37 MW of capacity, capped at \$28 million per year. A solar resource at a defined site may elect to receive either the battery subsidies or to sell premium RECs for \$30 each.

On August 4, 2022, J-Power USA filed a complaint in Illinois state court concerning the application of pollutant caps to its 1,350 MW Elwood Power Plant based on historical operations.<sup>120</sup> The court granted an injunction, finding: “The compliance rule is arbitrary and capricious because it demands compliance prior to IEPA’s announcement of how emissions caps were to be calculated. IEPA’s rule, issued in January 2022, declared that ‘any 12-month period’ meant a rolling, 12-month calculation, starting with the period October 2021 through September 2022. Prior to January 2022, energy producers did not have the necessary information to calculate their emissions caps or monitor their ongoing emissions for CEJA purposes.”<sup>121</sup> The injunction does not appear to affect core provisions of CEJA going forward.

- **New Jersey HEDD.** Units that run only during peak demand periods have relatively low annual emissions, and have less reason to make such investments under the EPA transport rules. New Jersey addressed the issue of NO<sub>x</sub> emissions on peak energy demand days with a rule that defines peak energy usage days, referred to as high electric demand days or HEDD, and imposes operational restrictions and emissions control requirements on units responsible for significant NO<sub>x</sub> emissions on such high energy demand days. New Jersey’s HEDD rule, which became effective May 19, 2009, applies to HEDD units, which include units that have a NO<sub>x</sub> emissions rate on HEDD equal to or exceeding 0.15 lbs/MMBtu and lack identified emission control technologies.

- **Illinois Air Quality Standards (NO<sub>x</sub>, SO<sub>2</sub> and Hg).** The State of Illinois has promulgated its own standards for NO<sub>x</sub>, SO<sub>2</sub> and Hg (mercury) known as Multi-Pollutant Standards (MPS) and Combined Pollutants Standards (CPS). MPS and CPS establish standards that are more stringent and take effect earlier than comparable Federal regulations, such as the EPA’s MATS.

Some states have enacted legislation or have pending legislation designed to reduce or eliminate greenhouse gas and other emissions, summarized in Table 8-3.

<sup>120</sup> See *Elwood Energy LLC v. Illinois EPA*, Case No. 2022-CH-50 (Ill. 7th Jud. Cir. Court).

<sup>121</sup> *Id.* at 17.

Table 8-3 Summary of environmental regulatory activity impacting PJM resources by jurisdiction

Jurisdiction	Bill/Docket No.	Environmental Regulatory Activity
Delaware	SB 305	151st General Assembly: The Delaware Climate Change Solutions Act would follow the issuance of Delaware's Climate Action Plan in 2021, and would establish a statutory requirement of greenhouse gas emissions reductions over the medium and long term, establishing a mandatory plan to achieve those emissions reductions and develop resilience strategies, and requiring State agencies to address climate change in decision-making and rulemaking.
Illinois	Pub. Act 102-1031 (SB 3866)	Enacted May 27, 2022: Amends the Energy Transition Act, providing that Climate Works Hubs shall be awarded grants in multi-year increments not to exceed 36 months with the opportunity for grant renewal and modification for subsequent years, subject to certain equity, union preference and worker training rules. Amends the Illinois Power Agency Act, to exempt certain units from compliance with the Agency's long-term renewable resources plan.
	SB 5589	102nd General Assembly: Amends the Public Utilities Act to delete ban on constructing nuclear power plants without a national waste disposal plan or the specific approval of the General Assembly.
	SB 5750	102nd General Assembly: Provides that all EGUs that use coal as a fuel and are public GHG-emitting units shall permanently reduce COe emissions to zero no later than December 31, 2045, extending the current 2035 deadline.
Indiana	Pub. Law 155 (SB 271)	Enacted March 18, 2022: Directs the IURC to adopt rules not later than July 1, 2023, for issuing certificates of public convenience and necessity for the development of small modular nuclear reactors. The IURC must consider in the evaluation of petitions (i) the displacement of capacity from coal or natural gas facilities and (ii) the redevelopment of sites where retired facilities are located.
	Pub. Law 120 (HB 1226)	Enacted March 14, 2022: Requires the Indiana Recycling Market Development Board to award up to \$4,000,000 to applicants chosen to participate in a solid waste diversion pilot project limited to Marion County. The Department of Environmental Management must make recommendations on applications to the board on or before December 1, 2022. Requires the rules board to expeditiously adopt by rule all waste regulation exemptions or exclusions as adopted by the US EPA.
	Pub. Law 152 (SB 147)	Enacted March 18, 2022: Adds underground pumped storage hydropower to the technologies that qualify as "clean energy resources" for purposes of the statute governing the Indiana voluntary clean energy portfolio standard program. Provides that this technology qualifies as a "renewable energy resource" for purposes of the statute providing certain financial investment incentives.
Kentucky		No current activity.
Maryland	SB 526	Enacted May 29, 2022: Altering the application of the offshore wind energy component of the renewable energy portfolio standard to apply only to distribution sales of electric companies; altering the manner in which an electric company may reflect and recover offshore wind renewable energy credit costs; altering certain compliance fees for shortfalls from the offshore wind energy component of the renewable energy portfolio standard; etc.
	SB 528	Enacted April 8, 2022: Climate Solutions Now Act of 2022 requires, e.g., a reduction of statewide greenhouse gas emissions by 60 percent from 2006 levels by 2031 and net-zero emissions by 2045.
Michigan		No current activity.
New Jersey	AB 3079	2022-2023 Reg. Sess.: Requires, by energy year 2050, all electric power sold in NJ by each electric power supplier and basic generation service provider to be from zero-carbon sources.
	SB 2185	2022-2023 Reg. Sess.: Requires BPU to develop program to incentivize installation of new energy storage systems.
	SB 1170/AB 1440	2022-2023 Reg. Sess.: Requires that all new residential and commercial developments be zero energy ready and that developers to offer zero energy construction.
	AB 1744	2022-2023 Reg. Sess.: Revises law concerning Class I and solar renewable energy portfolio standards, solar renewable energy certificates, and net metering.
	SCR 17	2022-2023 Reg. Sess.: Amends Constitution to prohibit construction of new fossil fuel power plants.
	SB 1384	2022-2023 Reg. Sess.: Establishes Nuclear Power Advisory Commission.
	AB 4782	2022-2023 Reg. Sess.: Increases the goal for the annual capacity of solar energy projects to be developed under the permanent Community Solar Energy Program from 50 to 500 megawatts per year.
	AB 4658	2022-2023 Reg. Sess.: Revises State renewable energy portfolio standards.
North Carolina	SB 702	2021-2022 Reg. Sess.: Establishes state clean energy goal for 2050 from renewable energy resources by December 31, 2050, that 100 percent of the total retail sales of electricity in North Carolina shall be generated from renewable energy resources by December 31, 2050.
	Ch. SL 2021-165 (HB 951)	Enacted October 31, 2021: Requires the NCUC to take steps needed to get North Carolina a 70 percent reduction in carbon emission by the year 2030 and to carbon neutrality by 2050.
Ohio	HB 429	134th General Assembly: Requires the Ohio EPA to establish a goal for a 50 percent reduction in greenhouse gas emissions from electricity by 2030, compared to a 2005 baseline, increasing to 100 percent by 2050, and to design rules to achieve that goal. Includes provisions reducing regulatory restrictions on renewables projects, inhibiting corruption, enhancing consumer protections, and promoting equity.
	HB 317	134th General Assembly: Repeals electric security plans (ESPs) under which an electric distribution utility (EDU) provides customers in its certified territory a standard service offer (SSO) of retail electric services. Requires EDUs to offer SSOs under a market rate offer (MRO).
Pennsylvania	SB 872	Reg. Sess. 2021-2022: Provides for transition to renewable energy, imposing duties on the Department of Environmental Protection and other Commonwealth agencies relating to energy consumption and renewable energy generation, and establishing certain task forces to perform studies and associated funds.
Tennessee	SJR 892	Enacted February 28, 2022.: Requests that the TVA maintain operation of its coal-fired plants until a reliable backup is developed.
Virginia		No current activity.
Washington, D.C.	CB 240267	24th Council: Codifies the 2050 carbon neutrality commitment and adds interim targets for greenhouse gas reductions between 2025 and 2050. Requires the District to achieve carbon neutrality for emissions associated with District government operations by 2040.
West Virginia		No current activity.

## Clean Energy Standards

In April 2020, Virginia enacted the Virginia Clean Economy Act, which orders the closure of most coal generation in state by 2024, most fossil fuel generation by 2045, and adopts a 100 percent clean energy standard by 2045.<sup>122</sup> The legislation mandates Chesterfield Power Station Units 5 & 6 and Yorktown Power Station Unit 3 to be retired by the end of 2024, Altavista, Southampton and Hopewell to be retired by the end of 2028 and Virginia Power's remaining fossil fuel units to be retired by the end of 2045, unless the retirement of such generating units will compromise grid reliability or security.<sup>123</sup> The legislation also imposes a temporary moratorium on Certificates of Public Convenience and Necessity for fossil fuel generation, unless the resources are needed for grid reliability.<sup>124</sup>

## RGGI

The Regional Greenhouse Gas Initiative (RGGI) is a cooperative effort by Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey (as of January 1, 2020), New York, Rhode Island, Vermont and Virginia (as of January 1, 2021) to cap CO<sub>2</sub> emissions from power generation facilities.<sup>125</sup>

Delaware, Maryland, New Jersey, and Virginia are the only PJM states that are members of RGGI. New Jersey, a founding member of RGGI, opted out in 2011 but rejoined RGGI in 2020.<sup>126</sup> Virginia joined RGGI on January 1, 2021. Pennsylvania took action to join RGGI on April 23, 2022, but such action has been enjoined by court order on appeal.<sup>127 128</sup> A decision on the merits of the appeal is pending.

<sup>122</sup> Va. HB 1526/SB 851.

<sup>123</sup> See Dominion Energy, Inc., et al., SEC Form 10-Q (Quarter ending June 30, 2020).

<sup>124</sup> *Id.*

<sup>125</sup> RGGI provides a link on its website to state statutes and regulations authorizing its activities, which can be accessed at: <<http://www.rggi.org/design/regulations>>.

<sup>126</sup> "Statement on New Jersey Greenhouse Gas Rule," RGGI Inc., (June 17, 2019) <[https://www.rggi.org/sites/default/files/Uploads/Press-Releases/2019\\_06\\_17\\_NJ\\_Announcement\\_Release.pdf](https://www.rggi.org/sites/default/files/Uploads/Press-Releases/2019_06_17_NJ_Announcement_Release.pdf)>.

<sup>127</sup> CO2 Budget Trading Program, 52 Pa.B. 2471 (April 23, 2022), codified 25 Pa. Code Ch. 145; see also Executive Order–2019–07. Commonwealth Leadership in Addressing Climate Change through Electric Sector Emissions Reductions, Tom Wolf, Governor, October 3, 2019, <<https://www.governor.pa.gov/newsroom/executive-order-2019-07-commonwealth-leadership-in-addressing-climate-change-through-electric-sector-emissions-reductions/>> .

<sup>128</sup> See *Ramez Ziakeh, et al. v. Pennsylvania Legislative Reference Bureau*, Memorandum Opinion, Commonwealth Court of Pennsylvania Case No. No. 41 M.D. 2022 (July 8, 2022); *Ramez Ziakeh, et al. v. Pennsylvania Legislative Reference Bureau*, Order Granting Application to Vacate, Commonwealth Court of Pennsylvania Case No. No. 41 M.D. 2022 (July 25, 2022).

Table 8-4 shows the RGGI CO<sub>2</sub> auction clearing prices and quantities, in short tons and metric tonnes, for the 3<sup>rd</sup> control period, the 4<sup>th</sup> control period, and the first seven auctions of the 5<sup>th</sup> control period.<sup>129 130</sup> The clearing price for the auction held September 7, 2022 was \$13.45 per allowance (equal to one short ton of CO<sub>2</sub>).<sup>131</sup> The September auction clearing price decreased 3.2 percent over the last auction clearing price of \$13.90 in June 2022.

<sup>129</sup> Each control period is three years in duration. The 3<sup>rd</sup> control period covers 2015 through 2017. The 4<sup>th</sup> control period covers 2018 through 2020. The 5<sup>th</sup> control period covers 2021 through 2023.

<sup>130</sup> The December 2021 auction included additional Cost Containment Reserves (CCRs) since the clearing price for allowances was above the CCR trigger price of \$13.00 per ton. The auctions on March 5, 2014, September 3, 2015, and December 1, 2021 are the only auctions that included CRRs.

<sup>131</sup> RGGI measures carbon in short tons (short ton equals 2,000 pounds) while world carbon markets measure carbon in metric tonnes (metric tonne equals 1,000 kilograms or 2,204.6 pounds).



**Table 8-4 RGGI CO<sub>2</sub> allowance auction prices and quantities in short tons and metric tonnes: 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> Control Periods<sup>132</sup>**

Auction Date	Short Tons				Metric Tonnes			
	Clearing Price	Quantity Offered	Cost Containment Reserve	Quantity Sold	Clearing Price	Quantity Offered	Cost Containment Reserve	Quantity Sold
March 11, 2015	\$5.41	15,272,670		15,272,670	\$5.96	13,855,137		13,855,137
June 3, 2015	\$5.50	15,507,571		15,507,571	\$6.06	14,068,236		14,068,236
September 9, 2015	\$6.02	15,374,294	10,000,000	25,374,294	\$6.64	13,947,329	9,071,850	23,019,179
December 2, 2015	\$7.50	15,374,274		15,374,274	\$8.27	13,947,311		13,947,311
March 9, 2016	\$5.25	14,838,732		14,838,732	\$5.79	13,461,475		13,461,475
June 1, 2016	\$4.53	15,089,652		15,089,652	\$4.99	13,689,106		13,689,106
September 7, 2016	\$4.54	14,911,315		14,911,315	\$5.00	13,527,321		13,527,321
December 7, 2016	\$3.55	14,791,315		14,791,315	\$3.91	13,418,459		13,418,459
March 8, 2017	\$3.00	14,371,300		14,371,300	\$3.31	13,037,428		13,037,428
June 7, 2017	\$2.53	14,597,470		14,597,470	\$2.79	13,242,606		13,242,606
September 8, 2017	\$4.35	14,371,585		14,371,585	\$4.80	13,037,686		13,037,686
December 8, 2017	\$3.80	14,687,989		14,687,989	\$4.19	13,324,723		13,324,723
March 14, 2018	\$3.79	13,553,767		13,553,767	\$4.18	12,295,774		12,295,774
June 13, 2018	\$4.02	13,771,025		13,771,025	\$4.43	12,492,867		12,492,867
September 9, 2018	\$4.50	13,590,107		13,590,107	\$4.96	12,328,741		12,328,741
December 5, 2018	\$5.35	13,360,649		13,360,649	\$5.90	12,120,580		12,120,580
March 13, 2019	\$5.27	12,883,436		12,883,436	\$5.81	11,687,660		11,687,660
June 5, 2019	\$5.62	13,221,453		13,221,453	\$6.19	11,994,304		11,994,304
September 4, 2019	\$5.20	13,116,447		13,116,447	\$5.73	11,899,044		11,899,044
December 4, 2019	\$5.61	13,116,444		13,116,444	\$6.18	11,899,041		11,899,041
March 11, 2020	\$5.65	16,208,347		16,208,347	\$6.23	14,703,969		14,703,969
June 3, 2020	\$5.75	16,336,298		16,336,298	\$6.34	14,820,045		14,820,045
September 2, 2020	\$6.82	16,192,785		16,192,785	\$7.52	14,689,852		14,689,852
December 2, 2020	\$7.41	16,237,495		16,237,495	\$8.17	14,730,412		14,730,412
March 3, 2021	\$7.60	23,467,261		23,467,261	\$8.38	21,289,147		21,289,147
June 2, 2021	\$7.97	22,987,719		22,987,719	\$8.79	20,854,114		20,854,114
September 8, 2021	\$9.30	22,911,423		22,911,423	\$10.25	20,784,899		20,784,899
December 1, 2021	\$13.00	23,121,518	3,919,482	27,041,000	\$14.33	20,975,494	3,555,695	24,531,190
March 9, 2022	\$13.50	21,761,269		21,761,269	\$14.88	19,741,497		19,741,497
June 1, 2022	\$13.90	22,280,473		22,280,473	\$15.32	20,212,511		20,212,511
September 7, 2022	\$13.45	22,404,023		22,404,023	\$14.83	20,324,594		20,324,594

The RGGI auction held on September 7, 2022, generated \$301.3 million in auction revenue. RGGI auctions have generated \$5.6 billion in auction revenue since 2008.<sup>133</sup> RGGI auction revenue is returned to the states. RGGI reported that the RGGI states, cumulative through the 2020 reporting year, have invested \$3.0 billion (79.0 percent of revenues), approximately 53

<sup>132</sup> See Regional Greenhouse Gas Initiative, "Auction Results," <<https://www.rggi.org/auctions/auction-results>> (Accessed October 17, 2022).  
<sup>133</sup> See Auction Results at <<https://www.rggi.org/>>.

percent on energy efficiency, 14 percent on clean and renewable energy, 8 percent on greenhouse gas abatement and 16 percent on direct bill assistance.<sup>134</sup>

If all PJM states joined RGGI, the total RGGI revenue to the PJM states would be significant. The estimated allowance revenue for PJM states based on 2021 CO<sub>2</sub> emission levels and the RGGI clearing price for the September 2022 auction ranges from \$2.0 billion per year to \$3.8 billion per year depending on associated reductions in carbon emission levels (Table 8-5).<sup>135</sup> Table 8-5 shows the estimated carbon allowance revenue for each PJM state based on the latest RGGI auction price and reductions below 2021 CO<sub>2</sub> emission levels ranging from five to 50 percent. A power plant owner must acquire an allowance for each ton of CO<sub>2</sub> emissions and the revenue values in Table 8-5 are computed by multiplying the carbon price by the emission cap level which is expressed as a reduction below the 2021 actual emissions level. States that participate in RGGI choose their emission cap. For example, New Jersey chose an emission cap of 18,000,000 short tons for reentry into RGGI in 2020, 5.3 percent below New Jersey's 2018 CO<sub>2</sub> emissions level; the New Jersey emission cap will be reduced by 540,000 short tons each year through 2030.<sup>136</sup>

<sup>134</sup> *The Investment of RGGI Proceeds in 2020*, The Regional Greenhouse Gas Initiative (RGGI), May 2022, <<https://www.rggi.org/investments/proceeds-investments>>.

<sup>135</sup> This assumes that the PJM states would implement their RGGI rules consistent with the current RGGI states where owners of fossil fuel generators are required to purchase emission allowances in a regional centralized auction or purchase allowances in a secondary market.

<sup>136</sup> "Governor Murphy Announces Adoption of Rules Returning New Jersey to Regional Greenhouse Gas Initiative," State of New Jersey, Governor Phil Murphy Press Release, June 17, 2019 <<https://nj.gov/governor/news/news/562019/approved/20190617a.shtml>>.

Table 8-5 Estimated CO<sub>2</sub> allowance revenue at September 2022 RGGI price level<sup>137 138</sup>

Jurisdiction	Estimated CO <sub>2</sub> allowance revenue (\$ millions), carbon price \$13.45 per short ton							
	2021 power generation CO <sub>2</sub> emissions (short tons)	5 percent reduction below 2021 emission levels	10 percent reduction below 2021 emission levels	15 percent reduction below 2021 emission levels	20 percent reduction below 2021 emission levels	25 percent reduction below 2021 emission levels	50 percent reduction below 2021 emission levels	
Delaware	1,569,515.5	\$20.1	\$19.0	\$17.9	\$16.9	\$15.8	\$10.6	
Illinois	20,545,590.8	\$262.5	\$248.7	\$234.9	\$221.1	\$207.3	\$138.2	
Indiana	27,066,021.8	\$345.8	\$327.6	\$309.4	\$291.2	\$273.0	\$182.0	
Kentucky	23,972,416.9	\$306.3	\$290.2	\$274.1	\$257.9	\$241.8	\$161.2	
Maryland	10,527,468.1	\$134.5	\$127.4	\$120.4	\$113.3	\$106.2	\$70.8	
Michigan	0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
New Jersey	8,424,107.9	\$107.6	\$102.0	\$96.3	\$90.6	\$85.0	\$56.7	
North Carolina	61,960.5	\$0.8	\$0.8	\$0.7	\$0.7	\$0.6	\$0.4	
Ohio	62,670,551.1	\$800.8	\$758.6	\$716.5	\$674.3	\$632.2	\$421.5	
Pennsylvania	67,579,691.3	\$863.5	\$818.1	\$772.6	\$727.2	\$681.7	\$454.5	
Tennessee	0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
Virginia	22,491,149.9	\$287.4	\$272.3	\$257.1	\$242.0	\$226.9	\$151.3	
Washington, D.C.	0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	
West Virginia	51,728,460.2	\$661.0	\$626.2	\$591.4	\$556.6	\$521.8	\$347.9	
Total	296,636,934.0	\$3,790.3	\$3,590.8	\$3,391.3	\$3,191.8	\$2,992.3	\$1,994.9	

The RGGI emissions cap is the sum of CO<sub>2</sub> allowances issued by each state. Table 8-6 shows the RGGI emission cap history. Compliance with the RGGI allowance obligation is evaluated at the end of each three year period which is called the control period. The first control period began in 2009. The 2022 compliance year is the second year of the fifth control period.

In 2021, RGGI announced a third adjustment to the RGGI emissions cap to account for banked allowances from previous control periods.<sup>139 140</sup> The first adjustment removed 57.5 allowances that were banked or unused from the first control period. The reduction to the RGGI emissions cap was spread over a seven year period beginning in 2014 and ending with 2020.<sup>141</sup> A second cap adjustment, corresponding to banked allowances for 2012 and 2013, began in 2015 with an adjustment of 13.7 million allowances per year and was in place through 2020.<sup>142</sup> The third adjustment of 95.5 million allowances will be spread over a five year period beginning in 2021.<sup>143</sup> The base emissions cap for each of the next five years will be reduced by 19.1 million allowances. The percent change columns in Table 8-6 show the year to year percent changes in the base RGGI cap and the adjusted RGGI cap.<sup>144</sup> The adjusted emissions cap for 2021 is the only year for which the adjusted carbon emissions cap increased.<sup>145</sup> Figure 8-2 shows the adjusted carbon budgets for the RGGI states. The RGGI clearing price since 2014 has been on average 177.8 percent higher than the prices prior to the emission cap adjustments.

<sup>137</sup> The 2020 CO<sub>2</sub> emissions data is from the EPA Continuous Emission Monitoring System (CEMS) from generators located within the PJM footprint.

<sup>138</sup> Power generation companies subject to a RGGI emission cap can offset up to 3.3 percent of their allowance obligation by undertaking certain greenhouse gas emission reduction projects. The allowance revenue values in Table 8-3 do not reflect offset allowances.

<sup>139</sup> "Third Adjustment for Banked Allowances Announcement," Regional Greenhouse Gas Initiative (March 15, 2021) <<https://www.rggi.org/news-releases/rggi-releases>>.

<sup>140</sup> A banked allowance is an allowance acquired during a previous control period that was not used to fulfill a RGGI allowance obligation.

<sup>141</sup> "Second Control Period Interim Adjustment for Banked Allowances Announcement," Regional Greenhouse Gas Initiative (March 17, 2014) at 2. Due to rounding, the adjustment is 8,207,664 allowances for years 2014 through 2018, and 8,207,663 allowances for the remaining two years <[https://www.rggi.org/sites/default/files/Uploads/Design-Archive/2012-Review/Adjustments/2014\\_03\\_17\\_SCP\\_Adjustment.pdf](https://www.rggi.org/sites/default/files/Uploads/Design-Archive/2012-Review/Adjustments/2014_03_17_SCP_Adjustment.pdf)>.

<sup>142</sup> Id.

<sup>143</sup> "Third Adjustment for Banked Allowances Announcement," Regional Greenhouse Gas Initiative (March 15, 2021) <<https://www.rggi.org/news-releases/rggi-releases>>.

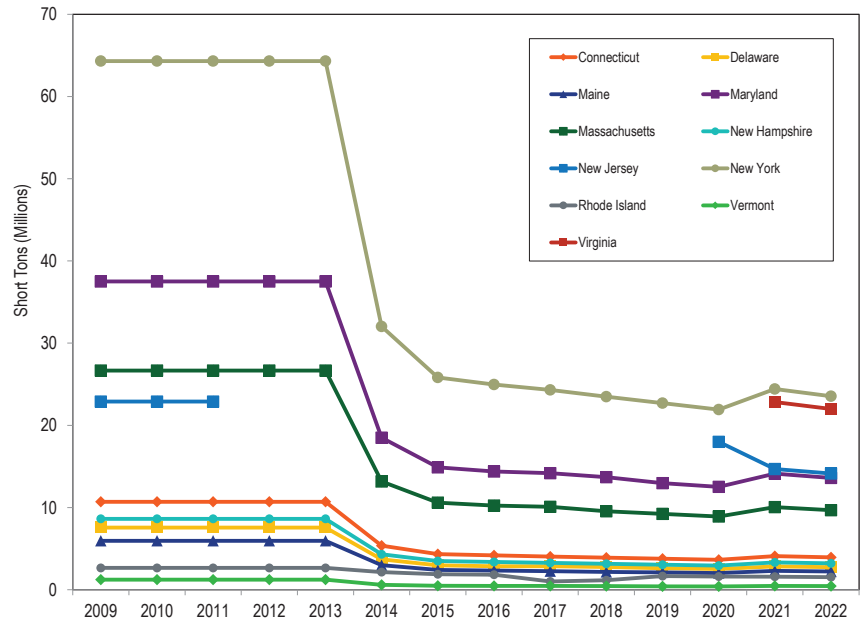
<sup>144</sup> Percent changes for years with membership changes do not reflect the impacts of the change in membership. For example, the RGGI cap for 2021 reflects the impact of New Jersey rejoining RGGI in 2020 but the percent change from 2019 to 2020 does not include New Jersey's allowance budget. Virginia's adoption of RGGI in 2021 is treated analogously.

<sup>145</sup> The increase of 4.5 percent does not reflect the addition of Virginia as a RGGI state.

Table 8-6 RGGI emissions cap history<sup>146 147 148</sup>

Year	Control Period	RGGI Average		RGGI	
		Clearing Price (\$ per short ton)	RGGI Cap (short tons)	Adjusted Cap (short tons)	Percent Change
2009		\$2.77	188,076,976	188,076,976	
2010	1st	\$1.93	188,076,976	188,076,976	0.0%
2011		\$1.89	188,076,976	188,076,976	0.0%
2012		\$1.93	165,184,246	165,184,246	0.0%
2013	2nd	\$2.92	165,184,246	165,184,246	0.0%
2014		\$4.72	91,000,000	82,792,336	(49.9%)
2015		\$6.10	88,725,000	66,833,592	(19.3%)
2016	3rd	\$4.47	86,506,875	64,615,467	(3.3%)
2017		\$3.42	84,344,203	62,452,795	(3.3%)
2018		\$4.41	82,235,598	60,344,190	(3.4%)
2019	4th	\$5.43	80,363,945	58,472,538	(3.1%)
2020		\$6.41	96,354,847	74,463,439	(3.4%)
2021		\$9.61	119,767,784	100,677,454	4.5%
2022	5th	\$13.62	116,112,784	97,022,454	(3.6%)
2023			112,457,784	93,367,454	(3.8%)

Figure 8-2 RGGI adjusted carbon budgets by state<sup>149</sup>



If higher carbon prices were implemented in PJM, the associated revenues flowing to states would also increase. Table 8-7 shows the estimated allowance revenue for PJM states for carbon prices ranging from \$10 per short ton to \$50 per short ton and for emissions reductions ranging from five percent to 50 percent. Allowance revenues to states would be \$14.1 billion if the carbon price were \$50 per short ton and emission levels were five percent below 2021 levels. Allowance revenues to states would be \$1.5 billion if the carbon price were \$10 per short ton and emission levels were 50 percent below 2021.

146 See Regional Greenhouse Gas Initiative, "Allowance Distribution" <<https://www.rggi.org/allowance-tracking/allowance-distribution>> (Accessed October 18, 2021).  
 147 RGGI budgets for 2022 and 2023 are found in a RGGI press release, "Third Adjustment for Banked Allowances Announcement," March 15, 2021 <<https://www.rggi.org/news-releases/rggi-releases>>.  
 148 The increase in the RGGI Cap and the RGGI Adjusted Cap in 2020 is due to the reentry of New Jersey. The new cap is 18 million short tons higher than the previously published 2020 caps.

149 Data for the figure was collected from allowance distribution reports available on the RGGI website <<https://www.rggi.org/allowance-tracking/allowance-distribution>> (Accessed October 18, 2022).

Table 8-7 Estimated CO<sub>2</sub> allowance revenue at various carbon prices

Jurisdiction	Estimated CO <sub>2</sub> allowance revenue (\$ millions)					
	5 percent reduction below 2021 emission levels	10 percent reduction below 2021 emission levels	15 percent reduction below 2021 emission levels	20 percent reduction below 2021 emission levels	25 percent reduction below 2021 emission levels	50 percent reduction below 2021 emission levels
	Carbon Price (\$ per short ton)					\$10.00
Delaware	\$14.9	\$14.1	\$13.3	\$12.6	\$11.8	\$7.8
Illinois	\$195.2	\$184.9	\$174.6	\$164.4	\$154.1	\$102.7
Indiana	\$257.1	\$243.6	\$230.1	\$216.5	\$203.0	\$135.3
Kentucky	\$227.7	\$215.8	\$203.8	\$191.8	\$179.8	\$119.9
Maryland	\$100.0	\$94.7	\$89.5	\$84.2	\$79.0	\$52.6
Michigan	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
New Jersey	\$80.0	\$75.8	\$71.6	\$67.4	\$63.2	\$42.1
North Carolina	\$0.6	\$0.6	\$0.5	\$0.5	\$0.5	\$0.3
Ohio	\$595.4	\$564.0	\$532.7	\$501.4	\$470.0	\$313.4
Pennsylvania	\$642.0	\$608.2	\$574.4	\$540.6	\$506.8	\$337.9
Tennessee	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Virginia	\$213.7	\$202.4	\$191.2	\$179.9	\$168.7	\$112.5
Washington, D.C.	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
West Virginia	\$491.4	\$465.6	\$439.7	\$413.8	\$388.0	\$258.6
<b>Total</b>	<b>\$2,818.1</b>	<b>\$2,669.7</b>	<b>\$2,521.4</b>	<b>\$2,373.1</b>	<b>\$2,224.8</b>	<b>\$1,483.2</b>
	Carbon Price (\$ per short ton)					\$25.00
Delaware	\$37.3	\$35.3	\$33.4	\$31.4	\$29.4	\$19.6
Illinois	\$488.0	\$462.3	\$436.6	\$410.9	\$385.2	\$256.8
Indiana	\$642.8	\$609.0	\$575.2	\$541.3	\$507.5	\$338.3
Kentucky	\$569.3	\$539.4	\$509.4	\$479.4	\$449.5	\$299.7
Maryland	\$250.0	\$236.9	\$223.7	\$210.5	\$197.4	\$131.6
Michigan	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
New Jersey	\$200.1	\$189.5	\$179.0	\$168.5	\$158.0	\$105.3
North Carolina	\$1.5	\$1.4	\$1.3	\$1.2	\$1.2	\$0.8
Ohio	\$1,488.4	\$1,410.1	\$1,331.7	\$1,253.4	\$1,175.1	\$783.4
Pennsylvania	\$1,605.0	\$1,520.5	\$1,436.1	\$1,351.6	\$1,267.1	\$844.7
Tennessee	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Virginia	\$534.2	\$506.1	\$477.9	\$449.8	\$421.7	\$281.1
Washington, D.C.	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
West Virginia	\$1,228.6	\$1,163.9	\$1,099.2	\$1,034.6	\$969.9	\$646.6
<b>Total</b>	<b>\$7,045.1</b>	<b>\$6,674.3</b>	<b>\$6,303.5</b>	<b>\$5,932.7</b>	<b>\$5,561.9</b>	<b>\$3,708.0</b>
	Carbon Price (\$ per short ton)					\$50.00
Delaware	\$74.6	\$70.6	\$66.7	\$62.8	\$58.9	\$39.2
Illinois	\$975.9	\$924.6	\$873.2	\$821.8	\$770.5	\$513.6
Indiana	\$1,285.6	\$1,218.0	\$1,150.3	\$1,082.6	\$1,015.0	\$676.7
Kentucky	\$1,138.7	\$1,078.8	\$1,018.8	\$958.9	\$899.0	\$599.3
Maryland	\$500.1	\$473.7	\$447.4	\$421.1	\$394.8	\$263.2
Michigan	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
New Jersey	\$400.1	\$379.1	\$358.0	\$337.0	\$315.9	\$210.6
North Carolina	\$2.9	\$2.8	\$2.6	\$2.5	\$2.3	\$1.5
Ohio	\$2,976.9	\$2,820.2	\$2,663.5	\$2,506.8	\$2,350.1	\$1,566.8
Pennsylvania	\$3,210.0	\$3,041.1	\$2,872.1	\$2,703.2	\$2,534.2	\$1,689.5
Tennessee	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Virginia	\$1,068.3	\$1,012.1	\$955.9	\$899.6	\$843.4	\$562.3
Washington, D.C.	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
West Virginia	\$2,457.1	\$2,327.8	\$2,198.5	\$2,069.1	\$1,939.8	\$1,293.2
<b>Total</b>	<b>\$14,090.3</b>	<b>\$13,348.7</b>	<b>\$12,607.1</b>	<b>\$11,865.5</b>	<b>\$11,123.9</b>	<b>\$7,415.9</b>

Table 8-8 shows the estimated impact of five different carbon prices on PJM load-weighted LMP. For example, if the carbon price were \$25.00 per tonne, the PJM load-weighted average LMP in the first nine months of 2022 would have increased by 1.6 percent.<sup>150</sup>

**Table 8-8 Estimated impact of carbon price on LMP: January through September, 2021 and 2022**

Scenario	Carbon Price (\$/Metric Ton)	2021 (Jan - Sep)			2022 (Jan - Sep)		
		Actual LMP (\$/MWh)	Estimated LMP (\$/MWh)	Percent Change	Actual LMP (\$/MWh)	Estimated LMP (\$/MWh)	Percent Change
Scenario 1	\$5.00	\$35.68	\$35.98	0.8%	\$77.84	\$76.87	(1.2%)
Scenario 2	\$10.00	\$35.68	\$37.96	6.4%	\$77.84	\$77.43	(0.5%)
Scenario 3	\$15.00	\$35.68	\$39.95	12.0%	\$77.84	\$77.99	0.2%
Scenario 4	\$25.00	\$35.68	\$43.91	23.1%	\$77.84	\$79.10	1.6%
Scenario 5	\$50.00	\$35.68	\$53.83	50.9%	\$77.84	\$81.89	5.2%

Table 8-9 shows the impact of a range of carbon prices on the cost per MWh of producing energy from three basic unit types.<sup>151 152</sup> For example, if the price of carbon were \$50.00 per tonne, the short run marginal costs would increase by \$24.52 per MWh for a new combustion turbine (CT) unit, \$16.71 per MWh for a new combined cycle (CC) unit and \$43.15 per MWh for a new coal plant (CP). Table 8-11 and Table 8-12 show the carbon price impact (\$ per MWh) for a range of heat rates and carbon prices for natural gas and coal fired generation.

**Table 8-9 Carbon price per MWh by unit type**

Unit Type	Carbon Price per MWh						
	Carbon \$5/tonne	Carbon \$10/tonne	Carbon \$15/tonne	Carbon \$50/tonne	Carbon \$100/tonne	Carbon \$200/tonne	Carbon \$400/tonne
CT	\$2.44	\$4.89	\$7.33	\$24.45	\$48.89	\$97.79	\$195.58
CC	\$1.67	\$3.33	\$5.00	\$16.66	\$33.31	\$66.62	\$133.25
CP	\$4.31	\$8.62	\$12.93	\$43.09	\$86.18	\$172.36	\$344.73

<sup>150</sup> LMPs are recalculated to account for the defined cost of carbon emissions on marginal units' offer prices. The LMP calculation is not based on a counterfactual redispatch of the system to determine the marginal units and the marginal costs that would have occurred if all units had made all offers at short run marginal cost. See Technical Reference for PJM Markets, "Calculation and Use of Generator Sensitivity/Unit Participation Factors," <[http://www.monitoringanalytics.com/reports/Technical\\_References/references.shtml](http://www.monitoringanalytics.com/reports/Technical_References/references.shtml)>.

<sup>151</sup> Heat rates from: 2021 *State of the Market Report for PJM: January through June*, Section 7: Net Revenue, Table 7-3.

<sup>152</sup> Prices reflect carbon emissions rates from Table A.3. *Carbon Dioxide Uncontrolled Emission Factors*, EIA, <[https://www.eia.gov/electricity/annual/html/epa\\_a\\_03.html](https://www.eia.gov/electricity/annual/html/epa_a_03.html)> (Accessed July 27, 2022).

Table 8-9 also illustrates the effective cost of carbon included in the price of a REC or SREC. For example, the average price of an SREC in New Jersey was \$204.23 per credit in the first nine months of 2022. The SREC price is paid in addition to the energy price paid at the time the solar energy is produced. If the MWh produced by the solar resource resulted in avoiding the production of one MWh from a CT, the value of carbon reduction implied by the SREC price is a carbon price slightly more than \$400 per tonne since the price of the SREC is slightly higher than the carbon price per MWh for a CT (\$195.58). This result also assumes that the entire value of the SREC was based on reduced carbon emissions. The SREC price consistent with a carbon price of \$50.00 per tonne, assuming that a MWh from a CT is avoided, is \$24.45 per MWh.

Applying this method to Tier I and Class I REC and SREC price histories yields the implied carbon prices in Table 8-10. The carbon price implied by the average REC price during the first nine months of 2022 in Washington, DC is \$18.42 per tonne which is \$3.41 per tonne higher than the average RGGI auction price of \$15.01 per tonne. The carbon price implied by the average price for Ohio RECs in 2022 is \$18.05 per tonne and implied carbon price for Virginia RECs is \$19.22 per tonne. The implied carbon prices for Maryland, New Jersey and Pennsylvania RECs are well above the RGGI clearing price, and well below the social cost of carbon which is estimated to be in the range of \$50 per tonne.<sup>153</sup> The carbon prices implied by SREC prices have no apparent relationship to carbon prices implied by the REC clearing prices. The carbon prices implied by the SREC prices all exceed the carbon prices implied by the corresponding REC prices, and all exceed the social cost of carbon.

<sup>153</sup> "Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis – Under Executive Order 12899," Interagency Working Group on the Social Cost of Greenhouse Gases, United States Government, (Aug. 2016), <[https://19january2017snapshot.epa.gov/sites/production/files/2016-12/documents/sc\\_co2\\_tsd\\_august\\_2016.pdf](https://19january2017snapshot.epa.gov/sites/production/files/2016-12/documents/sc_co2_tsd_august_2016.pdf)>.



**Table 8-10 Implied carbon price based on REC and SREC prices: 2009 through September 2022**

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
<b>Jurisdiction with Tier I or Class I REC</b>														
	<b>Carbon Price (\$ per tonne) Implied by REC Prices</b>													
Delaware					\$34.26	\$35.28	\$26.33	\$23.64	\$10.29	\$11.60	\$16.10	\$19.94		
Maryland	\$2.08	\$1.93	\$3.07	\$6.36	\$17.51	\$28.54	\$29.27	\$26.17	\$23.19	\$21.35	\$17.81	\$19.98	\$24.97	\$27.65
New Jersey	\$13.38	\$17.79	\$8.60	\$4.75	\$13.13	\$21.10	\$25.37	\$27.01	\$24.08	\$22.08	\$19.25	\$20.54	\$24.72	\$26.17
Ohio						\$10.19	\$5.91	\$4.03	\$6.29	\$11.21	\$14.04	\$16.33	\$17.12	\$17.14
Pennsylvania	\$6.84	\$8.16	\$3.34	\$4.31	\$15.92	\$26.74	\$28.96	\$26.43	\$23.42	\$21.53	\$17.96	\$20.06	\$24.33	\$27.34
Virginia													\$18.62	\$19.22
Washington, D.C.							\$3.20	\$4.05	\$4.90	\$4.69	\$5.52	\$11.82	\$15.14	\$18.42
<b>Jurisdiction with Solar REC</b>														
	<b>Carbon Price (\$ per tonne) Implied by Solar REC Prices</b>													
Delaware						\$117.60	\$85.66	\$86.75	\$35.80	\$17.38				
Maryland		\$547.76	\$496.04	\$383.73	\$305.46	\$293.59	\$251.99	\$183.64	\$128.05	\$87.27	\$84.19	\$101.68	\$120.77	\$107.41
New Jersey	\$1,376.52	\$1,356.24	\$1,312.96	\$538.70	\$346.98	\$327.20	\$389.91	\$425.49	\$460.60	\$446.35	\$410.31	\$394.18	\$406.60	\$417.70
Ohio						\$82.56	\$45.25	\$36.26	\$31.92	\$21.73	\$26.65			
Pennsylvania	\$611.89	\$592.36	\$379.82	\$102.11	\$68.55	\$76.13	\$67.09	\$55.22	\$43.97	\$28.16	\$51.65	\$63.80	\$72.27	\$84.74
Washington, D.C.	\$715.14	\$437.60	\$503.14	\$657.50	\$959.44	\$960.35	\$997.05	\$996.49	\$868.79	\$842.89	\$851.39	\$869.41	\$847.22	\$847.59
<b>Regional Greenhouse Gas Initiative</b>														
	<b>CO<sub>2</sub> Allowance Price (\$ per tonne)</b>													
RGGI clearing price	\$3.06	\$2.12	\$2.08	\$2.13	\$3.22	\$5.21	\$6.72	\$4.93	\$3.77	\$4.86	\$5.98	\$7.06	\$10.59	\$15.01

**Table 8-11 Carbon price for natural gas fired generators<sup>154</sup>**

Heat Rate (Btu per kWh)	Carbon Price (\$ per MWh)										
	\$10.00	\$15.00	\$20.00	\$25.00	\$30.00	\$35.00	\$40.00	\$45.00	\$50.00	\$55.00	\$60.00
6,000	\$3.17	\$4.76	\$6.35	\$7.94	\$9.52	\$11.11	\$12.70	\$14.29	\$15.87	\$17.46	\$19.05
6,500	\$3.44	\$5.16	\$6.88	\$8.60	\$10.32	\$12.04	\$13.76	\$15.48	\$17.20	\$18.92	\$20.63
7,000	\$3.70	\$5.56	\$7.41	\$9.26	\$11.11	\$12.96	\$14.81	\$16.67	\$18.52	\$20.37	\$22.22
7,500	\$3.97	\$5.95	\$7.94	\$9.92	\$11.90	\$13.89	\$15.87	\$17.86	\$19.84	\$21.83	\$23.81
8,000	\$4.23	\$6.35	\$8.47	\$10.58	\$12.70	\$14.81	\$16.93	\$19.05	\$21.16	\$23.28	\$25.40
8,500	\$4.50	\$6.75	\$8.99	\$11.24	\$13.49	\$15.74	\$17.99	\$20.24	\$22.49	\$24.74	\$26.98
9,000	\$4.76	\$7.14	\$9.52	\$11.90	\$14.29	\$16.67	\$19.05	\$21.43	\$23.81	\$26.19	\$28.57
9,500	\$5.03	\$7.54	\$10.05	\$12.57	\$15.08	\$17.59	\$20.11	\$22.62	\$25.13	\$27.65	\$30.16
10,000	\$5.29	\$7.94	\$10.58	\$13.23	\$15.87	\$18.52	\$21.16	\$23.81	\$26.45	\$29.10	\$31.75
10,500	\$5.56	\$8.33	\$11.11	\$13.89	\$16.67	\$19.44	\$22.22	\$25.00	\$27.78	\$30.56	\$33.33
11,000	\$5.82	\$8.73	\$11.64	\$14.55	\$17.46	\$20.37	\$23.28	\$26.19	\$29.10	\$32.01	\$34.92
11,500	\$6.08	\$9.13	\$12.17	\$15.21	\$18.25	\$21.30	\$24.34	\$27.38	\$30.42	\$33.47	\$36.51
12,000	\$6.35	\$9.52	\$12.70	\$15.87	\$19.05	\$22.22	\$25.40	\$28.57	\$31.75	\$34.92	\$38.10
12,500	\$6.61	\$9.92	\$13.23	\$16.53	\$19.84	\$23.15	\$26.45	\$29.76	\$33.07	\$36.38	\$39.68
13,000	\$6.88	\$10.32	\$13.76	\$17.20	\$20.63	\$24.07	\$27.51	\$30.95	\$34.39	\$37.83	\$41.27
13,500	\$7.14	\$10.71	\$14.29	\$17.86	\$21.43	\$25.00	\$28.57	\$32.14	\$35.71	\$39.29	\$42.86
14,000	\$7.41	\$11.11	\$14.81	\$18.52	\$22.22	\$25.93	\$29.63	\$33.33	\$37.04	\$40.74	\$44.44
14,500	\$7.67	\$11.51	\$15.34	\$19.18	\$23.02	\$26.85	\$30.69	\$34.52	\$38.36	\$42.20	\$46.03
15,000	\$7.94	\$11.90	\$15.87	\$19.84	\$23.81	\$27.78	\$31.75	\$35.71	\$39.68	\$43.65	\$47.62

<sup>154</sup> Prices reflect carbon emission rates from Table A.3. Carbon Dioxide Uncontrolled Emission Factors, EIA, <[https://www.eia.gov/electricity/annual/html/epa\\_a\\_03.html](https://www.eia.gov/electricity/annual/html/epa_a_03.html)> (Accessed July 27, 2022).

Table 8-12 Carbon price for coal fired generators<sup>155</sup>

Heat Rate (Btu per kWh)	Carbon Price (\$ per MWh)										
	\$10.00	\$15.00	\$20.00	\$25.00	\$30.00	\$35.00	\$40.00	\$45.00	\$50.00	\$55.00	\$60.00
9,000	\$8.39	\$12.58	\$16.77	\$20.96	\$25.16	\$29.35	\$33.54	\$37.73	\$41.93	\$46.12	\$50.31
9,500	\$8.85	\$13.28	\$17.70	\$22.13	\$26.55	\$30.98	\$35.40	\$39.83	\$44.26	\$48.68	\$53.11
10,000	\$9.32	\$13.98	\$18.63	\$23.29	\$27.95	\$32.61	\$37.27	\$41.93	\$46.58	\$51.24	\$55.90
10,500	\$9.78	\$14.67	\$19.57	\$24.46	\$29.35	\$34.24	\$39.13	\$44.02	\$48.91	\$53.81	\$58.70
11,000	\$10.25	\$15.37	\$20.50	\$25.62	\$30.75	\$35.87	\$40.99	\$46.12	\$51.24	\$56.37	\$61.49
11,500	\$10.71	\$16.07	\$21.43	\$26.79	\$32.14	\$37.50	\$42.86	\$48.22	\$53.57	\$58.93	\$64.29
12,000	\$11.18	\$16.77	\$22.36	\$27.95	\$33.54	\$39.13	\$44.72	\$50.31	\$55.90	\$61.49	\$67.08
12,500	\$11.65	\$17.47	\$23.29	\$29.12	\$34.94	\$40.76	\$46.58	\$52.41	\$58.23	\$64.05	\$69.88
13,000	\$12.11	\$18.17	\$24.22	\$30.28	\$36.34	\$42.39	\$48.45	\$54.50	\$60.56	\$66.62	\$72.67
13,500	\$12.58	\$18.87	\$25.16	\$31.44	\$37.73	\$44.02	\$50.31	\$56.60	\$62.89	\$69.18	\$75.47
14,000	\$13.04	\$19.57	\$26.09	\$32.61	\$39.13	\$45.65	\$52.18	\$58.70	\$65.22	\$71.74	\$78.26
14,500	\$13.51	\$20.26	\$27.02	\$33.77	\$40.53	\$47.28	\$54.04	\$60.79	\$67.55	\$74.30	\$81.06
15,000	\$13.98	\$20.96	\$27.95	\$34.94	\$41.93	\$48.91	\$55.90	\$62.89	\$69.88	\$76.87	\$83.85
15,500	\$14.44	\$21.66	\$28.88	\$36.10	\$43.32	\$50.54	\$57.77	\$64.99	\$72.21	\$79.43	\$86.65
16,000	\$14.91	\$22.36	\$29.81	\$37.27	\$44.72	\$52.18	\$59.63	\$67.08	\$74.54	\$81.99	\$89.44
16,500	\$15.37	\$23.06	\$30.75	\$38.43	\$46.12	\$53.81	\$61.49	\$69.18	\$76.87	\$84.55	\$92.24
17,000	\$15.84	\$23.76	\$31.68	\$39.60	\$47.52	\$55.44	\$63.36	\$71.27	\$79.19	\$87.11	\$95.03
17,500	\$16.30	\$24.46	\$32.61	\$40.76	\$48.91	\$57.07	\$65.22	\$73.37	\$81.52	\$89.68	\$97.83
18,000	\$16.77	\$25.16	\$33.54	\$41.93	\$50.31	\$58.70	\$67.08	\$75.47	\$83.85	\$92.24	\$100.62

## State Renewable Portfolio Standards

Ten of 14 PJM jurisdictions have enacted legislation that requires that a defined percentage of retail load be served by renewable resources, for which there are many standards and definitions. These requirements are known as renewable portfolio standards, or RPS. In PJM jurisdictions that have adopted an RPS, load serving entities are required by law to meet defined shares of load using specific renewable and/or alternative energy sources commonly called eligible technologies. Load serving entities may generally fulfill these obligations in one of two ways: they may use their own generation resources classified as eligible technologies to produce power or they may purchase renewable energy credits (RECs) that represent a known quantity of power produced with eligible technologies by other market participants or in other geographical locations. Load serving entities that fail to meet the percent goals

<sup>155</sup> Prices reflect carbon emission rates for refined coal in Table A.3. Carbon Dioxide Uncontrolled Emission Factors, EIA, <[https://www.eia.gov/electricity/annual/html/epa\\_a\\_03.html](https://www.eia.gov/electricity/annual/html/epa_a_03.html)> (Accessed July 27, 2022).

set in their jurisdiction's RPS must pay penalties (alternative compliance payments).

Renewable energy sources replenish naturally in a short period of time but are flow limited and include solar, geothermal, wind, biomass and hydropower from flowing water. Renewable energy sources are virtually inexhaustible in duration but limited in the amount of energy that is available per unit of time. Nonrenewable energy sources do not replenish in a short period of time and include crude oil, natural gas, coal and uranium (nuclear energy).<sup>156</sup> Some state rules allow nonrenewable energy sources as part of their Renewable Portfolio Standard.

As of September 30, 2022, Delaware, Illinois, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Virginia and Washington, DC had mandatory renewable portfolio standards that include penalties.

As of September 30, 2022, Indiana had voluntary renewable portfolio standards that do not require participation and do not include noncompliance penalties. Incentives are offered to load serving entities to develop renewable generation or, to a more limited extent, purchase RECs. The voluntary standard was enacted by the Indiana legislature in 2011, but no load serving entities have volunteered to participate in the program.<sup>157</sup>

As of September 30, 2022, Kentucky, Tennessee and West Virginia had no renewable portfolio standards.

How each state satisfies its renewable portfolio standard requirements should be more transparent. While some jurisdictions publish transparent information regarding total REC generation, how the standard is fulfilled and the total cost to the state, some jurisdictions do not provide the same level of detail and there can be a significant lag from the end of the compliance year to the publication of the information. Some states provide adequate information

<sup>156</sup> *Renewable Energy Explained*, U.S. Energy Information Administration, <[https://www.eia.gov/energyexplained/index.php?page=renewable\\_home](https://www.eia.gov/energyexplained/index.php?page=renewable_home)> (Accessed October 23, 2019).

<sup>157</sup> See the Indiana Utility Regulatory Commission's "2021 Annual Report," at 37 (Oct. 2021) <<https://www.in.gov/iurc/2981.htm>>.

with respect to the total cost for the RPS, where the RECs originated that fulfill the RPS requirements, and if the state fulfilled the RPS goals. Pennsylvania and Maryland both provide more information than other states and serve as a model for other states. The MMU recommends that jurisdictions with a renewable portfolio standard make the compliance data and cost data available in a more complete and transparent manner.

Since a REC may be applied in years other than the year in which it was generated, each vintage of RECs for each state has a different price. For example, the Pennsylvania Alternative Energy Portfolio Standard allows an electric distribution company or generation supplier to retain RECs from the current reporting year for use toward satisfying their REC obligation in either of the two subsequent reporting years.<sup>158</sup>

Table 8-13 shows the percent of retail electric load that must be served by renewable and/or alternative energy resources under each PJM jurisdictions' RPS by year.

**Table 8-13 Renewable and alternative energy standards of PJM jurisdictions: 2021 to 2030**<sup>159 160</sup>

Jurisdiction with RPS	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Delaware	21.00%	22.00%	23.00%	24.00%	25.00%	25.50%	26.00%	26.50%	27.00%	28.00%
Illinois	19.00%	20.50%	22.00%	23.50%	25.00%	28.00%	31.00%	34.00%	37.00%	40.00%
Maryland	33.30%	32.60%	34.40%	36.20%	38.00%	40.50%	44.00%	45.50%	50.00%	52.50%
Michigan	15.00%	15.00%	15.00%	15.00%	15.00%	15.00%	15.00%	15.00%	15.00%	15.00%
New Jersey	23.50%	24.50%	29.50%	37.50%	40.50%	43.50%	46.50%	49.50%	52.50%	52.50%
North Carolina	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%	12.50%
Ohio	6.00%	6.50%	7.00%	7.50%	8.00%	8.50%	0.00%	0.00%	0.00%	0.00%
Pennsylvania	18.00%	18.00%	18.00%	18.00%	18.00%	18.00%	18.00%	18.00%	18.00%	18.00%
Virginia (Phase I utilities)	6.00%	7.00%	8.00%	10.00%	14.00%	17.00%	20.00%	24.00%	27.00%	30.00%
Virginia (Phase II utilities)	14.00%	17.00%	20.00%	23.00%	26.00%	29.00%	32.00%	35.00%	38.00%	41.00%
Washington, D.C.	26.25%	32.50%	38.75%	45.00%	52.00%	59.00%	66.00%	73.00%	80.00%	87.00%
<b>Jurisdiction with Voluntary Standard</b>										
Indiana	7.00%	7.00%	7.00%	7.00%	10.00%	0.00%	0.00%	0.00%	0.00%	0.00%
<b>Jurisdiction with No Standard</b>										
Kentucky	No Renewable Portfolio Standard									
Tennessee	No Renewable Portfolio Standard									
West Virginia	No Renewable Portfolio Standard									

<sup>158</sup> Pennsylvania General Assembly, "Alternative Energy Portfolio Standards Act – Enactment Act of Nov. 30, 2004, P.L. 1672, No. 213," Section (e)[6].

<sup>159</sup> This shows the total standard of alternative resources in all PJM jurisdictions, including Tier I and Tier II.

<sup>160</sup> The table reflects calendar year standards for Maryland, Washington, DC, Ohio, and North Carolina. The standards for the remaining jurisdictions are for compliance years that begin on June 1, CCYY and end on May 31 of the following year.

The Climate and Equitable Jobs Act (CEJA), which became effective on September 15, 2021 in Illinois, increased the RPS target percent from 25 percent by 2025 to 40 percent by 2030. CEJA also increased the quotas for RECs sourced from new wind and new photovoltaic resources, and made changes to eligible technologies and geographic restrictions. See Table 8-14 for details.

Updates to the Maryland RPS became effective on June 1, 2021. Maryland Senate Bill 65 changed the intermediate RPS target levels while maintaining the target of 50.0 percent renewable by 2030.<sup>161</sup> Part of the legislation was to eliminate resources fueled by black liquor as a Tier 1 eligible technology. Senate Bill 65 reduced the penalty for solar non compliance from \$100 per credit to \$80 per credit, and extended the Tier 2 standard which was scheduled to expire with the 2020 compliance year.

<sup>161</sup> Senate Bill 65 Electricity – Renewable Energy Portfolio Standard – Tier 2 Renewable Sources, Qualifying Biomass, and Compliance Fees, Maryland General Assembly (2021) <<https://mgaleg.maryland.gov/mgawebbsite/Legislation/Details/sb0065?ys=2021RS>>.

The Delaware General Assembly passed new RPS legislation on February 10, 2021. The new law updates the Delaware RPS targets from 25 percent in 2025 to 40 percent in 2035.<sup>162</sup> Additional details are provided in Table 8-14.

On April 11, 2020, the Virginia legislature passed a new law that replaced Virginia's current voluntary RPS with a mandatory RPS.<sup>163</sup> The new law requires by 2050 that 100 percent of energy sold by phase I utilities must come from RPS eligible resources; and 100 percent of energy sold by phase II utilities must come from RPS eligible resources by 2045.<sup>164</sup> <sup>165</sup> Intermediate RPS targets begin in 2021 with a 6.0 percent standard for phase I utilities and a 14.0 percent standard for phase II utilities. Eligible RPS resources include wind, solar, hydroelectric, landfill gas and biomass resources.

In 2018, New Jersey passed legislation that included provisions promoting the development of solar power in the state.<sup>166</sup> The Board of Public Utilities is directed to develop and provide an orderly transition to a new or modified program to support distributed solar. The Board must also design a Community Solar Energy Pilot Program that would “permit customers of an electric public utility to participate in a solar energy project that is remotely located from their properties but is within their electric public utility service territory to allow for a credit to the customer’s utility bill equal to the electricity generated that is attributed to the customer’s participation in the solar energy project.” The pilot program would convert into a permanent program within three years. The statute targets the development of 600 MW of electric storage by 2021 and 2,000 MW by 2030.

On May 18, 2021, Maryland enacted legislation doubling the limit on net metered capacity from 1,500 to 3,000 MW.<sup>167</sup> The legislation is expected to boost the installation of distribution level solar power.

On July 9, 2021, New Jersey enacted legislation establishing a new program for SRECs under the BPU.<sup>168</sup> Through the SREC-II program, the BPU distribute solar renewable certificates to qualifying solar power facilities. The legislation includes incentives for at least 1,500 MW of behind the meter solar facilities and 750 MW of community solar by 2026. It also includes a new competitive solicitation process to incentivize at least 1,500 MW of large-scale solar power facilities by 2026, and develops siting criteria for large-scale solar projects.

Table 8-14 summarizes recent rules changes in Ohio, Maryland, New Jersey, and Washington, DC.

<sup>162</sup> See Senate Bill 33, Delaware General Assembly (February 10, 2021) <<https://legis.delaware.gov/BillDetail?legislationId=48278>>.

<sup>163</sup> See “Virginia Clean Economy Act,” (April 12, 2020) <<https://www.governor.virginia.gov/newsroom/all-releases/2020/april/headline-856056-en.html>>.

<sup>164</sup> A phase I utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and a phase II utility is an investor-owned incumbent electric utility that was bound by such a settlement (§ 56-585.1 of the Virginia Code).

<sup>165</sup> APCO (AEP) is a phase I utility and Dominion Energy Virginia is a phase II utility. Cooperatives are not subject to the RPS

<sup>166</sup> N.J. S. 2314/A. 3723.

<sup>167</sup> Md. Code Ann § 7-306(d) & 7-306.2(g) (HB 569).

<sup>168</sup> N.J. P.L.2021 (S. 2605/A 4554).

**Table 8-14 Recent changes in RPS rules**<sup>169 170 171 172 173 174 175</sup>

Jurisdiction	Legislation	Effective Date	Summary of changes
Illinois	Climate and Equitable Jobs Act (Public Act 102-0662)	September 15, 2021	Updated the RPS target to 40.0 percent by 2030. The previous target of 25.0 percent by 2025 is still required. Updated the requirement for RECs from new wind generation from 2,000 GWH annually to 4,500 GWH beginning in the 2021/2022 delivery year; increasing to 20,250 GWH in 2030/2031. Updated the requirement for RECs from new photovoltaic generation from 2,000 GWH annually to 5,500 GWH beginning in the 2021/2022 delivery year; increasing to 24,750 GWH in 2030/2031. Removed tree waste as an energy source for eligible resources and added waste heat to power systems and qualified combined heat and power systems as eligible resources. Updated the geographic restrictions to allow RECs from utility scale wind or photovoltaic resources that are deliverable via high voltage direct current transmission.
Maryland	Senate Bill 65	June 1, 2021	Maintains the Tier 1 target of 50.0 percent in 2030 with 14.5 percent solar carve out, but changes the intermediary target levels beginning in 2022. The alternative compliance payment for solar was reduced and the definition of Tier 1 resource now excludes generators fueled by black liquor. Extends indefinitely the Tier 2 target of 2.5 percent which was set to expire in 2020. Tier 2 resources are defined as hydroelectric power other than pumped storage.
Delaware	151st General Assembly Senate Bill 33	February 1, 2021	Increases the RPS target from 25.0 percent in 2025 to 40.0 percent in 2035. Sets the solar carve out requirement to 10.0 percent in 2035. Establishes intermediary target levels for total RPS and the solar carve out for compliance years 2026 through 2034. Lowered the solar alternative compliance payment (SACP) from \$400 per credit to \$150 per credit.
Virginia	Virginia Clean Economy Act	April 11, 2020	Replaces the voluntary RPS with a mandatory RPS beginning in January 2021. The legislation requires 100 percent clean energy by 2050 for phase I utilities and 100 percent clean energy by 2045 for phase II utilities. Intermediate target levels begin in 2021 with 6 percent for phase I utilities and 14 percent for phase II utilities.
Ohio	House Bill 6	October 22, 2019	Reduced the RPS percent for each year beginning in 2020. The 2020 standard was reduced from 6.5 percent to 5.5 percent; the 2026 standard was reduced from 12.5 percent to 8.5 percent. The legislation also removed language that had previously indicated that the standard would remain at the 2026 level for each year after 2026. The solar carve out was removed for compliance year 2020 and beyond. Prior to the recent legislation, the solar carve out was 0.26 percent for 2020, increased to 0.50 percent for 2026, and remained at 0.50 percent for subsequent years.
Maryland	Clean Energy Jobs Act	May 25, 2019	Established a new Tier I target of 50.0 percent in 2030; previously the 2030 Tier I standard was 25.0 percent. The 2019 Tier I standard increased from 20.4 percent to 20.7. The solar carve out percent for 2019 increased from 1.95 percent to 5.50 percent. The solar carve out percent for 2030 increased from 2.5 percent to 14.5 percent. The 2.5 percent Tier II standard, scheduled to end in 2018, was extended through 2020.
Washington, D.C.	CleanEnergy DC Omnibus Amendment Act of 2018	March 22, 2019	Established a 100 percent Tier I renewable standard by 2032. Previously, the 2032 target was 50.0 percent. Tier I increases start in 2020, going from 20.0 percent to 26.25 percent. The 2020 solar carve out will increase from 1.58 percent to 2.175 percent. The 2041 target for the solar carve out is 10.0 percent.

New Jersey and Maryland have taken significant steps to promote offshore wind. Both states enacted legislation for offshore wind renewable energy credits (ORECs) in 2010.<sup>176</sup>

On May 24, 2018, New Jersey enacted a statute directing the Board of Public Utilities to create an OREC program targeting installation of at least 3,500 MW of offshore wind capacity by 2030 (plus 2,000 MW of energy storage capacity).<sup>177</sup> The New Jersey statute also reinstates certain tax incentives for offshore wind manufacturing activities. Governor Murphy has issued Executive Order No. 8, which calls for full implementation of the statute. The offshore wind target 3,500 MW by 2030 has since been replaced by a target of 7,500 MW by 2035.<sup>178</sup> The BPU opened a 100 day application window for qualified offshore wind projects on September 20, 2018, and on June 21, 2019, the first award for a 1,100 MW offshore wind project was granted to Orsted.<sup>179 180</sup>

169 Illinois Climate and Equitable Jobs Act (Public Act 102-0662), Section 90-30 (September 15, 2021).

170 See "Virginia Clean Economy Act," (April 12, 2020) <<https://www.governor.virginia.gov/newsroom/all-releases/2020/april/headline-856056-en.html>>.

171 See Ohio Legislature House, 133<sup>rd</sup> Assembly, Bill No. 6, "Ohio Clean Air Program," effective Date October 22, 2019, <<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-6>>.

172 See Maryland State Legislature, Senate Bill No. 516, "Clean Energy Jobs," Passed May 25, 2019, <<https://legiscan.com/md/text/sb516/2019>>.

173 D.C. Law 22-257 "CleanEnergy DC Omnibus Amendment Act of 2018," Effective March 22, 2019, <<https://code.dccouncil.us/dccouncil/laws/22-257.html>>.

174 See Senate Bill 33, Delaware General Assembly (February 10, 2021) <<https://legis.delaware.gov/BillDetail?legislationId=48278>>.

175 Senate Bill 65 Electricity - Renewable Energy Portfolio Standard - Tier 2 Renewable Sources, Qualifying Biomass, and Compliance Fees, Maryland General Assembly (2021) <<https://mgaleg.maryland.gov/mgaweb/Legislation/Details/sb0065?ys=2021RS>>.

176 See Offshore Wind Economic Development Act of 2010, P.L. 2010, c. 57, as amended, N.J.S.A. 48:3-87 to -87.2.

177 N.J. S. 2314/A. 3723.

178 Executive Order 92, Philip D. Murphy, Governor of New Jersey (November 19, 2019) <[https://nj.gov/infobank/eo/056murphy/approved/eo\\_archive.html](https://nj.gov/infobank/eo/056murphy/approved/eo_archive.html)>.

179 BPU Docket No. QO18080851.

180 "New Jersey Board of Public Utilities Awards Historic 1,100 MW Offshore Wind Solicitation to Orsted's Ocean Wind Project," New Jersey BPU Press Release (June 21, 2019) <<https://nj.gov/bpu/newsroom/2019/approved/20190621.html>>.



On December 17, 2021, the Maryland Public Service Commission awarded ORECs in its Round 2 solicitation to the 846 MW Skipjack Wind 2 offshore project, owned by Skipjack Offshore Energy LLC, an Orsted subsidiary, and to the 808.5 MW Momentum Wind offshore project, owned by US Wind Inc.<sup>181</sup> ORECs for Skipjack Wind 2 have a levelized price of \$71.61; ORECs for Momentum Wind have a levelized price of \$54.17.<sup>182</sup> Both projects are expected to become operational before the end of 2026.<sup>183</sup> In 2017, Round 1 ORECs were awarded to Deepwater Wind's 120-MW Skipjack Wind Farm, later acquired by Orsted, and U.S. Wind's 248 MW project.<sup>184</sup>

On July 1, 2019, Dominion Energy announced the beginning of construction on an offshore wind demonstration project. The project consists of two 6 MW offshore wind turbines.<sup>185</sup> In September 2019, Dominion filed an interconnection agreement with PJM associated with its proposal to develop a 2,600 MW offshore wind farm.<sup>186</sup>

Each PJM jurisdiction with an RPS identifies the type of generation resources that may be used for compliance. These resources are often called eligible technologies. Some PJM jurisdictions with RPS group different eligible technologies into tiers based on the magnitude of their environmental impact. Of the nine PJM jurisdictions with mandatory RPS, Maryland, New Jersey, Pennsylvania, and Washington, DC group the eligible technologies that must be used to comply with their RPS programs into Tier I and Tier II resources.<sup>187</sup> Although there are minor differences across these four jurisdictions' definitions of Tier I resources, technologies that use solar photovoltaic, solar thermal, wind, ocean, tidal, biomass, low-impact hydro, and geothermal sources to produce electricity are classified as Tier I resources. Table 8-15 shows the Tier I standards for PJM states.<sup>188</sup> All eligible technologies for the RPS standards in Table 8-15 satisfy the EIA definition of renewable energy.<sup>189</sup>

**Table 8-15 Tier I / Class I renewable standards of PJM jurisdictions: 2021 to 2030**

Jurisdiction with RPS	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Maryland	30.80%	30.10%	31.90%	33.70%	35.50%	38.00%	41.50%	43.00%	47.50%	50.00%
New Jersey	21.00%	22.00%	27.00%	35.00%	38.00%	41.00%	44.00%	47.00%	50.00%	50.00%
Pennsylvania	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%	8.00%
Washington, D.C.	26.25%	32.50%	38.75%	45.00%	52.00%	59.00%	66.00%	73.00%	80.00%	87.00%

Delaware, Illinois, Michigan, North Carolina, Virginia and Ohio do not classify the resources eligible for their RPS standards by tiers. In these states eligible technologies are largely but not completely renewable resources.<sup>190</sup>

RECs do not need to be used during the year in which they are generated. The result is that there may be multiple prices for a REC based on the year in which it was generated. RECs typically have a shelf life of five years during which they can be used to satisfy a state's RPS requirement. For example if a load serving

<sup>181</sup> "Orsted, US Wind Triumph with 1.6 GW in Maryland Offshore Tender," Renewables Now (December 20, 2021) <<https://renewablesnow.com/news/orsted-us-wind-triumph-with-16-gw-in-maryland-offshore-tender-766237/>>.

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> "Orsted Acquires Deepwater Wind and creates leading US Offshore Wind Platform," ORSTED Press Release (August 10, 2018).

<sup>185</sup> "Construction Begins on Dominion Energy Offshore Wind Project," Dominion Energy News Release (July 1, 2019) <<https://news.dominionenergy.com/2019-07-01-Construction-Begins-on-Dominion-Energy-Offshore-Wind-Project>>.

<sup>186</sup> "Dominion Energy Announces Largest Offshore Wind Project in US," Dominion Energy News Release (September 19, 2019) <<https://news.dominionenergy.com/2019-09-19-Dominion-Energy-Announces-Largest-Offshore-Wind-Project-in-US>>.

<sup>187</sup> New Jersey separates technologies into Class I/Class II resources in a manner that is consistent with the other jurisdictions' Tier I/Tier II categorizations.

<sup>188</sup> This includes New Jersey's Class I renewable standard.

<sup>189</sup> *Renewable Energy Explained*, U.S. Energy Information Administration, <[https://www.eia.gov/energyexplained/index.php?page=renewable\\_home](https://www.eia.gov/energyexplained/index.php?page=renewable_home)> (Accessed October 17, 2019).

<sup>190</sup> Michigan's Public Act 342, effective April 20, 2017, removed nonrenewable technologies (e.g. coal gasification, industrial cogeneration, and coal with carbon capture) from the list of RPS eligible technologies.

entity (LSE) owns renewable generation and the renewable generation exceeds the LSE’s RECs purchase obligation for the current year, the LSE can either sell the REC to another LSE or hold the REC for use in a subsequent year.

PJM GATS makes data available for the amount of eligible RECs by jurisdiction. Eligible RECs are not the amount of actual RECs generated for that timeframe. A REC that is created may be eligible in multiple jurisdictions resulting in an over representation of generated RECs. This means if one REC is retired in Pennsylvania, the total amount of eligible RECs will reduce by more than one REC.

The REC prices are the average price for each vintage of REC, defined by the year in which the associated power was generated, regardless of when the REC is consumed. REC prices are required to be publicly disclosed in Maryland, Pennsylvania and Washington, DC, but in the other states REC prices are not publicly available.

Figure 8-3 shows the average Tier I REC price by jurisdiction from January 1, 2009, through September 30, 2022. Tier I REC prices are lower than SREC prices. For example, the average SREC price during the first nine months of 2022 in Washington, DC was \$414.42 and the average Tier I price during the first nine months of 2022 in Washington, DC was \$9.01.

Figure 8-3 Average Tier I REC price by jurisdiction: 2009 through September 2022

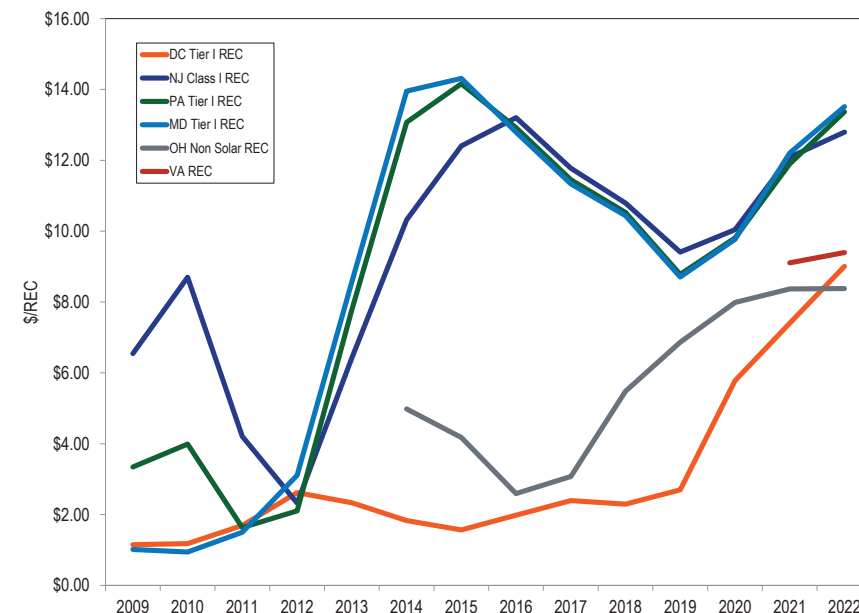


Figure 8-4 and Table 8-16 show the fulfillment of Tier I equivalent RPS requirement for 2016 through 2021 by state and by import and internal RECs and by carbon producing and noncarbon producing RECs.<sup>191</sup> Depending on the state, the RPS requirement can be fulfilled by wind, solar, hydro (“Noncarbon REC”) or with landfill gas, captured methane, wood, black liquor, and other fuels. (“Carbon Producing REC”). States’ Tier I requirements are not all carbon free. The Illinois RPS, beginning in 2019, is fulfilled by noncarbon RECs, but all other state Tier I equivalent RPS requirements allow carbon producing RECs to fulfill the RPS requirements. Figure 8-4 shows the use of imported and local carbon producing RECs and imported and local noncarbon RECs by state to meet the RPS requirements. Table 8-16 shows the percent of imported

<sup>191</sup> Retired REC information obtained through PJM GATS <<https://gats.pjm-eis.com/gats2/PublicReports/RPSRetiredCertificatesReportingYear/>> (Accessed October 18, 2022). The timing of the REC retirement reports varies by state and the 2021 reporting year data is incomplete for some states.

and local carbon producing RECs and imported and local noncarbon RECs by state used to meet the RPS requirements. For example, Virginia imported 80 percent of the RECs used to satisfy the RPS in 2021, its first year with a mandatory RPS, and 80.7 percent of the Virginia’s 2021 RECs were carbon free. Ohio met its RPS target using 85.9 percent imported RECs, and 14.1 percent State RECs for the 2021 compliance year. Ohio met its RPS target using 74.9 percent noncarbon producing RECs, and 25.1 percent carbon producing RECs for the 2021 compliance year. Illinois met its RPS target using 19.0 percent imported RECs, and 81.0 percent State RECs for the 2021 compliance year. Illinois met its RPS target using 100.0 percent noncarbon producing RECs for the 2019, 2020 and 2021 compliance years.

Figure 8-4 State fulfillment of Tier I equivalent RPS: 2016 through 2021

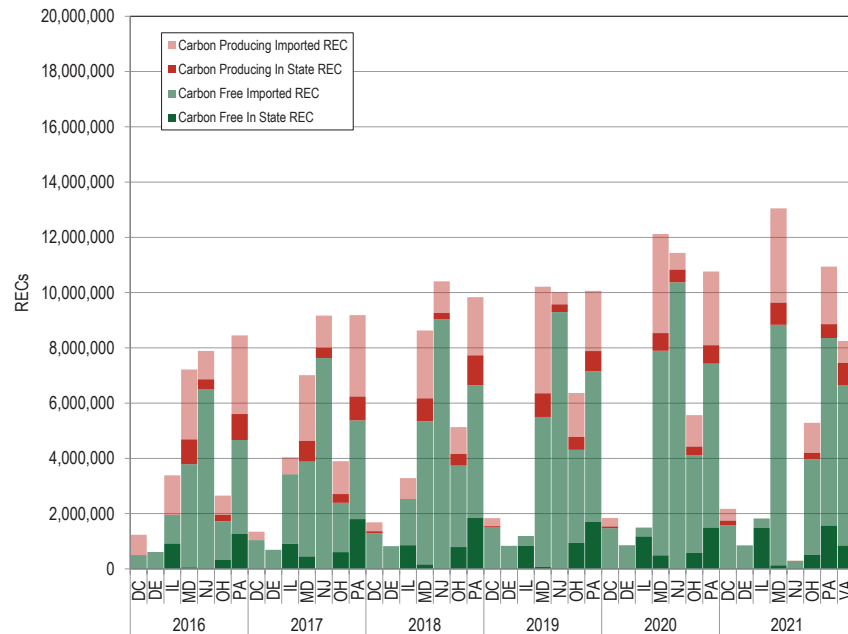


Table 8-16 State fulfillment of Tier I equivalent RPS: 2016 through 2021

Year	REC Type	Carbon Free REC		Carbon Producing REC	
		In State	Import	In State	Import
2016	DE New Eligible	1.0%	99.0%	0.0%	0.0%
	DC Tier I	0.0%	40.5%	0.0%	59.5%
	OH Renewable Energy Source	12.3%	52.8%	8.7%	26.2%
	IL Renewable	27.1%	30.3%	0.1%	42.5%
	MD Tier I	0.8%	51.7%	12.5%	35.0%
	NJ Class I	0.0%	82.5%	4.5%	13.0%
	PA Tier I	15.1%	40.2%	11.1%	33.7%
2017	DE New Eligible	0.7%	99.3%	0.0%	0.0%
	DC Tier I	0.0%	77.2%	0.0%	22.8%
	OH Renewable Energy Source	15.6%	45.8%	8.1%	30.6%
	IL Renewable	22.5%	62.3%	0.0%	15.2%
	MD Tier I	6.5%	48.9%	10.7%	34.0%
	NJ Class I	0.1%	83.2%	3.9%	12.8%
	PA Tier I	19.6%	38.9%	9.4%	32.0%
2018	DE New Eligible	0.4%	99.6%	0.0%	0.0%
	DC Tier I	0.0%	76.5%	4.5%	19.0%
	OH Renewable Energy Source	15.4%	57.4%	8.3%	18.9%
	IL Renewable	26.1%	51.0%	0.0%	22.9%
	MD Tier I	1.9%	60.1%	9.6%	28.5%
	NJ Class I	0.0%	86.7%	2.3%	11.0%
	PA Tier I	18.7%	48.9%	10.9%	21.4%
2019	DE New Eligible	0.3%	99.7%	0.0%	0.0%
	DC Tier I	0.0%	81.5%	2.8%	15.7%
	OH Renewable Energy Source	14.7%	53.0%	7.3%	25.0%
	IL Renewable	70.5%	29.5%	0.0%	0.0%
	MD Tier I	0.7%	53.2%	8.4%	37.8%
	NJ Class I	0.1%	92.7%	2.8%	4.4%
	PA Tier I	17.0%	54.2%	7.2%	21.7%
2020	DE New Eligible	0.9%	99.1%	0.0%	0.0%
	DC Tier I	0.0%	80.1%	3.3%	16.6%
	OH Renewable Energy Source	10.5%	63.5%	5.5%	20.5%
	IL Renewable	78.3%	21.7%	0.0%	0.0%
	MD Tier I	4.1%	61.1%	5.3%	29.6%
	NJ Class I	0.1%	90.6%	4.0%	5.3%
	PA Tier I	13.9%	55.1%	6.2%	24.8%
2021	DE New Eligible	0.0%	99.2%	0.8%	0.0%
	DC Tier I	0.0%	72.9%	7.4%	19.7%
	OH Renewable Energy Source	9.7%	65.3%	4.4%	20.6%
	IL Renewable	81.0%	19.0%	0.0%	0.0%
	MD Tier I	1.0%	66.7%	6.1%	26.1%
	NJ Class I	0.2%	92.3%	0.3%	7.2%
	PA Tier I	14.4%	62.0%	4.6%	19.1%
	VA Renewable	10.3%	70.4%	9.7%	9.6%

Table 8-17 shows the percent of retail electric load that must be served by Tier II or a specific type of resource under each PJM jurisdiction's RPS by year. Tier II resources are generally not renewable resources. Table 8-17 also shows specific technology requirements that PJM jurisdictions have added to their renewable portfolio standards. The standards shown in Table 8-17 are included in the total RPS requirements presented in Table 8-13. Maryland, New Jersey and Pennsylvania have Tier II or Class II standards, which allow specific nonrenewable technology types, such as waste coal units located in Pennsylvania, to qualify for renewable energy credits. Washington, DC previously had Tier II standards. The Washington, DC tier II standard was discontinued at the end of the 2019 compliance year. By 2024, North Carolina's RPS requires that 0.2 percent of power be generated using swine waste and that 900 GWh of power be produced by poultry waste in 2020. Maryland established a minimum standard for offshore wind in 2017 that takes effect in 2021 with a requirement that 1.37 percent of load be served by offshore wind. The standard increases to 2.03 percent in 2023.<sup>192</sup>

**Table 8-17 Additional renewable standards of PJM jurisdictions: 2021 to 2030**

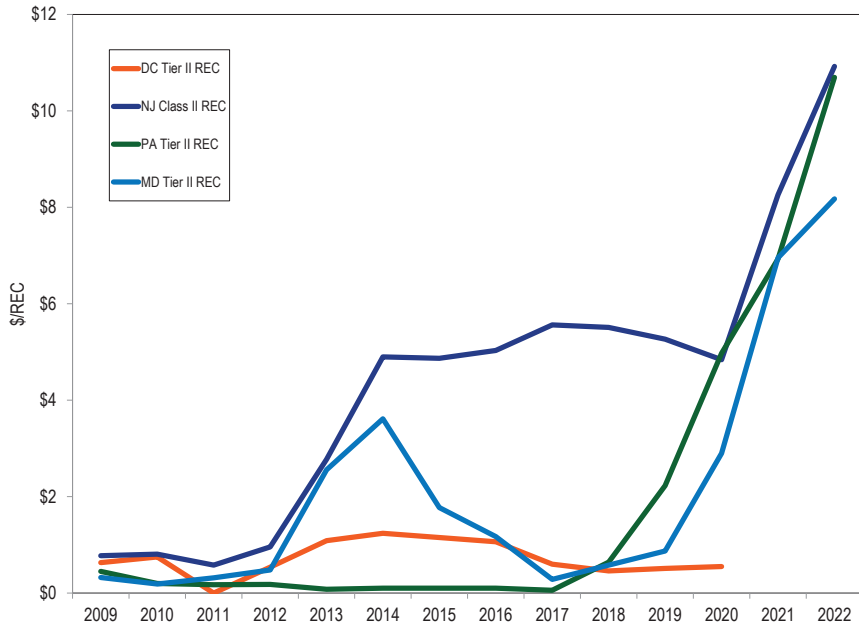
Jurisdiction	Type of Standard	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Maryland	Off Shore Wind	1.37%	1.36%	2.03%	2.01%	2.01%	1.99%	1.98%	1.96%	1.94%	1.94%
Maryland	Tier 2	2.50%	2.50%	2.50%	2.50%	2.50%	2.50%	2.50%	2.50%	2.50%	2.50%
New Jersey	Class II	2.50%	2.50%	2.50%	2.50%	2.50%	2.50%	2.50%	2.50%	2.50%	2.50%
North Carolina	Swine Waste	0.14%	0.14%	0.14%	0.20%	0.20%	0.20%	0.20%	0.20%	0.20%	0.20%
North Carolina	Poultry Waste (in GWh)	900	900	900	900	900	900	900	900	900	900
Pennsylvania	Tier II	10.00%	10.00%	10.00%	10.00%	10.00%	10.00%	10.00%	10.00%	10.00%	10.00%

Tier II prices are lower than SREC and Tier I REC prices. Figure 8-5 shows the average Tier II REC price by jurisdiction for January 1, 2009, through September 30, 2022. Maryland, New Jersey and Pennsylvania are the only states with a Tier II standard in 2022. In the first nine months of 2022, the average Pennsylvania Tier II REC price was \$10.69, the average New Jersey Class II REC price was \$10.92 and average Maryland Tier II REC price as \$8.18.<sup>193</sup>

<sup>192</sup> Public Service Commission of Maryland, Offshore Wind Projects, Order No. 88192 (May 11, 2017) at 8, Table 2 <<https://www.psc.state.md.us/wp-content/uploads/Order-No.-88192-Case-No.-9431-Offshore-Wind.pdf>>.

<sup>193</sup> Tier II REC price information obtained through Evolution Markets, Inc. <<http://www.evomarkets.com>>.

Figure 8-5 Average Tier II REC price by jurisdiction: 2009 through September 2022



Some PJM jurisdictions have specific solar resource RPS requirements. These solar requirements are included in the total requirements shown in Table 8-13 and Table 8-15 but must be met by solar RECs (SRECs) only. Table 8-18 shows the percent of retail electric load that must be served by solar energy resources under each PJM jurisdiction’s RPS by year. Delaware, Illinois, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, and Washington, DC have or have had requirements for the proportion of load to be served by solar. The Illinois RPS specifies the number of RECs that must be sourced from photovoltaic resources energized after June 1, 2017. Recent legislation increased the SREC requirement from 2,000,000 RECs to 5,500,000 RECs in the 2021/2022 Delivery Year.<sup>194</sup> New Jersey closed registration for new SRECs on April 30, 2020, having met its milestone that solar power equal or exceed 5.1 percent of New

Jersey electricity sales.<sup>195</sup> On December 6, 2019, the New Jersey Board of Public Utilities announced a transitional program for solar generators not eligible for New Jersey SRECs.<sup>196</sup> The new program establishes a 15 year fixed priced Transition REC (TREC). On July 28, 2021, New Jersey Board of Public Utilities approved the Successor Solar Incentive (SuSI) Program which will provide incentives for 3,750 MW of new solar generation by 2026.<sup>197</sup> Pennsylvania allows only solar photovoltaic resources to fulfill their solar requirements. Solar thermal units like solar hot water heaters that do not generate electricity are Tier I resources in Pennsylvania. Indiana, Kentucky, Michigan, Tennessee, Virginia, and West Virginia have no specific solar standards. The New Jersey legislature in May 2018 increased the solar standard from 3.2 percent to 4.3 percent for 2018, 5.1 percent for 2020 through 2022 and the solar standard decreases to 1.1 percent for 2032.<sup>198</sup> Maryland legislation in 2019 increased the solar carve out percentages from 2.5 percent to 14.5 percent in 2030. Ohio HB 6 removed the solar carve out from the Ohio RPS.<sup>199</sup> The Delaware General Assembly passed new RPS legislation on February 10, 2021 that increased the solar carve out target from 3.5 percent in 2025 to 10.0 percent in 2035.<sup>200</sup>

194 See amendments to Sec. 1-75(c)(1)(C) of the Illinois Power Agency Act contained in Section 90-30 of Public Act 102-0662.

195 See Clean Energy Act of 2019 (NJ AB-2723); N.J.A.C. 14:82.4(b)6; BPU, Monthly Report on Status toward Attainment of the 5.1 percent Milestone for Closure of the SREC Program (March 31, 2020).  
 196 "New Jersey Board of Public Utilities Approves Solar Transition Program, Initiates a Cost Cap Proceeding," New Jersey Board of Public Utilities Press Release (December 6, 2019) <<https://www.bpu.state.nj.us/bpu/newsroom/2019/approved/20191206.html>>.  
 197 "NJBPB Approves 3,750 MW Successor Solar Incentive Program", New Jersey Board of Public Utilities Press Release (July 28, 2021) <<https://www.nj.gov/bpu/newsroom/2021/approved/20210728.html>>.  
 198 "Assembly, No. 3723," State of New Jersey, 218<sup>th</sup> Legislature (March 22, 2018), <[http://www.njleg.state.nj.us/2018/Bills/A4000/3723\\_11.PDF](http://www.njleg.state.nj.us/2018/Bills/A4000/3723_11.PDF)>.  
 199 Ohio Legislature House, 133<sup>rd</sup> Assembly, Bill No. 6, "Ohio Clean Air Program," effective Date October 22, 2019, <<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-6>>.  
 200 See Senate Bill 33, Delaware General Assembly (February 10, 2021) <<https://legis.delaware.gov/BillDetail?legislationId=48278>>.

**Table 8-18 Solar renewable standards by percent of electric load for PJM jurisdictions: 2021 to 2030<sup>201</sup>**

Jurisdiction with RPS	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Delaware	2.50%	2.75%	3.00%	3.25%	3.50%	3.75%	4.00%	4.25%	4.50%	5.00%
Illinois (RECs)	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000	5,500,000	24,750,000
Maryland	7.50%	5.50%	6.00%	6.50%	7.00%	8.00%	9.50%	11.00%	12.50%	14.50%
Michigan	No Minimum Solar Requirement									
New Jersey	5.10%	5.10%	4.90%	4.80%	4.50%	4.35%	3.74%	3.07%	2.21%	1.58%
North Carolina	0.20%	0.20%	0.20%	0.20%	0.20%	0.20%	0.20%	0.20%	0.20%	0.20%
Ohio	No Minimum Solar Requirement									
Pennsylvania	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%
Washington, D.C.	2.50%	2.60%	2.85%	3.15%	3.45%	3.75%	4.10%	4.50%	4.75%	5.00%
<b>Jurisdiction with Voluntary Standard</b>										
Indiana	No Minimum Solar Requirement									
Virginia	No Minimum Solar Requirement									
<b>Jurisdiction with No Standard</b>										
Kentucky	No Renewable Portfolio Standard									
Tennessee	No Renewable Portfolio Standard									
West Virginia	No Renewable Portfolio Standard									

Figure 8-6 shows the average solar REC (SREC) price by jurisdiction for January 1, 2009, through September 30, 2022. The average NJ SREC price was \$204.23 in the first nine months of 2022. The limited supply of solar facilities in Washington, DC compared to the RPS requirement resulted in higher SREC prices. The average Washington, DC SREC price was \$414.42 per SREC in the first nine months of 2022.<sup>202</sup>

<sup>201</sup> The Illinois solar standard currently requires 5.5 million RECs from solar photovoltaic projects energized after June 1, 2017. Illinois Public Act 102-0662, September 15, 2021.

<sup>202</sup> Solar REC average price information obtained through Evolution Markets, Inc. <<http://www.evomarkets.com>> [Accessed October 18, 2022].



Figure 8-6 Average SREC price by jurisdiction: 2009 through September 2022

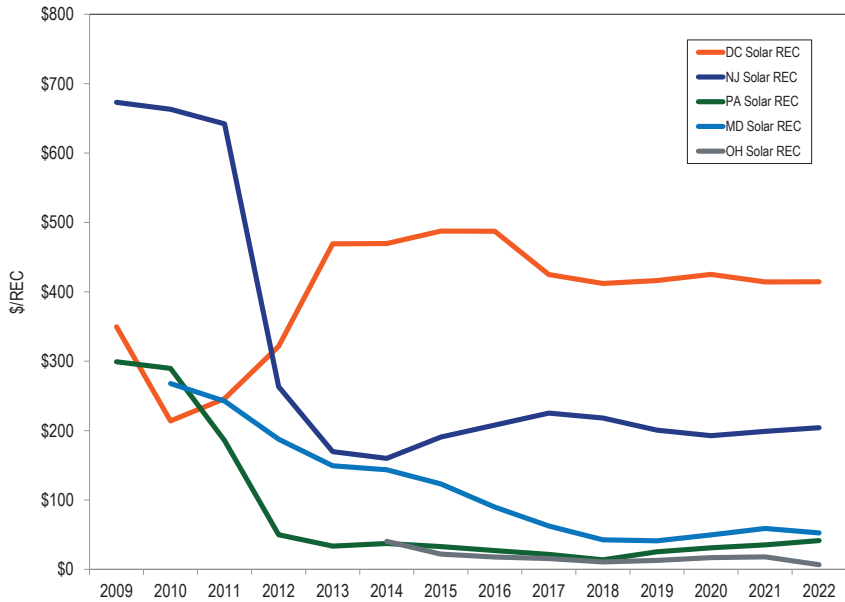


Figure 8-7 State fulfillment of Solar RPS: 2016 through 2021

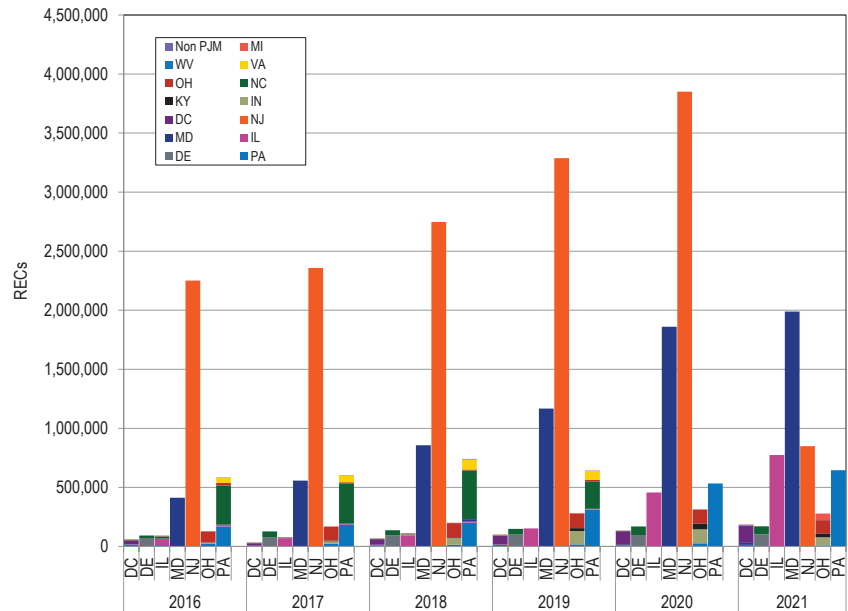


Figure 8-7 and Table 8-19 show where the SRECs originated that are used to satisfy the states' solar requirement for 2016 through 2021.<sup>203</sup> Depending on the state, the solar RPS requirement can be fulfilled by in state or out of state SRECs. The SRECs purchased in some states are imported from other PJM states and from non PJM states. Table 8-19 shows the percent of imported and local SRECs used to meet the RPS requirements. Since 2019, all SRECs used for RPS compliance in Illinois, Maryland, Pennsylvania and New Jersey have been sourced from in state solar generators.

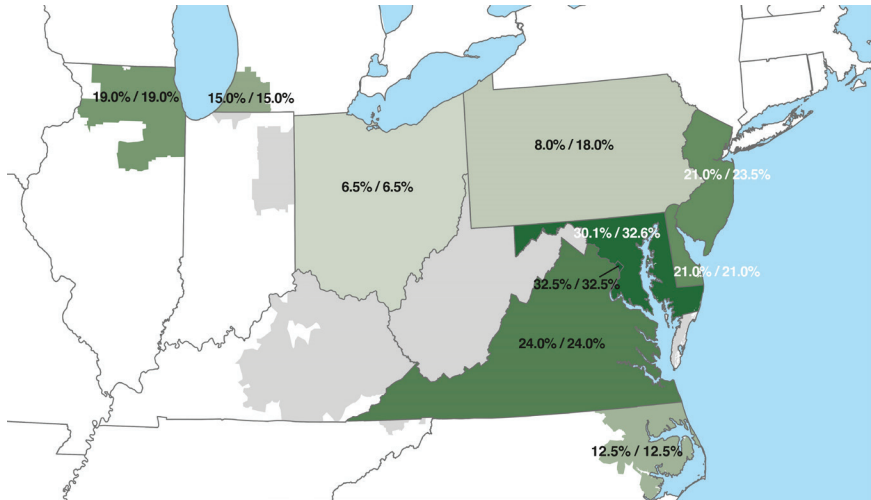
<sup>203</sup> Retired REC information obtained through PJM GATS <<https://gats.pjm-eis.com/gats2/PublicReports/RPSRetiredCertificatesReportingYear>> (Accessed October 18, 2022). The timing of the REC retirement reports varies by state and the 2021 reporting year data is incomplete for some states.

**Table 8-19 State fulfillment of Solar RPS: 2016 through 2021**

		In State SREC	Import SREC
2016	DC Solar	49.8%	50.2%
	DE Solar Eligible	76.5%	23.5%
	IL Solar Renewable	56.5%	43.5%
	MD Solar	100.0%	0.0%
	NJ Solar	100.0%	0.0%
	OH Solar Renewable Energy Source	73.3%	26.7%
	PA Solar	29.1%	70.9%
2017	DC Solar	63.8%	36.2%
	DE Solar Eligible	61.9%	38.1%
	IL Solar Renewable	87.6%	12.4%
	MD Solar	100.0%	0.0%
	NJ Solar	100.0%	0.0%
	OH Solar Renewable Energy Source	69.0%	31.0%
	PA Solar	30.6%	69.4%
2018	DC Solar	67.4%	32.6%
	DE Solar Eligible	67.7%	32.3%
	IL Solar Renewable	82.9%	17.1%
	MD Solar	100.0%	0.0%
	NJ Solar	100.0%	0.0%
	OH Solar Renewable Energy Source	59.5%	40.5%
	PA Solar	27.1%	72.9%
2019	DC Solar	72.4%	27.6%
	DE Solar Eligible	67.8%	32.2%
	IL Solar Renewable	100.0%	0.0%
	MD Solar	100.0%	0.0%
	NJ Solar	100.0%	0.0%
	OH Solar Renewable Energy Source	43.6%	56.4%
	PA Solar	48.8%	51.2%
2020	DC Solar	81.5%	18.5%
	DE Solar Eligible	56.7%	43.3%
	IL Solar Renewable	100.0%	0.0%
	MD Solar	100.0%	0.0%
	NJ Solar	100.0%	0.0%
	OH Solar Renewable Energy Source	36.8%	63.2%
	PA Solar	100.0%	0.0%
2021	DC Solar	78.0%	22.0%
	DE Solar Eligible	59.9%	40.1%
	IL Solar Renewable	100.0%	0.0%
	MD Solar	100.0%	0.0%
	NJ Solar	100.0%	0.0%
	OH Solar Renewable Energy Source	40.2%	59.8%
	PA Solar	100.0%	0.0%

Figure 8-8 shows the percent of retail electric load that must be served by Tier I resources and Tier 2 resources in each PJM jurisdiction with a mandatory RPS. For each state in Figure 8-8, the first number represents the RPS percent for Tier I or renewable energy resources; the second number represents the RPS percent for all eligible technologies which includes both renewable and alternative energy resources. States with higher percent requirements for renewable energy resources are shaded darker. Jurisdictions with no standards or with only voluntary RPS are shaded gray. Pennsylvania's RPS illustrates the need to differentiate between percent requirements for renewable and alternative energy resources. The Pennsylvania RPS identifies solar photovoltaic, solar thermal, wind, geothermal, biomass, and low-impact hydropower as Tier I resources. The Pennsylvania RPS identifies waste coal, demand side management, large-scale hydropower, integrated gasification combined cycle, clean coal and municipal solid waste as eligible Tier II resources. As a result, the 18.0 percent number in Figure 8-8 overstates the percent of retail electric load in Pennsylvania that must be served by renewable energy resources. The 8.0 percent number in Figure 8-8 is a more accurate measure of the percent of retail electric load in Pennsylvania that must be served by renewable energy resources.

**Figure 8-8 Map of retail electric load shares under RPS – Renewable / Alternative Energy resources: 2022<sup>204</sup>**



Under the existing state renewable portfolio standards, 17.0 percent of PJM load should have been served by Tier I and Tier II renewable and alternative energy resources in the first nine months of 2022. Tier I resources include landfill gas, run of river hydro, wind and solar resources. Tier II resources include pumped storage, large scale hydro, solid waste and waste coal resources. In the first nine months of 2022, 8.1 percent of PJM generation was renewable and alternative energy resources, including carbon producing and noncarbon producing Tier I and Tier II generation as shown in Table 8-20. If the proportion of load among states remains constant, 30.8 percent of PJM load must be served by Tier I and Tier II renewable and alternative energy resources in 2030 under currently defined RPS rules. Approximately 14.6 percent of PJM load should have been served by Tier I or renewable energy resources in the first nine months of 2022. In the first nine months of 2022, 5.8 percent of PJM generation was Tier I or renewable energy. The current REC production from PJM generation resources was not enough to meet the state renewable requirements for the first nine months of 2022, and

<sup>204</sup> The standards in this chart include the Tier I standards used by some states in the PJM footprint, as well as the total alternative energy standard for states that do not classify eligible technologies into tiers.

LSEs purchased RECs from outside the PJM footprint. LSEs that are unable to meet the RPS with RECs may use alternative compliance payments for unmet goals based on each state’s requirements. If the proportion of load among states remains constant, 28.4 percent of PJM load must be served by Tier I or renewable energy resources in 2030 under defined RPS rules.

In jurisdictions with an RPS, load serving entities must either generate power from eligible technologies identified in each jurisdiction’s RPS or purchase RECs from resources classified as eligible technologies. Table 8-20 shows generation by jurisdiction and resource type for the first nine months of 2022. Wind generation was 21,865.7 GWh of 37,511.5 Tier I GWh, or 58.3 percent, in the PJM footprint. As shown in Table 8-20, 51,825.2 GWh were generated by Tier I and Tier II resources, of which Tier I resources were 72.4 percent. Wind and solar generation (noncarbon producing) was 4.6 percent of total generation in PJM in the first nine months of 2022. Tier I generation was 5.8 percent of total generation in PJM and Tier II was 2.2 percent of total generation in PJM in the first nine months of 2022. Biofuel, landfill gas, pumped storage hydro, solid waste and waste coal (carbon producing) accounted for 15,098.2 GWh, or 29.1 percent of the total Tier I and Tier II generation.

Table 8-20 Tier I and Tier II generation by jurisdiction and renewable resource type (GWh): January through September, 2022

Jurisdiction	Tier I							Tier II					Total Tier II Credit	Total Credit GWh
	Biofuel	Landfill Gas	Run of River	Other Hydro	Solar	Wind	Total Tier I Credit	Pumped-Storage Hydro	Other Hydro	Solid Waste	Waste Coal			
Delaware	0.0	33.9	0.0	0.0	0.0	0.0	33.9	0.0	0.0	0.0	0.0	0.0	0.0	33.9
Illinois	0.0	59.7	0.0	0.0	11.5	10,445.1	10,516.3	0.0	0.0	0.0	0.0	0.0	0.0	10,516.3
Indiana	0.0	12.5	0.0	30.1	382.3	4,562.7	4,987.6	0.0	0.0	0.0	0.0	0.0	0.0	4,987.6
Kentucky	0.0	0.0	209.4	68.9	0.0	0.0	278.3	0.0	0.0	0.0	0.0	0.0	0.0	278.3
Maryland	0.0	29.2	0.0	0.0	442.1	493.4	964.8	0.0	0.0	404.4	0.0	404.4	1,369.1	
Michigan	0.0	48.4	0.0	43.8	4.0	0.0	96.2	0.0	0.0	0.0	0.0	0.0	96.2	
New Jersey	0.0	83.0	4.7	0.0	758.2	8.0	853.8	332.1	0.0	926.1	0.0	1,258.2	2,112.0	
North Carolina	0.0	0.0	293.0	0.0	1,773.3	409.3	2,475.6	0.0	0.0	0.0	0.0	0.0	2,475.6	
Ohio	0.0	198.8	728.6	0.0	625.3	2,135.2	3,687.8	0.0	0.0	0.2	0.0	0.2	3,688.1	
Pennsylvania	0.0	286.4	3,219.1	17.7	184.9	2,459.5	6,167.6	1,958.3	0.0	1,077.2	4,470.0	7,505.5	13,673.0	
Tennessee	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Virginia	1,073.4	345.4	543.4	50.9	3,410.8	38.2	5,462.0	2,642.8	1,410.7	631.9	0.0	4,685.4	10,147.3	
Washington, D.C.	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
West Virginia	0.0	24.6	624.1	0.0	24.8	1,314.3	1,987.7	0.0	0.0	0.0	460.1	460.1	2,447.8	
Total	1,073.4	1,121.8	5,622.2	211.4	7,617.1	21,865.7	37,511.5	4,933.1	1,410.7	3,039.9	4,930.1	14,313.7	51,825.2	

Table 8-22 shows the summer installed capacity rating of Tier I and Tier II resources in PJM by jurisdiction, as defined by primary fuel type. This capacity includes coal, natural gas and oil units that qualify as Tier II because they have a secondary fuel capability that satisfies the alternative energy standards of a PJM state or jurisdiction. For example, a coal generator that can also burn waste coal to generate power could list the alternative fuel as waste coal. A REC is only generated when the unit is operating using the fuel listed as Tier I or Tier II. Virginia has the largest amount of solar capacity in PJM, 2,140.1 MW, or 39.0 percent of the total solar capacity. Wind resources located in western PJM, Illinois, Indiana and Ohio, account for 8,122.1 MW, or 73.9 percent of the total wind capacity.

PJM states with RPS rely heavily on imports for RPS compliance. Table 8-21 compares each state's RPS requirement for the first nine months of 2022 with generation by RPS eligible PJM generators. Illinois had sufficient in state generation to cover 75.1 percent of the RPS requirement and Pennsylvania generation was sufficient to cover 67.3 percent of the Tier I RPS requirement and 65.5 percent of the Tier II RPS requirement. North Carolina generation was in excess of the RPS requirement but a relatively small portion of the North Carolina load is in PJM. Overall there was sufficient generation in PJM states to meet 43.7 percent of the Tier I RPS requirement and 101.3 percent of the Tier II RPS requirement for the first nine months of 2022.

Table 8-21 RPS Requirements and Generation by RPS Eligible Resources: January through September, 2022

Jurisdiction	Tier I			Tier II		
	PJM Generation (GWh)	RPS Requirement (GWh)	Generation as Percent of RPS Requirement	PJM Generation (GWh)	RPS Requirement (GWh)	Generation as Percent of RPS Requirement
Delaware	33.9	2,046.0	1.7%	0.0	0.0	
Illinois	10,516.3	14,005.9	75.1%	0.0	0.0	
Indiana	4,987.6	0.0		0.0	0.0	
Kentucky	278.3	0.0		0.0	0.0	
Maryland	964.8	14,434.1	6.7%	404.4	1,198.8	33.7%
Michigan	96.2	512.3	18.8%	0.0	0.0	
New Jersey	853.8	12,663.1	6.7%	1,258.2	1,471.6	85.5%
North Carolina	2,475.6	425.1	582.4%	0.0	0.0	
Ohio	3,687.8	7,626.7	48.4%	0.2	0.0	
Pennsylvania	6,167.6	9,168.6	67.3%	7,505.5	11,460.8	65.5%
Tennessee	0.0	0.0		0.0	0.0	
Virginia	5,462.0	22,772.5	24.0%	4,685.4	0.0	
Washington, D.C.	0.0	2,249.7	0.0%	0.0	0.0	
West Virginia	1,987.7	0.0		460.1	0.0	
Total	37,511.5	85,904.0	43.7%	14,313.7	14,131.3	101.3%

On July 30, 2021, FERC approved new rules in PJM for determining the capacity value of intermittent generators, based on the effective load carrying capability (ELCC) method.<sup>205</sup> The MMU opposed the ELCC rules because they fail to incorporate the marginal ELCC value of resources, rely on significant counterfactual behavioral assumptions, do not apply to all resource types, and use invented data, among other issues, but does not oppose the ELCC approach in concept and when done correctly.<sup>206 207</sup>

Under the pre ELCC rules a generator's capacity value was derated from the installed capacity level by multiplying the generator's net maximum capability by a derating factor. The derating factor was either based on the generator's historical performance during summer peak hours or a class average value calculated by PJM. The intent of the pre ELCC method was to obtain a MW value the generator can reliably produce during the summer peak hours.<sup>208</sup> As of September 30, 2022, the derated capacity with capacity obligations in the PJM Capacity Market totaled 1,563.8 MW for wind generators and 2,665.6.0 MW for solar generators. This compares to installed wind capacity of 10,995.8 MW and installed solar capacity of 5,482.6 MW in Table 8-22. PJM posts class average capacity factors for wind and solar generators. There were two pre ELCC classes of wind based on location with class average capacity factors of 14.7 percent and 17.6 percent.<sup>209</sup> The ELCC rating for onshore wind capacity resources for the 2023/2024 Delivery Year is 15.0 percent.

<sup>205</sup> See 176 FERC ¶ 61,056.

<sup>206</sup> *In Docket ER21-278-000*, see Comments and Motions of the Independent Market Monitor for PJM, (November 20, 2020); Answer and Motion for Leave to Answer of the Independent Market Monitor for PJM, (December 18, 2020); Comments and Motions of the Independent Market Monitor for PJM (March 22, 2021); Answer and motion for Leave to Answer of the Independent Market Monitor for PJM (April 29, 2021)

<sup>207</sup> *In Docket ER21-2043*, see Comments of the Independent Market Monitor for PJM (June 22, 2021); Answer and Motion for Leave to Answer of the Independent Market Monitor for PJM (July 9, 2021); Answer and Motion for Leave to Answer of the Independent Market Monitor for PJM (July 20, 2021);

<sup>208</sup> See Appendix B in "PJM Manual 21: Rules and Procedures for Determination of Generating Capability," <<https://pjm.com/-/media/documents/manuals/m21.ashx>>.

<sup>209</sup> See "Class Average Capacity Factors Wind and Solar Resources," PJM, June 1, 2017 <<https://www.pjm.com/-/media/planning/res-adeq/class-average-wind-capacity-factors.ashx?la=en>>.



Table 8-22 Renewable capacity by jurisdiction (MW): September 30, 2022

Jurisdiction	Biofuel	Coal /		Landfill Gas	Natural Gas / Landfill Gas	Other Gas	Oil / Oil / Landfill		Pumped-Storage Hydro	Solar	Solid Waste	Waste Coal	Waste Heat	Wind	Total
		Biofuel	Hydro				Gas	Gas							
Delaware	0.0	0.0	0.0	8.1	1,797.0	0.0	0.0	13.0	0.0	0.0	0.0	0.0	0.0	0.0	1,818.1
Illinois	0.0	0.0	0.0	31.2	0.0	0.0	0.0	0.0	0.0	9.0	0.0	0.0	0.0	4,726.1	4,766.3
Indiana	0.0	0.0	8.2	3.2	0.0	0.0	0.0	0.0	0.0	301.2	0.0	0.0	0.0	2,350.5	2,663.0
Kentucky	0.0	0.0	132.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	132.7
Maryland	0.0	0.0	0.0	19.9	0.0	0.0	69.0	0.0	0.0	382.2	128.2	0.0	0.0	243.7	843.0
Michigan	0.0	0.0	13.9	12.0	0.0	0.0	0.0	0.0	0.0	4.6	0.0	0.0	0.0	0.0	30.5
Missouri	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	146.0	146.0
New Jersey	0.0	0.0	11.0	33.9	0.0	0.0	0.0	0.0	453.0	717.2	204.6	0.0	0.0	4.5	1,424.0
North Carolina	0.0	0.0	325.0	0.0	0.0	0.0	0.0	0.0	0.0	1,331.6	0.0	0.0	0.0	208.0	1,864.6
Ohio	0.0	2,320.0	194.4	58.2	0.0	1.0	136.0	0.0	0.0	445.9	0.0	0.0	134.0	1,045.6	4,335.1
Pennsylvania	54.0	0.0	1,387.3	125.2	1,300.0	0.0	0.0	0.0	1,269.0	121.8	209.3	1,347.0	0.0	1,457.2	7,270.7
Tennessee	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Virginia	241.9	585.0	436.4	127.7	0.0	88.0	17.0	0.0	5,386.0	2,140.1	123.0	0.0	0.0	12.0	9,157.1
Washington, D.C.	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
West Virginia	0.0	0.0	209.9	8.0	0.0	0.0	0.0	0.0	0.0	29.1	0.0	96.0	0.0	802.3	1,145.2
PJM Total	295.9	2,905.0	2,718.7	427.3	3,097.0	89.0	222.0	13.0	7,108.0	5,482.6	665.0	1,443.0	134.0	10,995.8	35,596.3

There were three pre ELCC classes of solar generators with capacity factors ranging from 38.0 percent to 60.0 percent.<sup>210</sup> For the 2023/2024 Delivery Year, the ELCC rating for solar generators with fixed panels is 38.0 percent and the ELCC rating for solar generators with tracking panels is 54.0 percent.

Table 8-23 shows renewable capacity registered in the PJM generation attribute tracking system (GATS).<sup>211</sup> These resources are not PJM resources even though most are located in PJM states. For example, roof top solar panels within the PJM footprint generate SRECs but are not PJM units. This includes solar capacity of 9,000.9 MW of which 3,090.9 MW are in New Jersey. These resources can earn renewable energy credits, and can be used to fulfill the renewable portfolio standards in PJM jurisdictions. There are 1,774.7 MW of capacity located in jurisdictions outside PJM that may qualify for specific renewable energy credits in some PJM jurisdictions. For example, there are 54.0 MW of capacity registered with GATS located in Alabama.

<sup>210</sup> Id.

<sup>211</sup> PJM Environmental Information Services (EIS), an unregulated subsidiary of PJM, operates the generation attribute tracking system (GATS), which is used by many jurisdictions to track these renewable energy credits. GATS publishes details on every renewable generator registered within the PJM footprint and aggregate emissions of renewable generation, but does not publish generation data by unit and does not make unit data available to the MMU.

Table 8-23 Renewable capacity by jurisdiction, non-PJM units registered in GATS (MW): September 30, 2022<sup>212</sup>

Jurisdiction	Coal /		Geothermal	Hydro	Natural Gas /		Other	Solar	Solid	Waste	Waste	Waste	Wind	Total
	Biofuel	Biofuel			Fuel Cell	Landfill								
Alabama	54.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	54.0
Delaware	0.0	0.0	0.0	0.0	0.0	2.2	0.0	0.0	142.3	0.0	0.0	0.0	2.0	146.5
Georgia	0.0	0.0	0.0	0.0	0.0	27.1	0.0	0.0	152.2	0.0	0.0	0.0	0.0	179.3
Illinois	0.0	0.0	0.0	0.0	20.0	55.4	0.0	2.4	983.4	0.0	0.0	0.0	398.4	1,459.6
Indiana	0.0	0.0	0.0	0.0	0.0	47.2	0.0	1.3	165.9	0.0	0.0	94.6	180.0	488.9
Iowa	0.0	0.0	0.0	0.0	0.0	1.6	0.0	0.0	2.1	0.0	0.0	0.0	336.8	340.5
Kentucky	93.0	600.0	0.0	0.0	164.8	20.2	0.0	0.4	39.2	0.0	0.0	0.0	0.0	917.7
Maryland	3.8	65.0	0.0	20.0	0.4	13.7	0.0	0.0	1,294.4	10.0	0.0	0.0	0.3	1,407.6
Michigan	31.0	0.0	0.0	0.0	17.2	16.6	0.0	4.8	112.9	0.0	0.0	0.0	87.4	269.9
Minnesota	0.0	0.0	0.0	0.0	36.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	36.0
Missouri	0.0	0.0	0.0	0.0	0.0	5.6	0.0	0.0	61.2	0.0	0.0	0.0	693.0	759.8
New Jersey	0.0	0.0	0.0	0.0	0.0	23.5	0.0	15.4	3,090.9	0.0	0.0	0.0	4.7	3,134.5
New York	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.4	0.0	0.0	0.0	0.0	0.4
North Carolina	151.5	0.0	0.0	0.0	800.4	0.0	0.0	0.0	1,262.2	0.0	0.0	0.0	0.0	2,214.1
North Dakota	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	360.0	360.0
Ohio	92.8	0.0	0.0	0.0	6.6	19.7	0.0	59.3	288.2	0.0	0.0	34.0	54.7	555.3
Pennsylvania	62.2	109.7	0.8	0.0	56.5	45.2	21.1	100.0	604.0	0.2	294.2	57.6	3.2	1,354.7
South Carolina	0.0	0.0	0.0	0.0	0.0	29.8	0.0	0.0	91.3	0.0	0.0	0.0	0.0	121.1
Tennessee	0.0	0.0	0.0	0.0	411.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	411.6
Virginia	287.6	0.0	0.0	0.0	31.3	9.9	0.0	2.6	527.7	0.0	0.0	0.0	0.0	859.1
Washington, D.C.	0.0	0.0	0.0	0.0	0.0	0.0	0.0	49.4	176.4	0.0	0.0	13.5	0.0	239.4
West Virginia	0.0	0.0	0.0	0.0	102.0	0.0	0.0	0.0	5.8	0.0	0.0	0.0	0.0	107.8
Wisconsin	44.6	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.0	0.0	0.0	0.0	44.7
Total	820.5	774.7	0.8	20.0	1,646.8	317.7	21.1	235.5	9,000.9	10.2	294.2	199.7	2,120.5	15,462.6

Renewable energy credits are related to the production and purchase of wholesale power, but have not, when they constitute a transaction separate from a wholesale sale of power, been found subject to FERC regulation.<sup>213</sup> REC markets are, as an economic fact, integrated with PJM markets including energy and capacity markets, but are not formally recognized as part of PJM markets. Revenues from REC markets are revenues for PJM resources earned in addition to revenues earned from the sale of the same MWh in PJM markets.

Delaware, North Carolina, Michigan and Virginia allow various types of resources to earn multiple RECs per MWh, though typically one REC is equal to one MWh. For example, Delaware provided a three MWh REC for each MWh produced by in-state customer sited photovoltaic generation and fuel cells using renewable fuels that are installed on or before December 31, 2014.<sup>214</sup> This is equivalent to providing a REC price equal to three times its stated value per MWh.

In addition to GATS, there are several other REC tracking systems used by states in the PJM footprint. Illinois, Indiana and Ohio use both GATS and M-RETS, the REC tracking system for resources located in the Midcontinent ISO, to track the sales of RECs used to fulfill their RPS requirements. Michigan and North Carolina

<sup>212</sup> See PJM-EIS (Environmental Information Services), Generation Attribute Tracking System, "Renewable Generators Registered in GATS," <<https://gats.pjm-eis.com/gats2/PublicReports/RenewableGeneratorsRegisteredinGATS>> (Accessed July 20, 2022).

<sup>213</sup> See *WSPP, Inc.*, 139 FERC ¶ 61,051 at P 18 (2012) ("we conclude that unbundled REC transactions fall outside of the Commission's jurisdiction under sections 201, 205 and 206 of the FPA"); citing *American Ref-Fuel Company, et al.*, 105 FERC ¶ 61,004 at PP 23-24 (2003) ("American Ref-Fuel, 105 FERC ¶ 61,004 at PP 23-24 ("RECs are created by the States. They exist outside the confines of PURPA... And the contracts for sales of QF capacity and energy, entered into pursuant to PURPA, ... do not control the ownership of RECs."); see also *Williams Solar LLC and Allico Finance Limited*, 156 FERC ¶ 61,042 (2016).

<sup>214</sup> See DSIRE, NC Clean Energy Technology Center. Delaware Renewable Portfolio Standard, <<http://programs.dsireusa.org/system/program/detail/1231>> (Accessed November 3, 2018).

have created their own state-wide tracking systems, MIRECS and NC-RETS, through which all RECs used to satisfy these states' RPS requirements must ultimately be traded. Table 8-24 shows the REC tracking systems used by each state within the PJM footprint. To ensure a REC is only used one time, REC tracking systems must keep an account of a REC from its creation until its retirement. A REC is considered to be retired when it has been used to satisfy an obligation associated with an RPS.

**Table 8-24 REC tracking systems in PJM states with renewable portfolio standards**

Jurisdiction with RPS	REC Tracking System Used	
Delaware	PJM-GATS	
Illinois	PJM-GATS	M-RETS
Maryland	PJM-GATS	
Michigan		MIRECS
New Jersey	PJM-GATS	
North Carolina		NC-RETS
Ohio	PJM-GATS	M-RETS
Pennsylvania	PJM-GATS	
Virginia	PJM-GATS	
Washington, D.C.	PJM-GATS	
<b>Jurisdiction with Voluntary Standard</b>		
Indiana	PJM-GATS	M-RETS

All PJM states with renewable portfolio standards have specified geographical restrictions governing the source of RECs to satisfy states' standards. Table 8-25 describes these restrictions. Indiana, Illinois, Michigan, and Ohio all have provisions in their renewables standards that require all or a portion of RECs used to comply with each state's standards to be generated by in-state resources. Illinois recently relaxed the geographic restrictions to allow RECs sourced from wind or photovoltaic resources that are deliverable to Illinois or an adjacent state via high voltage direct current transmission. North Carolina has provisions that require RECs to be purchased from in-state resources but Dominion, the only utility located in both North Carolina and PJM, is exempt from these provisions. Pennsylvania added a provision in 2017 that requires SRECs used to comply with Pennsylvania's solar photovoltaics carve out standard to be sourced from resources located in Pennsylvania.

Pennsylvania and Virginia require that RECs used for RPS compliance be produced from resources located within the PJM footprint. Delaware requires that RECs used for compliance with its RPS are produced from resources located within the PJM footprint or resources located elsewhere if these resources can demonstrate that the power they produce is directly deliverable to Delaware. The District of Columbia, Maryland and New Jersey allow RECs to be purchased from resources located within PJM in addition to large areas that adjoin PJM for compliance with their standards.

**Table 8-25 Geographic restrictions on REC purchases for renewable portfolio standard compliance in PJM states**

State with RPS	RPS Contains	
	In-state Provision	Geographical Requirements for RPS Compliance
Delaware	No	RECs must be purchased from resources located either within PJM or from resources outside of PJM that are directly deliverable into Delaware.
Illinois	Yes	All RECs must be purchased from resources located within Illinois or from resources located in adjacent states that meet certain public interest criteria or from utility scale wind or photovoltaic resources that are deliverable to Illinois or an adjacent state via high voltage direct current transmission.
Maryland	No	RECs must come from within PJM, 10-30 miles offshore the coast of Maryland or from a control area adjacent to PJM that is capable of delivering power into PJM.
Michigan	Yes	RECs must either come from resources located within Michigan or anywhere in the service territory of retail electric provider in Michigan that is not an alternative electric supplier. There are many exceptions to these requirements (see Michigan S.B. 213).
New Jersey	No	RECs must either be purchased from resources located within PJM or from resources located outside of PJM for which the energy associated with the REC is delivered to PJM via dynamic scheduling.
North Carolina	Yes	Dominion, the only utility located in both the state of North Carolina and PJM, may purchase RECs from anywhere. Other utilities in North Carolina not located in PJM are subject to different REC requirements (see G.S. 62-113.8).
Ohio	Yes	All RECs must be generated from resources that are located in the state of Ohio or have the capability to deliver power directly into Ohio. Any renewable facility located in a state contiguous to Ohio has been deemed deliverable into the state of Ohio. For renewable resources in noncontiguous states, deliverability must be demonstrated to the Public Utilities Commission of Ohio.
Pennsylvania	Yes	RECs must be purchased from resources located within PJM. All SRECs used for compliance with the Solar PV standard must source from solar PV resources within the state of Pennsylvania.
Virginia	No	RECs must be purchased from resources located within PJM
Washington, D.C.	No	RECs must be purchased from either a PJM state or a state adjacent with PJM. A PJM state is defined as any state with a portion of their geographical boundary within the footprint of PJM. An adjacent state is defined as a state that lies next to a PJM state, i.e. SC, GA, AL, AR, IA, NY, MO, MS, and WI.

## Alternative Compliance Payments

PJM jurisdictions have various methods for enforcing compliance with required renewable portfolio standards. If a retail supplier is unable to comply with the renewable portfolio standards required by the jurisdiction, suppliers may make alternative compliance payments (ACPs), with varying standards, to cover any shortfall between the RECs required by the state and those the retail supplier actually purchased. The ACPs, which are penalties, function as a cap on the market value of RECs. In New Jersey, solar ACPs are currently \$228.00 per MWh.<sup>215</sup> Pennsylvania requires that solar ACPs be 200 percent of the average credit price of Pennsylvania solar RECs sold during the reporting year plus the value of any solar rebates. The most recent ACP for Pennsylvania solar is \$82.90.<sup>216</sup> Delaware recently reduced the solar ACP from \$400 per credit to \$150 per credit.<sup>217</sup> Maryland reduced the solar ACP from \$100 per credit to \$80 per credit effective June 1, 2021.<sup>218</sup>

Figure 8-9 shows the historical relationship between SREC prices and ACP levels. The SREC price is represented by a solid line in the figure and the corresponding ACP level is represented by a dashed line. For each jurisdiction, the ACP is an upper bound for the price level. In Michigan and North Carolina, there are no defined values for ACPs. The public utility commissions in Michigan and North Carolina have discretionary power to assess what a load serving entity must pay for any RPS shortfalls.

Table 8-26 shows the alternative compliance standards for RPS in PJM jurisdictions.

<sup>215</sup> N.J. S. 2314/A. 3723.

<sup>216</sup> See AEPS History Pricing report at the AEPS website <<https://pennaeps.com/reports/>> (Accessed October 20, 2022).

<sup>217</sup> See Senate Bill 33, Delaware General Assembly (February 10, 2021) <<https://legis.delaware.gov/BillDetail?legislationId=48278>>.

<sup>218</sup> Senate Bill 65 Electricity – Renewable Energy Portfolio Standard – Tier 2 Renewable Sources, Qualifying Biomass, and Compliance Fees, Maryland General Assembly (2021) <<https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0065?ys=2021RS>>.

**Table 8-26 Tier I, Tier II, and Solar alternative compliance payments in PJM jurisdictions as of September 30, 2022<sup>219 220</sup>**

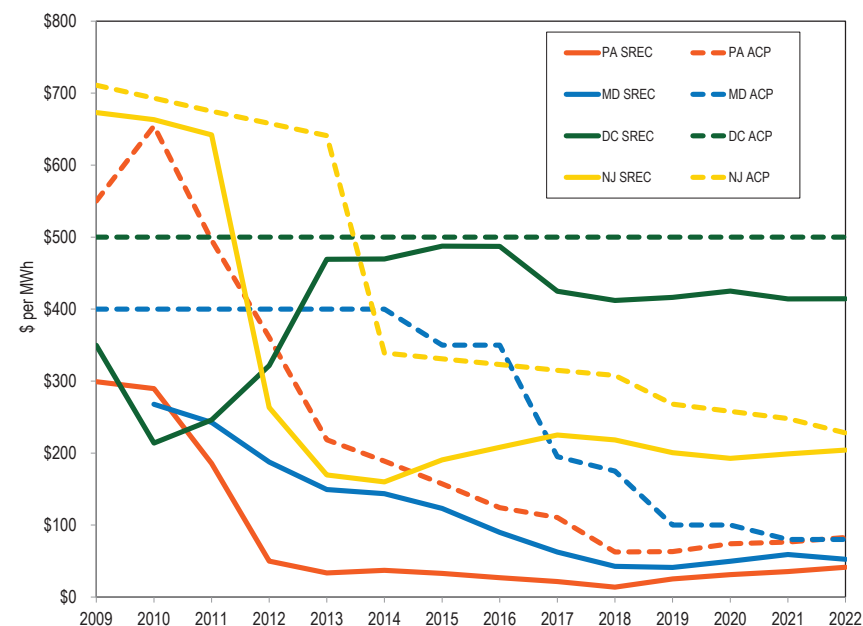
Jurisdiction with RPS	Standard Alternative Compliance (\$/MWh)	Tier II Alternative Compliance (\$/MWh)	Solar Alternative Compliance (\$/MWh)
Delaware	\$25.00		\$150.00
Illinois	\$0.35		
Maryland	\$30.00	\$15.00	\$80.00
Michigan	No specific penalties		
New Jersey	\$50.00	\$50.00	\$228.00
North Carolina	No specific penalties: At the discretion of the NC Utility Commission		
Ohio	\$54.14		
Pennsylvania	\$45.00	\$45.00	\$82.90
Washington, D.C.	\$50.00	\$10.00	\$500.00
<b>Jurisdiction with Voluntary Standard</b>			
Indiana	Voluntary standard - No Penalties		
Virginia	Voluntary standard - No Penalties		
<b>Jurisdiction with No Standard</b>			
Kentucky	No standard		
Tennessee	No standard		
West Virginia	No standard		

Load serving entities participating in mandatory RPS programs in PJM jurisdictions must submit compliance reports to the relevant jurisdiction’s public utility commission.

<sup>219</sup> The Ohio standard alternative compliance payment (ACP) is updated annually <<https://www.puco.ohio.gov/industry-information/industry-topics/acp-non-solar-alternative-compliance-payment-under-ore-492864/>>. The Illinois Commerce Commission periodically publishes updates to the effective ACP amount <<https://www.icc.illinois.gov/electricity/RPSCompliancePaymentNotice.aspx>>. For updated Maryland ACPs, see Table 3 of the 2018 Renewable Energy Portfolio Standard Report <<https://www.psc.state.md.us/commission-reports/>>.

<sup>220</sup> The entry for Pennsylvania reflects the solar ACP for the compliance year ending May 31, 2021. See “Pricing,” <<https://www.penna.gov/com/reports/>> (Accessed April 1, 2021).

**Figure 8-9 Comparison of SREC price and solar ACP: 2009 through September 2022**



In their submitted compliance reports, load serving entities must indicate the quantity of MWh that they have generated using eligible renewable or alternative energy resources. They must also identify the quantity of RECs they may have purchased to make up for renewable energy generation shortfalls or to comply with RPS provisions requiring that they purchase RECs. The public utility commissions then release RPS compliance reports to the public.

The Pennsylvania Public Utility Commission issued their 2021 compliance report for the Pennsylvania Alternative Energy Standards Act of 2004 in March of 2022.<sup>221</sup> Pennsylvania reported that the 681,081 SRECs, 10,615,925 Tier I RECs and 13,601,009 Tier II RECs were retired during the 2021 reporting year (June 1, 2020 through May 31, 2021). Supplier obligations for 2,572

<sup>221</sup> “Alternative Energy Portfolio Standards Act of 2004 Compliance for Reporting Year 2021,” (March 2022), <[https://www.puc.pa.gov/media/1843/aepe\\_march-2022.pdf](https://www.puc.pa.gov/media/1843/aepe_march-2022.pdf)>.

SRECs, 51,854 Tier I RECs and 66,444 Tier II RECs were resolved through ACPs.

The Public Service Commission of the District of Columbia reported that 183,707 SRECs and 2,173,550 Tier I RECs were retired during the 2021 compliance year. The average price for solar RECs was \$430.94. ACPs decreased from \$8.2 million for 2020 to \$5.7 million for 2021.<sup>222</sup>

The Public Service Commission of Maryland reported that 1,859,976 SRECs were retired in 2020, an increase of 59.3 percent over the 2019 level. Tier 1 REC retirements increased to 12,117,585, 18.7 percent higher than in 2019. The RPS requirement for solar increased to 6.0 percent in 2020, up from 5.5 percent in 2019. The Tier 1 requirement increased 4.9 percentage points to 20.7 percent in 2020.<sup>223</sup> ACPs were \$22,170 for 2020.<sup>224</sup>

The Public Utilities Commission of Ohio reported that 6,023,768 RECs were retired in the 2020 compliance year, which is 4,000 RECs short of the RPS requirement. Alternative compliance payments were made due to the shortfall.<sup>225</sup>

Delmarva Power is the only retail electric supplier that must file a compliance report with the Delaware Public Service Commission. Delmarva Power reported to the Delaware Public Service Commission that they satisfied their REC obligation of 740,604 credits for the compliance year ending May 31, 2021, with zero ACPs.<sup>226</sup> Delmarva Power satisfied their solar REC obligation of 150,262 credits with zero alternative compliance payments.

Prior to the 2017/2018 Delivery Year, the Illinois RPS had required electricity suppliers to satisfy at least 50 percent of their RPS obligation through ACPs. This requirement was removed for 2017/2018 Delivery Year and ACPs

for ComEd decreased to \$74,148. The 2016–2017 ACPs for ComEd totaled \$40,575,311.<sup>227</sup>

The North Carolina Utilities Commission reported that Dominion North Carolina Power submitted its 2018 compliance report on August 13, 2019. The compliance report stated that Dominion met its general RPS requirement by purchasing 397,643 credits that consisted of wind and hydro RECs and energy efficiency credits (EECs).<sup>228</sup> Dominion also met its solar, poultry waste, and swine waste requirements by purchasing RECs.

The Michigan Public Service Commission reported that Indiana Michigan Power Company met the 2018 standard by generating or acquiring 283,473 RECs.<sup>229</sup>

New Jersey's Office of Clean Energy posted a summary of RPS compliance through the energy year ending May 31, 2021.<sup>230</sup> Electric power suppliers retired 11,638,713 class I RECs and 1,803,748 class II RECs. Suppliers submitted 1,892 class I ACPs and 986 class II ACPs at a cost of \$50 per MWh. Electric power suppliers retired 3,851,012 solar RECs and 12 SACPs were submitted at a cost of \$248 per MWh. Additionally, 128,356 transition RECs were retired.<sup>231</sup>

Table 8-27 shows the RPS compliance cost incurred by PJM jurisdictions as reported by the jurisdictions.<sup>232</sup> The compliance costs are the cost of acquiring RECs plus the cost of any alternative compliance payments. The cost of complying with RPS, as reported by the states, was \$7.2 billion over the seven year period from 2014 through 2020 for the nine jurisdictions that had RPS and reported compliance costs.<sup>233</sup> The average RPS compliance cost per year

<sup>227</sup> "Annual Report Fiscal Year 2018," Illinois Power Agency (Feb. 15, 2019) at 46, <[https://www2.illinois.gov/sites/ipa/Pages/IPA\\_Reports.aspx](https://www2.illinois.gov/sites/ipa/Pages/IPA_Reports.aspx)>.

<sup>228</sup> "Annual Report Regarding Renewable Energy and Energy Efficiency Portfolio Standard in North Carolina," North Carolina Utilities Commission (Oct. 1, 2019) at 38, <<https://www.ncuc.net/Reps/reps.html>>.

<sup>229</sup> "Report on the Implementation and Cost-Effectiveness of the P.A. 295 Renewable Energy Standard," Michigan Public Service Commission (Feb. 18, 2020), <[https://www.michigan.gov/mpsc/0,9535,7-395-93309\\_93438\\_93459\\_94932---,00.html](https://www.michigan.gov/mpsc/0,9535,7-395-93309_93438_93459_94932---,00.html)>.

<sup>230</sup> See RPS Report Summary 2005–2021, New Jersey's Clean Energy Program (May 17, 2022), <<http://www.njcleanenergy.com/renewable-energy/program-updates/rps-compliance-reports/>>.

<sup>231</sup> "New Jersey Board of Public Utilities Approves Solar Transition Program, Initiates a Cost Cap Proceeding," New Jersey Board of Public Utilities Press Release (December 6, 2019) <<https://www.bpu.state.nj.us/bpu/newsroom/2019/approved/20191206.html>>.

<sup>232</sup> RPS compliance cost totals for Illinois, Michigan, and North Carolina reflect the RPS compliance cost attributable to PJM load in each of the states.

<sup>233</sup> The actual PJM RPS compliance cost exceeds the reported \$7.2 billion due to incomplete data. The compliance cost value for 2020 does not include Illinois, Michigan or North Carolina. Based on past data these states generally account for 3.0 percent of the total RPS compliance cost of PJM states

<sup>222</sup> "Renewable Energy Portfolio Standard, A Report for Compliance Year 2021," Public Service Commission of the District of Columbia (May 2, 2022), <<https://dcpsc.org/Orders-and-Regulations/PSC-Reports-to-the-DC-Council/Renewable-Energy-Portfolio-Standard.aspx>>.

<sup>223</sup> "Renewable Energy Portfolio Standard Report with Data for Calendar Year 2020," Public Service Commission of Maryland (November 2021) at 8, <<https://www.psc.state.md.us/commission-reports/>>.

<sup>224</sup> *Id.*

<sup>225</sup> "Renewable Portfolio Standard Report to the General Assembly for Compliance Year 2020," Public Utilities Commission of Ohio (November 2, 2021), <<https://puco.ohio.gov/wps/portal/gov/puco/utilities/electricity/resources/ohio-renewable-energy-portfolio-standard/puco-annual-rps-reports/>>.

<sup>226</sup> "Retail Electricity Supplier's RPS Compliance Report, Compliance Period: June 1, 2020–May 31, 2021," Delmarva Power, (Sept. 23, 2021), <<https://dcpsc.delaware.gov/delawares-renewable-portfolio-standard-green-power-products/>>



based on the reported compliance cost for the seven year period from 2014 through 2019 was \$1.0 billion. The compliance cost for 2020, the most recent year with almost complete data, was \$1.5 billion.

**Table 8-27 RPS Compliance Cost**<sup>234 235 236 237 238 239 240 241 242 243 244</sup>

Jurisdiction with RPS		2014	2015	2016	2017	2018	2019	2020
Delaware	Total RPS		\$16,013,421	\$18,409,631	\$18,772,855	\$18,341,916	\$19,401,476	\$21,133,971
	Solar		\$7,070,254	\$7,748,073	\$7,105,726	\$6,565,240	\$8,121,914	\$9,096,298
	Non-Solar		\$8,943,167	\$10,661,557	\$11,667,129	\$11,776,676	\$11,279,562	\$12,037,673
Illinois	Total RPS	\$21,701,688	\$24,817,068	\$25,718,863	\$25,919,372	\$25,775,523		
Maryland	Total RPS	\$103,990,914	\$126,727,632	\$135,198,524	\$72,009,070	\$84,806,928	\$134,545,520	\$223,166,704
	Solar	\$29,372,737	\$39,055,714	\$45,556,987	\$21,275,664	\$27,351,388	\$55,166,116	\$122,943,987
	Tier I	\$70,630,620	\$85,054,001	\$88,200,121	\$50,045,621	\$56,406,247	\$79,320,505	\$99,836,127
	Tier II	\$3,987,557	\$2,617,917	\$1,441,416	\$687,785	\$1,049,293	\$58,899	\$386,590
Michigan	Total RPS	\$476,535	\$0	\$3,264,504	\$3,961,262	\$3,264,504		
New Jersey	Total RPS	\$395,782,297	\$524,761,382	\$593,441,037	\$606,312,461	\$653,810,457	\$763,108,366	\$960,423,760
	Solar	\$322,504,920	\$417,359,783	\$481,540,738	\$503,797,182	\$560,509,712	\$667,975,153	\$812,493,029
	Class I	\$66,071,749	\$98,185,431	\$100,910,465	\$91,872,615	\$83,474,335	\$85,522,028	\$130,272,633
	Class II	\$7,205,628	\$9,216,167	\$10,989,834	\$10,642,664	\$9,826,410	\$9,611,185	\$17,658,099
North Carolina	Total RPS	\$297,513	\$358,436	\$317,644	\$234,264	\$442,579		
Ohio	Total RPS	\$42,581,477	\$42,584,233	\$37,631,481	\$39,943,836	\$50,214,523	\$69,812,721	\$81,752,397
	Solar	\$17,666,730	\$14,843,052	\$11,564,584	\$9,435,730	\$9,419,092	\$9,578,048	\$0
	Non-Solar	\$24,914,747	\$27,741,181	\$26,066,897	\$30,508,106	\$40,795,431	\$60,234,672	\$81,752,397
Pennsylvania	Total RPS	\$86,184,477	\$114,586,932	\$125,041,911	\$115,585,212	\$99,681,713	\$112,691,066	\$182,995,718
	Solar	\$14,163,543	\$19,227,690	\$21,876,876	\$17,987,722	\$16,565,924	\$20,608,103	\$24,764,538
	Tier I	\$70,922,431	\$94,339,032	\$101,700,328	\$95,370,456	\$77,899,586	\$74,780,310	\$100,528,434
	Tier II	\$1,098,503	\$1,020,210	\$1,464,707	\$2,227,034	\$5,216,203	\$17,302,653	\$57,702,746
Washington D.C.	Total RPS	\$27,372,970	\$38,540,633	\$47,163,353	\$42,678,813	\$50,609,701	\$57,300,000	\$65,000,000
	Solar	\$25,145,143	\$36,526,662	\$44,897,161	\$38,571,061	\$45,673,261	\$51,982,914	\$59,897,169
	Tier I	\$2,140,860	\$1,899,232	\$2,132,072	\$3,960,018	\$4,809,857	\$5,262,354	\$5,102,831
	Tier II	\$86,966	\$114,738	\$134,119	\$147,734	\$126,583	\$54,733	\$0
PJM	Total RPS	\$678,387,871	\$888,389,738	\$986,186,949	\$925,417,144	\$986,947,843	\$1,156,859,148	\$1,534,472,550

<sup>234</sup> Several states have not released compliance reports for 2020.

<sup>235</sup> "Retail Electricity Supplier's RPS Compliance Report," Delmarva Power (Sept. 23, 2021), <<https://depdc.delaware.gov/delawares-renewable-portfolio-standard-green-power-products/>>.

<sup>236</sup> "Fiscal Year 2018 Annual Report," February 15, 2019, "Report on Costs and Benefits of Renewable Resource Procurement," April 1, 2016, Illinois Power Agency (IPA), <[https://www2.illinois.gov/sites/ipa/Pages/IPA\\_Reports.aspx](https://www2.illinois.gov/sites/ipa/Pages/IPA_Reports.aspx)>. The compliance cost entry for Illinois represents the ComEd cost of RECs as given in Section 11, Table 2.

<sup>237</sup> "Renewable Energy Portfolio Standard Report," Public Service Commission of Maryland (Nov. 2021) at 8, <<https://www.psc.state.md.us/commission-reports/>>.

<sup>238</sup> Appendix C in "Report on the Implementation and Cost-Effectiveness of the P.A. 295 Renewable Energy Standard," Michigan Public Service Commission, February 18, 2020, <[https://www.michigan.gov/mpsc/0,9535,7-395-93309\\_93438\\_93459\\_94932---,00.html](https://www.michigan.gov/mpsc/0,9535,7-395-93309_93438_93459_94932---,00.html)>. The compliance cost entry reflects the compliance cost of the Indiana Michigan Power Company, which is the only investor owned utilities whose service area is in the PJM footprint.

<sup>239</sup> "RPS Report Summary 2005-2020," New Jersey's Clean Energy Program, April 13, 2021, <<http://njcleanenergy.com/renewable-energy/program-updates/rps-compliance-reports/>>.

<sup>240</sup> "Renewable Portfolio Standard Report to the General Assembly for Compliance Year 2020," Public Utilities Commission of Ohio, Nov. 2, 2021, <<https://puco.ohio.gov/wps/portal/gov/puco/utilities/electricity/resources/ohio-renewable-energy-portfolio-standard/puco-annual-rps-reports->>.

<sup>241</sup> "2020 Annual Report Alternative Energy Portfolio Standards Act of 2004," Pennsylvania Public Utility Commission, February 2021 <<https://www.puc.pa.gov/media/1410/aeps-annrpt2020.pdf>>.

<sup>242</sup> "Report on the Renewable Energy Portfolio Standard for Compliance Year 2020," Public Service Commission of the District of Columbia, Executive Summary, May 3, 2021, <<https://dcpsc.org/Orders-and-Regulations/PSC-Reports-to-the-DC-Council/Renewable-Energy-Portfolio-Standard.aspx>>.

<sup>243</sup> "Application of Dominion Energy North Carolina for Approval of Cost Recovery for Renewable Energy and Energy Efficiency Portfolio Standard Compliance and Related Costs," Docket No. E-22, Sub 557, Sub 558, August 30, 2018 <<https://www.ncuc.net/>>. The North Carolina compliance cost entries reflects the compliance cost of Dominion Energy North Carolina.

<sup>244</sup> The reporting period for RPS compliance in Delaware, Illinois, New Jersey, and Pennsylvania corresponds to PJM capacity market delivery years, June 1 through May 31. The compliance cost amounts reported by these states were converted to calendar year by assuming the compliance cost was evenly spread across the months in the compliance year.

## Emission Controlled Capacity and Emissions

### Emission Controlled Capacity

Environmental regulations affect decisions about emission control investments in existing units, investment in new units and decisions to retire units lacking emission controls.<sup>245</sup> Most PJM units burning fossil fuels have installed emission control technology. All coal steam units in PJM are compliant with the state and federal emissions limits established by MATS.<sup>246 247</sup>

Table 8-28 shows SO<sub>2</sub> emission controls by fossil fuel fired units in PJM.<sup>248 249</sup> Coal has the highest SO<sub>2</sub> emission rate, while natural gas and diesel oil have lower SO<sub>2</sub> emission rates.<sup>251</sup> Of the current 51,722.2 MW of coal capacity in PJM, 49,660.0 MW of capacity, 96.0 percent, has some form of FGD (flue-gas desulfurization) technology to reduce SO<sub>2</sub> emissions.

**Table 8-28 SO<sub>2</sub> emission controls by fuel type (MW): September 30, 2022<sup>252</sup>**

	SO <sub>2</sub> Controlled	No SO <sub>2</sub> Controls	Total	Percent Controlled
Coal	49,660.0	2,062.2	51,722.2	96.0%
Diesel Oil	0.0	4,606.4	4,606.4	0.0%
Natural Gas	0.0	67,784.6	67,784.6	0.0%
Other	325.0	3,500.0	3,825.0	8.5%
Total	49,985.0	77,953.2	127,938.2	39.1%

Table 8-29 shows NO<sub>x</sub> emission controls by fossil fuel fired units in PJM. Coal has the highest NO<sub>x</sub> emission rate, while natural gas and diesel oil have lower NO<sub>x</sub> emission rates. Of the current 51,722.2 MW of coal capacity in PJM,

245 See EPA, "National Ambient Air Quality Standards (NAAQS)," <<https://www.epa.gov/criteria-air-pollutants/naaqs-table>> (Accessed March 4, 2022).

246 On April 16, 2020, the EPA issued a revised final finding regarding the Mercury and Air Toxics Standards. See EPA, "Regulatory Actions," <<https://www.epa.gov/mats/regulatory-actions-final-mercury-and-air-toxics-standards-mats-power-plants>> (Accessed May 7, 2020).

247 On April 9, 2020, the EPA created a new subcategory of six coal refuse power plants in Pennsylvania and West Virginia with reduced limits of HCl and SO<sub>2</sub> emissions under MATS. These units were all compliant with the previous MATS rules. "Mercury and Air Toxics Standards," <[https://www.epa.gov/sites/production/files/2020-04/documents/frn\\_mats\\_coal\\_refuse\\_2060-au48\\_final\\_rule.pdf](https://www.epa.gov/sites/production/files/2020-04/documents/frn_mats_coal_refuse_2060-au48_final_rule.pdf)> (Accessed May 7, 2020).

248 See EPA, "Air Market Programs Data," <<http://ampd.epa.gov/ampd/>> (Accessed March 4, 2022).

249 Air Markets Programs Data is submitted quarterly. Generators have 60 days after the end of the quarter to submit data, and all data is considered preliminary and subject to change until it is finalized in June of the following year. The most recent complete set of emissions data is from 2021.

250 The total MW are less than the 181,345.8 reported in Section 5: Capacity Market, because EPA data on controls could not be matched to some PJM units. "Air Markets Program Data," <<http://ampd.epa.gov/ampd/QueryToolie.html>> (Accessed March 4, 2022).

251 Diesel oil includes number 1, number 2, and ultra-low sulfur diesel. See EPA, "Electronic Code of Federal Regulations, Title 40, Chapter 1, Subchapter C, Part 72, Subpart A, Section 72.2," <[http://www.ecfr.gov/cgi-bin/text-idx?SID=4f18612541a393473efb13acb879d470&mc=true&nnode=se40.18.72\\_12&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=4f18612541a393473efb13acb879d470&mc=true&nnode=se40.18.72_12&rgn=div8)> (Accessed May 7, 2020).

252 The "other" category includes petroleum coke, wood, process gas, residual oil, other gas, and other oil. The EPA's "other" category does not have strict definitions for inclusion.

51,636.2 MW of capacity, 99.8 percent, has some form of emissions controls to reduce NO<sub>x</sub> emissions. Most units in PJM have NO<sub>x</sub> emission controls in order to meet each state's emission compliance standards, based on whether a state is part of CSAPR, Acid Rain Program (ARP) or a combination of the three. The NO<sub>x</sub> compliance standards of MATS require the use of selective catalytic reduction (SCRs) or selective non-catalytic reduction (SCNRs) for coal steam units, as well as SCRs or water injection technology for peaking combustion turbine units.<sup>253</sup>

**Table 8-29 NO<sub>x</sub> emission controls by fuel type (MW): As of September 30, 2022**

	NO <sub>x</sub> Controlled	No NO <sub>x</sub> Controls	Total	Percent Controlled
Coal	51,636.2	86.0	51,722.2	99.8%
Diesel Oil	1,020.3	3,586.1	4,606.4	22.1%
Natural Gas	67,541.6	243.0	67,784.6	99.6%
Other	1,575.0	2,250.0	3,825.0	41.2%
Total	121,773.1	6,165.1	127,938.2	95.2%

Table 8-30 shows particulate emission controls by fossil fuel units in PJM. Almost all coal units (99.8 percent) in PJM have particulate controls, as well as a few natural gas units (4.3 percent) and units with other fuel sources (51.6 percent). Typically, technologies such as electrostatic precipitators (ESP) or fabric filters (baghouses) are used to reduce particulate matter from coal steam units.<sup>254</sup> Fabric filters work by allowing the flue gas to pass through a tightly woven fabric which filters out the particulates. Of the current 51,722.2 MW of coal capacity in PJM, 51,637.2 MW of capacity, 99.8 percent, have some type of particulate emissions control technology. In order to achieve compliance with MATS, most coal steam units in PJM have particulate emission controls in the form of ESPs, but many units have also installed baghouse technology, or a combination of an FGD and SCR. Currently, all of the 109 coal steam units have baghouse or FGD technology installed for either SO<sub>2</sub> or particulate emissions control, representing all of the 51,722.2 MW total coal capacity, or 100.0 percent.

253 See EPA, "Mercury and Air Toxics Standards, Cleaner Power Plants," <<https://www.epa.gov/mats/cleaner-power-plants#controls>> (Accessed May 7, 2020).

254 See EPA, "Air Pollution Control Technology Fact Sheet," <<https://www3.epa.gov/ttn/catc/dir1/ff-pulse.pdf>> (Accessed May 4, 2022).

**Table 8-30 Particulate emission controls by fuel type (MW): As of September 30, 2022**

	Particulate Controlled	No Particulate Controls	Total	Percent Controlled
Coal	51,637.2	85.0	51,722.2	99.8%
Diesel Oil	0.0	4,606.4	4,606.4	0.0%
Natural Gas	2,912.0	64,872.6	67,784.6	4.3%
Other	1,972.0	1,853.0	3,825.0	51.6%
<b>Total</b>	<b>56,521.2</b>	<b>71,417.0</b>	<b>127,938.2</b>	<b>44.2%</b>

### Emissions

Figure 8-10 shows the total CO<sub>2</sub> emissions in short tons, the CO<sub>2</sub> emission rate in short tons per MWh within PJM for all CO<sub>2</sub> emitting units, for each quarter from 1999 to the third quarter of 2022, and the CO<sub>2</sub> emission rate in short tons per MWh of total generation within PJM for each quarter from the third quarter of 2000 to the third quarter of 2022.<sup>255 256</sup>

Figure 8-11 shows the total CO<sub>2</sub> emission in short tons on peak and off peak and the CO<sub>2</sub> emission rate in short tons per MWh for all CO<sub>2</sub> emitting units.

Table 8-31 shows the minimum and maximum CO<sub>2</sub> emission rates in short tons per MWh for all CO<sub>2</sub> emitting units, for all hours, as well as on and off peak hours, from the third quarter of 1999 through the third quarter of 2022.

Total PJM generation decreased from 232,549.2 GWh in the third quarter of 2021 to 231,937.8 GWh in the third quarter of 2022, while CO<sub>2</sub> produced decreased from 114.2 million short tons in the third quarter of 2021 to 105.8 million short tons in the third quarter of 2022.<sup>257</sup> The CO<sub>2</sub> emission rate averaged 0.67 short tons per MWh for all CO<sub>2</sub> emitting units in the first nine months of 2020, 0.71 short tons per MWh for all CO<sub>2</sub> emitting units in the first

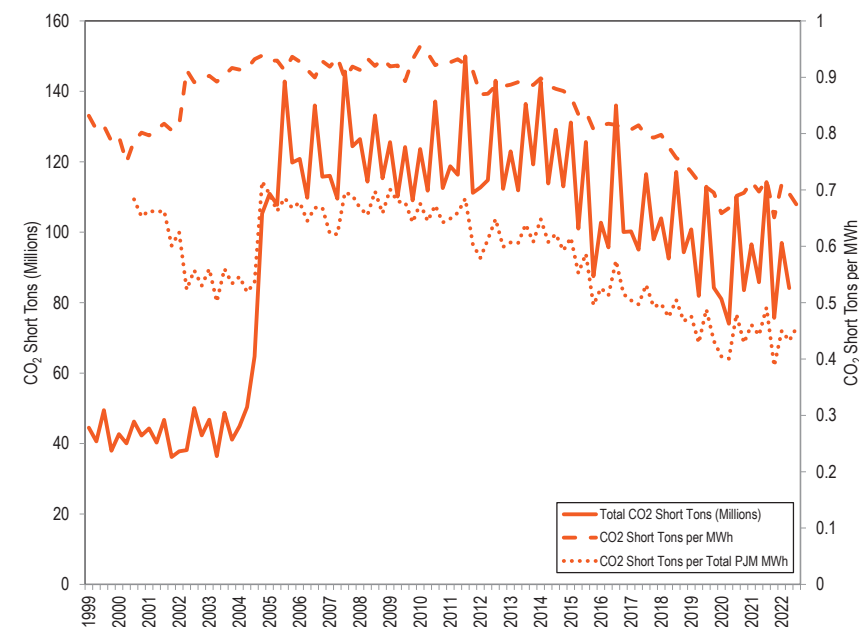
<sup>255</sup> Unless otherwise noted, emissions are measured in short tons. A short ton is 2,000 pounds.

<sup>256</sup> Emissions data for the third quarter of 2022 was not yet finalized at the time of this report because generators have 60 days after the end of the quarter to submit their emissions data.

<sup>257</sup> See the 2021 Annual State of the Market Report for PJM: Section 3: Energy Market, Table 3-10.

nine months of 2021, and 0.69 short tons per MWh for all CO<sub>2</sub> emitting units in the first nine months of 2022.

**Figure 8-10 CO<sub>2</sub> emissions by quarter (millions of short tons), by PJM units: January 1999 through September 2022<sup>258 259</sup>**



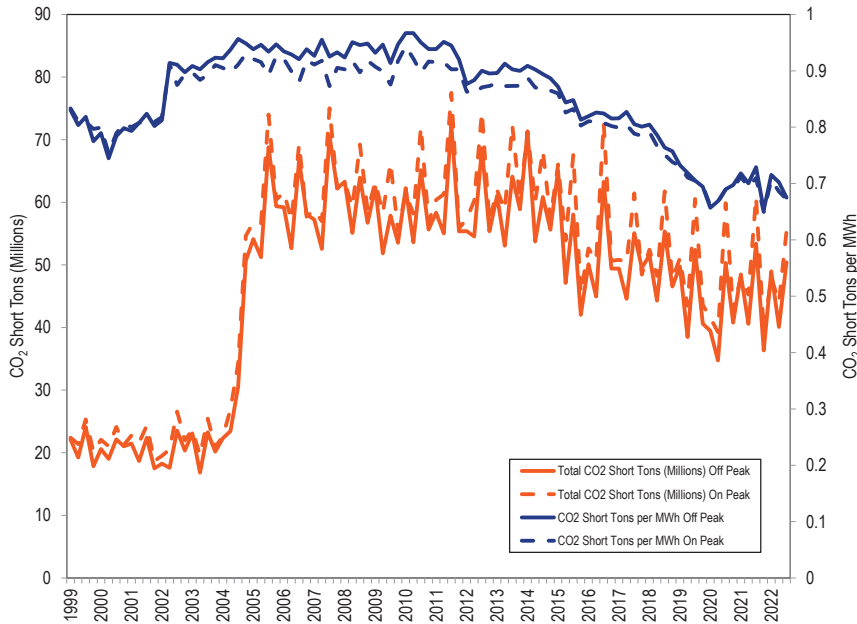
In the third quarter of 2022, CO<sub>2</sub> emission rates were 0.67 short tons per MWh for all CO<sub>2</sub> emitting units for off peak hours, and 0.67 for on peak hours. Of the top 10 largest CO<sub>2</sub> emitting units in the United States, three (Gavin, Prairie State, and Amos) are located in the PJM footprint.<sup>260</sup>

<sup>258</sup> The emissions are calculated from the continuous emission monitoring system (CEMS) data from generators located within the PJM footprint.

<sup>259</sup> In 2004 and 2005, PJM integrated the American Electric Power (AEP), ComEd, Dayton Power & Light Company (DAY), Dominion, and Duquesne Light Company (DLCO) Control Zones. The large increase in total emissions from 2004 to 2005 was a result of these integrations. In June 2011, PJM integrated the American Transmission Systems, Inc. (ATSI) Control Zone. In January 2012, PJM integrated the Duke Energy Ohio/Kentucky (DEOK) Control Zone. In June 2013, PJM integrated the Eastern Kentucky Power Cooperative (EKPC). In December 2018, PJM integrated the Ohio Valley Electric Corporation (OVEC).

<sup>260</sup> "The top 10 emitting power plants in America," < <https://www.eenews.net/articles/the-top-10-emitting-power-plants-in-america/> > (Accessed November 4, 2022).

**Figure 8-11 Total CO<sub>2</sub> emissions during on and off peak hours by quarter (millions of short tons), by PJM units: January 1999 through September 2022<sup>261</sup>**



**Table 8-31 Minimum and maximum CO<sub>2</sub> emissions per MWh: September 1999 through September 2022**

		Short Tons per MWh	Year	Quarter
Minimum	All hours	0.65	2021	4
	On Peak	0.65	2021	4
	Off Peak	0.65	2021	4
Maximum	All hours	0.96	2010	1
	On Peak	0.94	2010	1
	Off Peak	0.97	2010	2

Figure 8-12 shows the total SO<sub>2</sub> and NO<sub>x</sub> emissions and the emission rate in short tons per MWh for all SO<sub>2</sub> and NO<sub>x</sub> emitting units, and the SO<sub>2</sub> and NO<sub>x</sub> emission rate in short tons per MWh of total PJM generation. In the third

<sup>261</sup> The emissions are calculated from the continuous emission monitoring system (CEMS) data from generators located within the PJM footprint.

quarter of 2022, the SO<sub>2</sub> emission rate was 0.000361 short tons per MWh for all SO<sub>2</sub> emitting units, and the NO<sub>x</sub> emission rate was 0.000190 short tons per MWh for all NO<sub>x</sub> emitting units.

Figure 8-13 shows the total on peak hour and off peak hour SO<sub>2</sub> and NO<sub>x</sub> emissions and the emission rate in short tons per MWh for all SO<sub>2</sub> and NO<sub>x</sub> emitting units. In the third quarter of 2022, SO<sub>2</sub> emission rates were 0.000363 short tons per MWh and 0.000359 short tons per MWh for all SO<sub>2</sub> units, for off and on peak hours. In the second quarter of 2022, NO<sub>x</sub> emission rates were 0.000182 short tons per MWh and 0.000197 short tons per MWh for all NO<sub>x</sub> emitting units, for off and on peak hours.

Table 8-32 shows the minimum and maximum SO<sub>2</sub> and NO<sub>x</sub> emission rate in short tons per MWh for all SO<sub>2</sub> and NO<sub>x</sub> emitting units, for all hours, as well as on and off peak hours, from the third quarter of 1999 through the third quarter of 2022.

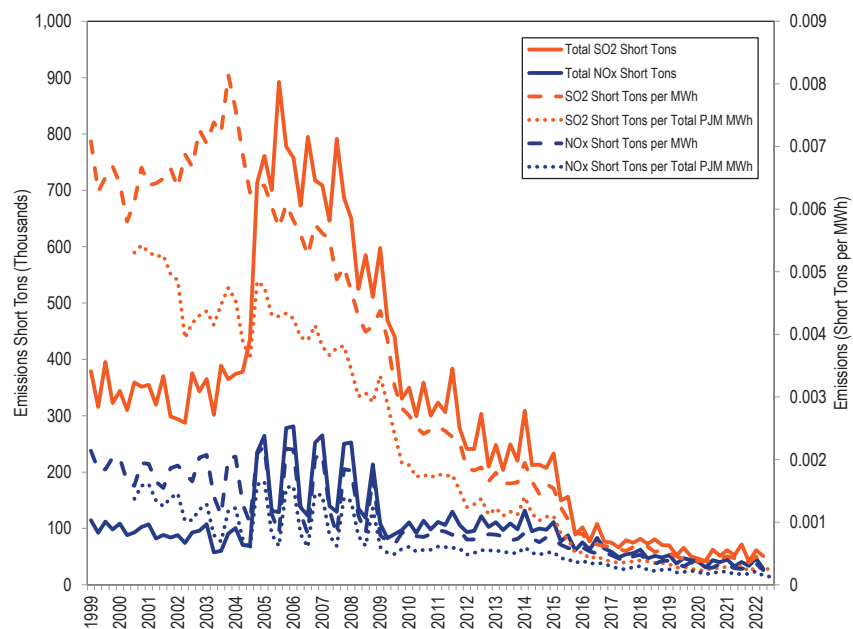
In the third quarter of 2022, the SO<sub>2</sub> emission rate was 0.000420 short tons per MWh for all SO<sub>2</sub> emitting units, and the NO<sub>x</sub> emission rate was 0.000233 short tons per MWh for all NO<sub>x</sub> emitting units. The consistent decline in SO<sub>2</sub> and NO<sub>x</sub> emissions starting in 2006 is the result of a decline in the use of coal, an increase in the use of natural gas, and the installation of environmental controls from 2006 to 2022.<sup>262 263</sup> There has been an increase in the SO<sub>2</sub> emissions since 2020, as a result of an increase in coal usage within PJM. The SO<sub>2</sub> emission rate averaged 0.000383 short tons per MWh for all SO<sub>2</sub> emitting units in the first nine months of 2020, 0.000443 short tons per MWh for all SO<sub>2</sub> emitting units in the first nine months of 2021, and 0.000410 short tons per MWh for all SO<sub>2</sub> emitting units in the first nine months of 2022. Despite the increase in coal usage since 2020, the NO<sub>x</sub> emission rate is lower having been offset by installation of additional environmental controls (See Table 8-29). The NO<sub>x</sub> emission rate averaged 0.000295 short tons per MWh for all NO<sub>x</sub> emitting units in the first nine months of 2020, 0.000284 short tons per MWh for all NO<sub>x</sub> emitting units in the first nine months of 2021,

<sup>262</sup> See EIA, "Changes in coal sector led to less SO<sub>2</sub> and NO<sub>x</sub> emissions from electric power industry," <<https://www.eia.gov/todayinenergy/detail.php?id=37752>> (Accessed October 25, 2019).

<sup>263</sup> See EIA, "Sulfur dioxide emissions from U.S. power plants have fallen faster than coal generation," <<https://www.eia.gov/todayinenergy/detail.php?id=29812>> (Accessed October 25, 2019).

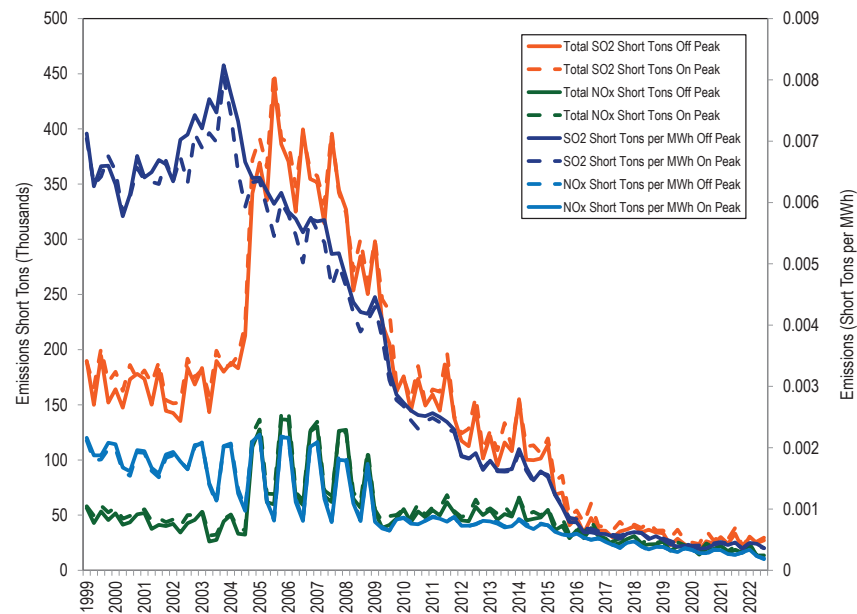
and 0.000255 short tons per MWh for all NO<sub>x</sub> emitting units in the first nine months of 2022.

**Figure 8-12 SO<sub>2</sub> and NO<sub>x</sub> emissions by quarter (thousands of short tons), by PJM units: January 1999 through September 2022<sup>264</sup>**



<sup>264</sup> The emissions are calculated from the continuous emission monitoring system (CEMS) data from generators located within the PJM footprint.

**Figure 8-13 SO<sub>2</sub> and NO<sub>x</sub> emissions during on and off peak hours by quarter (thousands of short tons), by PJM units: January 1999 through September 2022<sup>265</sup>**



<sup>265</sup> The emissions are calculated from the continuous emission monitoring system (CEMS) data from generators located within the PJM footprint.

**Table 8-32 Minimum and maximum SO<sub>2</sub> and NO<sub>x</sub> emissions per MWh: September 1999 through September 2022**

Emission Type		Short Tons per MWh	Year	Quarter	
SO <sub>2</sub>	Minimum	All hours	0.000	2021	4
		On Peak	0.000	2022	3
		Off Peak	0.000	2021	4
	Maximum	All hours	0.008	2003	4
		On Peak	0.008	2003	4
		Off Peak	0.008	2003	4
NO <sub>x</sub>	Minimum	All hours	0.000	2022	3
		On Peak	0.000	2022	3
		Off Peak	0.000	2022	3
	Maximum	All hours	0.002	2005	1
		On Peak	0.002	2005	1
		Off Peak	0.002	2005	1

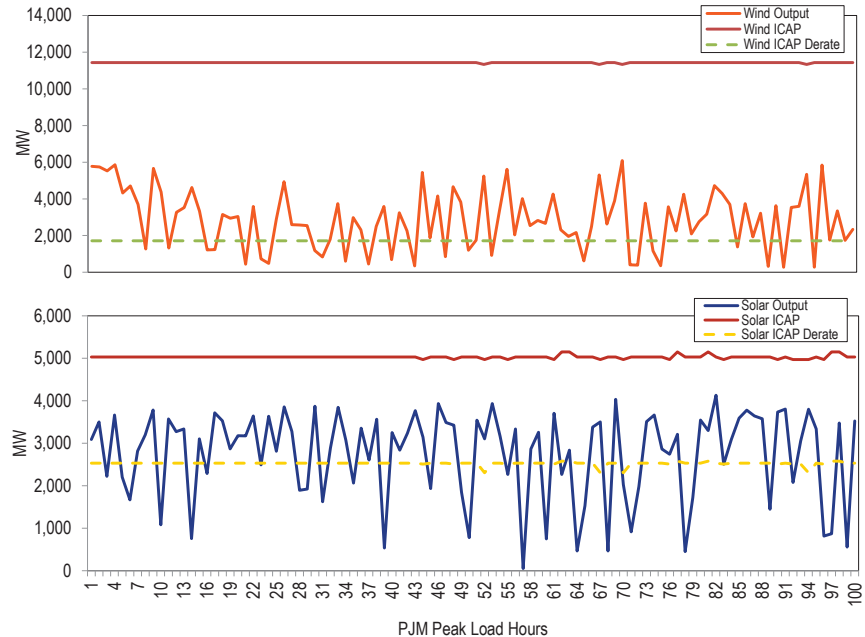
## Renewable Energy Output

### Wind and Solar Peak Hour Output

The capacity of solar and wind resources are derated from the nameplate or installed capacity value to a level intended to reflect that the resources are a substitute for other capacity resources in the PJM Capacity Market. The derating percentages are intended to reflect expected performance during high load hours and are based on actual historical performance. Figure 8-14 shows the wind and solar output during the top 100 load hours in PJM in the first nine months of 2022. In the first nine months of 2022, 95 of the top 100 load hours in PJM are PJM defined peak load hours. The hours are in descending order by load. The solid lines are the total ICAP of wind or solar PJM resources. The dashed lines are the total capacity committed for each unit, or the ICAP of wind and solar PJM resources derated to 14.7 and 38.0 percent if the unit does not participate in the capacity market.<sup>266</sup> The actual output of the wind and solar resources during the top 100 load hours ranges above and below the derated capacity values. Wind output was above the derated ICAP for 75 hours and below the derated ICAP for 25 hours of the top 100 load hours in the first nine months of 2022. The wind capacity factor for the top 100 load hours in the first nine months of 2022 was 25.0

percent. Wind output was above the derated ICAP for 4,210 hours and below the derated ICAP for 2,341 hours in the first nine months of 2022. The wind capacity factor in the first nine months of 2022 was 29.3 percent. Solar output was above the derated ICAP for 67 hours and below the derated ICAP for 33 hours of the top 100 load hours in the first nine months of 2022. The solar capacity factor for the top 100 load hours in the first nine months of 2022 was 54.9 percent. Solar output was above the derated ICAP for 1,687 hours and below the derated ICAP for 4,864 hours in the first nine months of 2022. The solar capacity factor in the first nine months of 2022 was 23.3 percent.

**Figure 8-14 Wind and solar output during the top 100 load hours: January through September 2022**



<sup>266</sup> See Class Average Capacity Factors, <<https://www.pjm.com/-/media/planning/res-adeq/class-average-wind-capacity-factors.ashx?la=en>> (Accessed October 20, 2022).



## Wind Units

Table 8-33 shows the capacity factors of wind units in PJM. In the first nine months of 2022, the capacity factor of wind units in PJM was percent. Wind units that were capacity resources had a capacity factor of 29.9 percent and an installed capacity of 9,988.9 MW. Wind units that were energy only had a capacity factor of 25.0 percent and an installed capacity of 1,387.4 MW. Wind capacity in RPM is derated to 14.7 or 17.6 percent of nameplate capacity for the capacity market, based on the wind farm terrain, and energy only resources are not included in the capacity market.<sup>267</sup>

**Table 8-33 Capacity factor of wind units: January through September, 2022<sup>268</sup>**

Type of Resource	Capacity Factor	Installed Capacity (MW)
Energy-Only Resource	25.0%	1,387.4
Capacity Resource	29.9%	9,988.9
All Units	29.3%	11,376.3

Figure 8-15 shows the average hourly real-time generation of wind units in PJM, by month for the first nine months of 2022. The hour with the highest average output in the first nine months of 2022, 5,375.9 MWh, occurred in February, and the hour with the lowest average output, 1,091.4 MWh, occurred in August. Wind output in PJM is generally higher during off peak hours and lower during on peak hours.

**Figure 8-15 Average hourly real-time generation of wind units: January through September, 2022**

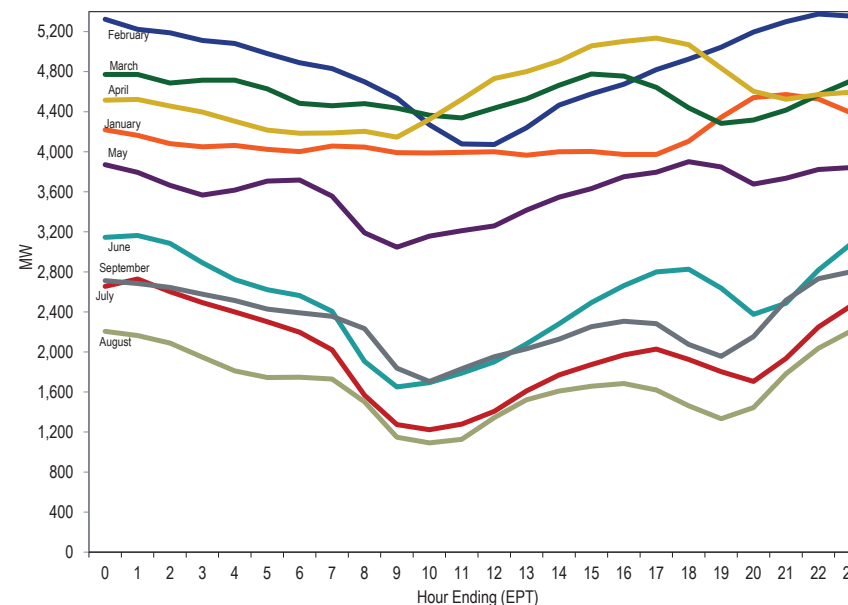


Table 8-34 shows the generation and capacity factor of wind units by month for the first nine months of 2021 and 2022.

**Table 8-34 Capacity factor of wind units in PJM by month: January through September, 2021 and 2022**

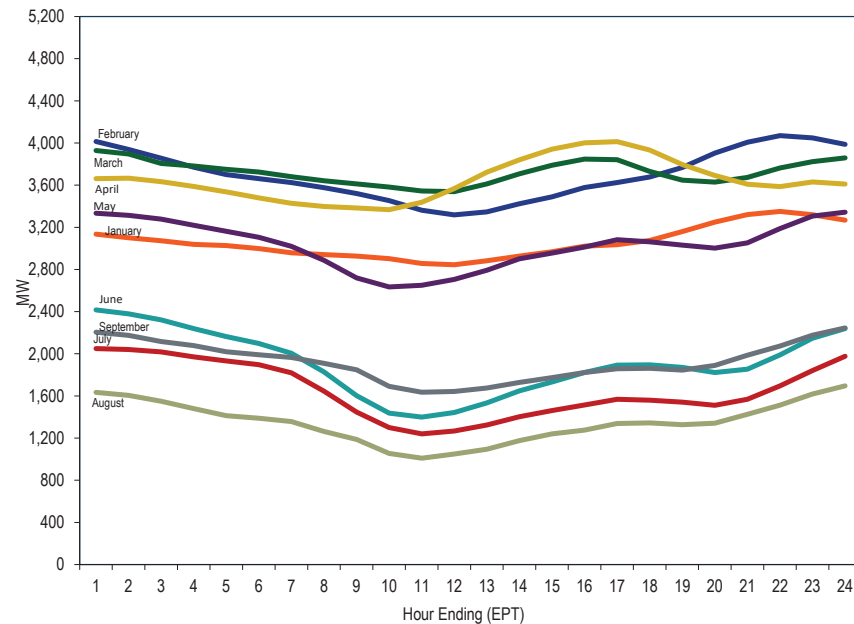
Month	2021		2022	
	Generation (MWh)	Capacity Factor	Generation (MWh)	Capacity Factor
January	2,486,737.9	30.5%	3,072,620.3	36.4%
February	2,595,370.6	34.7%	3,256,337.2	42.8%
March	3,399,080.7	41.1%	3,386,619.2	40.2%
April	2,684,454.5	33.5%	3,298,156.9	40.4%
May	2,110,377.3	25.5%	2,676,674.3	31.7%
June	1,691,536.1	21.1%	1,803,398.8	21.9%
July	1,073,252.3	13.0%	1,473,973.6	17.3%
August	1,087,078.7	13.1%	1,242,872.1	14.6%
September	2,137,750.7	26.7%	1,655,008.7	20.1%

<sup>267</sup> PJM. Class Average Capacity Factors, <<https://www.pjm.com/-/media/planning/res-adeq/class-average-wind-capacity-factors.ashx?la=en>> (Accessed October 20, 2022).

<sup>268</sup> Capacity factor is calculated based on online date of the resource.

Wind units that are capacity resources are required, like all capacity resources except demand resources, to offer the energy associated with their cleared capacity in the day-ahead energy market and in the real-time energy market. Figure 8-16 shows the average hourly day-ahead generation offers of wind units in PJM, by month.

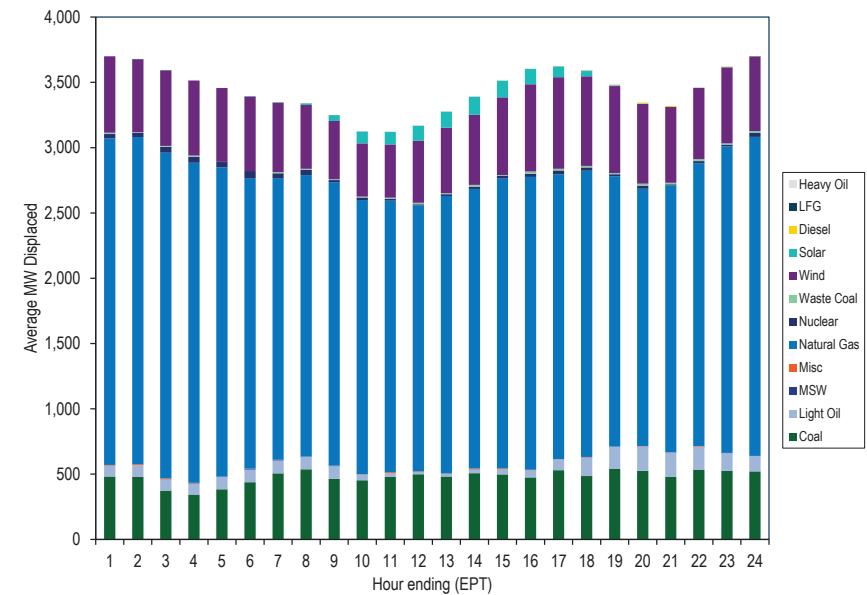
**Figure 8-16 Average hourly day-ahead generation of wind units: January through September, 2022**



Output from wind turbines displaces output from other generation types because, in general, wind turbines generate power when the wind is blowing, regardless of the price. This displacement affects the output of marginal units in PJM. The magnitude and type of effect on marginal unit output depends on the level of wind turbine output, its location, time and duration. One measure of this displacement is based on the mix of marginal units when wind is

producing output.<sup>269</sup> Figure 8-17 and Table 8-35 show the hourly average proportion of marginal units by fuel type mapped to the hourly average MW of real-time wind generation in the first nine months of 2022. This is not an exact measure of displacement because it is not based on a redispatch of the system without wind resources. In the first nine months of 2022, the SCED dispatch instruction for marginal wind resources was to reduce output for 69.8 percent of the wind unit intervals. When wind appears as the displaced fuel at times when wind resources were on the margin this means that there was no displacement for those hours, if the dispatch instruction was to lower the generation. The level of wind displaced by wind is thus overstated.

**Figure 8-17 Marginal fuel at time of wind generation: January through September, 2022**



<sup>269</sup> The measure is based on the principle that any incremental change in the wind output is balanced by the change in the output of marginal generators, while holding everything else equal.

**Table 8-35 Marginal fuel MW at time of wind generation: January through September, 2022**

Hour	Light			Natural			Waste			Heavy			Total
	Coal	Oil	MSW	Misc	Gas	Nuclear	Coal	Wind	Solar	Diesel	LFG	Oil	
0	481.4	84.3	0.6	4.7	2,499.3	34.3	9.7	585.2	0.0	0.0	0.0	0.0	3,699.5
1	478.3	89.8	0.0	8.1	2,505.3	31.4	5.5	559.0	0.7	0.0	0.0	0.0	3,678.1
2	373.7	87.8	1.8	5.4	2,493.0	45.0	6.4	579.5	1.0	0.0	0.0	0.0	3,593.7
3	343.6	83.0	3.4	3.1	2,450.8	46.5	9.6	573.9	0.0	0.0	0.0	0.0	3,513.9
4	384.0	94.9	1.0	1.3	2,366.9	42.0	1.4	565.6	0.0	0.3	0.0	0.0	3,457.3
5	437.9	97.5	5.8	1.2	2,223.9	55.1	0.0	570.7	2.1	0.0	0.0	0.0	3,394.2
6	506.0	97.7	3.4	2.8	2,157.1	36.0	9.9	531.3	2.6	0.3	1.2	0.0	3,348.5
7	537.3	95.3	1.1	0.0	2,155.8	41.3	6.9	488.4	11.5	0.3	1.4	0.0	3,339.2
8	464.7	96.5	2.0	1.8	2,170.8	16.2	6.3	446.3	43.4	0.4	1.2	0.0	3,249.6
9	453.3	43.7	1.3	1.4	2,098.5	19.9	7.6	407.6	89.6	0.0	1.1	0.3	3,124.2
10	478.0	31.4	0.7	6.7	2,077.6	14.5	8.4	407.2	96.9	0.0	0.0	0.0	3,121.4
11	498.8	17.2	0.0	4.6	2,036.2	9.8	11.0	474.8	114.3	0.0	0.3	1.3	3,168.3
12	482.0	21.9	0.3	2.4	2,123.6	13.5	8.1	500.8	122.9	0.6	0.0	0.0	3,276.2
13	507.3	28.9	0.4	6.5	2,141.1	17.5	13.0	537.2	137.1	0.0	0.6	0.5	3,389.9
14	497.9	41.1	0.0	6.2	2,218.4	19.4	7.3	595.4	127.6	0.3	0.0	1.1	3,514.7
15	474.9	53.8	1.8	3.6	2,241.7	23.0	18.6	667.6	118.1	0.8	0.0	0.6	3,604.5
16	530.8	81.9	1.4	0.9	2,180.5	30.5	11.7	701.3	81.7	2.1	0.7	1.6	3,625.1
17	485.0	143.5	0.2	3.0	2,191.1	26.2	10.6	687.1	40.2	2.5	1.7	4.0	3,595.1
18	539.2	170.2	0.1	2.1	2,069.3	16.3	8.4	666.2	5.6	1.8	0.2	0.3	3,479.6
19	525.7	185.2	1.8	1.8	1,970.6	24.0	15.1	610.2	4.0	6.8	0.0	0.0	3,345.2
20	478.2	188.0	0.6	0.6	2,042.8	9.1	12.1	581.8	0.1	6.7	0.0	0.0	3,319.9
21	535.4	176.6	0.5	3.5	2,164.6	16.4	15.1	546.0	0.2	0.0	0.0	0.7	3,459.2
22	524.8	136.4	0.2	0.8	2,346.6	14.4	9.8	582.4	0.4	1.5	0.3	0.7	3,618.3
23	521.0	117.2	0.0	1.9	2,442.5	30.0	14.2	571.6	0.5	0.8	0.9	0.0	3,700.7
Average	480.8	94.3	1.2	3.1	2,223.7	26.3	9.5	559.9	41.7	1.0	0.4	0.5	3,442.3

## Solar Units

Solar units in PJM may be in front of or behind the meter. The data reported include all PJM solar units that are in front of the meter. As shown in Table 8-22, there are 5,482.6 MW capacity of solar registered in GATS that are PJM units. As shown in Table 8-23, there are 9,000.9 MW capacity of solar registered in GATS that are not PJM units. Some behind the meter generation exists in clusters, such as community solar farms, and serves dedicated customers. Such customers may or may not be located at the same node on the transmission system as the solar farm. When behind the meter generation and its associated load are at separate nodes, loads should pay for the appropriate level of transmission service, and should not be permitted to avoid their proper financial responsibility through badly designed rules, such as rules for

netting. The MMU recommends that load and generation located at separate nodes be treated as separate resources.

Table 8-36 shows the capacity factor of solar units in PJM. The capacity factor of solar units in PJM was 23.3 percent in the first nine months of 2022. Solar units that were capacity resources had a capacity factor of 23.2 percent and an installed capacity of 3,703.7 MW. Solar units that were energy only had a capacity factor of 23.8 percent and an installed capacity of 1,276.6 MW. Solar capacity in RPM is derated to 38.0, 42.0 or 60.0 percent of nameplate capacity for the capacity market, based on the installation type, and energy only resources are not included in the capacity market.<sup>270</sup>

**Table 8-36 Capacity factor of solar units: January through September, 2022**

Type of Resource	Capacity Factor	Installed Capacity (MW)
Energy-Only Resource	23.8%	1,276.6
Capacity Resource	23.2%	3,703.7
All Units	23.3%	4,980.3

Figure 8-18 shows the average hourly real-time generation of solar units in PJM, by month. The hour with the highest peak average output in the first nine months of 2022, 3,591.9 MW, occurred in June, and the hour with the lowest peak average output, 1,970.5 MW, occurred in January. Solar output in PJM is generally higher during peak hours and lower during off peak hours.

<sup>270</sup> PJM. Class Average Capacity Factors, <<https://www.pjm.com/-/media/planning/res-adeq/class-average-wind-capacity-factors.ashx?la=en>> (Accessed July 24, 2019).

**Figure 8-18 Average hourly real-time generation of solar units: January through September, 2022**

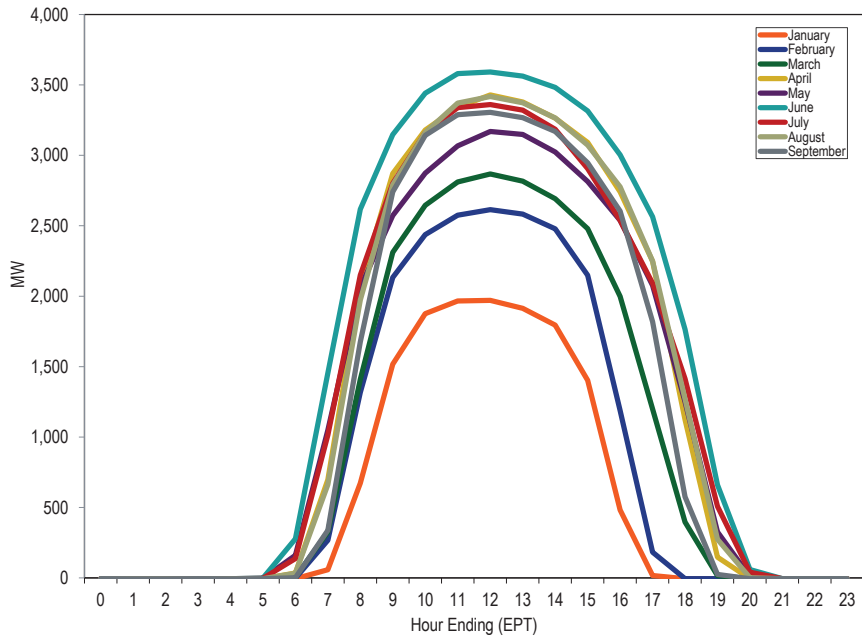


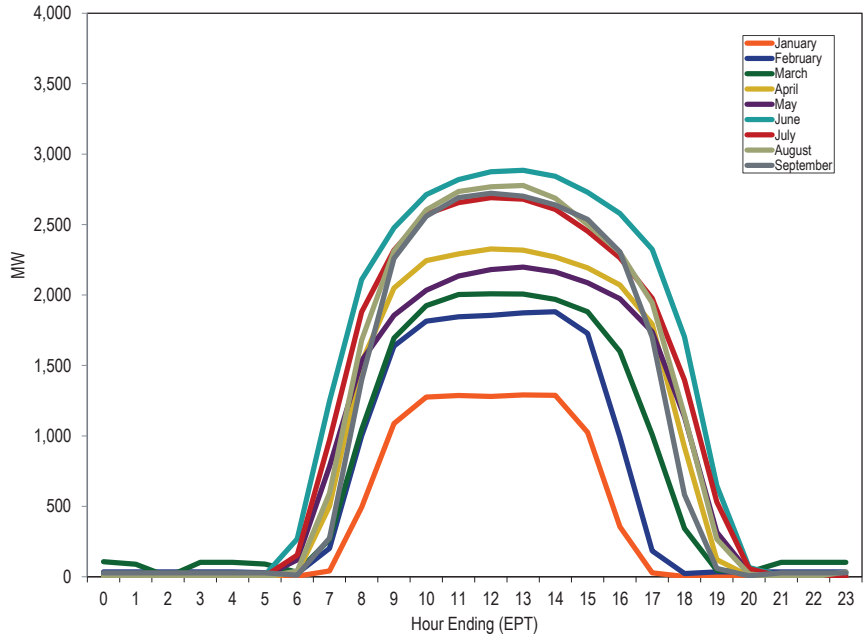
Table 8-37 shows the generation and capacity factor of solar units by month for the first nine months of 2021 and 2022.

**Table 8-37 Capacity factor of solar units by month: January through September, 2021 and 2022**

Month	2021		2022	
	Generation (MWh)	Capacity Factor	Generation (MWh)	Capacity Factor
January	303,578.0	10.6%	426,957.6	11.8%
February	279,267.0	10.4%	564,995.2	17.2%
March	578,735.6	19.4%	754,200.7	20.7%
April	711,376.4	23.8%	956,146.4	26.8%
May	814,711.9	26.1%	945,079.2	25.6%
June	809,575.7	26.8%	1,103,443.9	30.8%
July	874,340.0	28.0%	998,652.5	26.7%
August	789,824.1	25.2%	989,813.8	26.1%
September	751,990.4	24.1%	877,827.2	23.7%

Solar units that are capacity resources are required, like all capacity resources except demand resources, to offer the energy associated with their cleared capacity in the day-ahead energy market and in the real-time energy market. Figure 8-19 shows the average hourly day-ahead generation offers of solar units in PJM, by month.<sup>271</sup>

**Figure 8-19 Average hourly day-ahead generation of solar units: January through September, 2022**

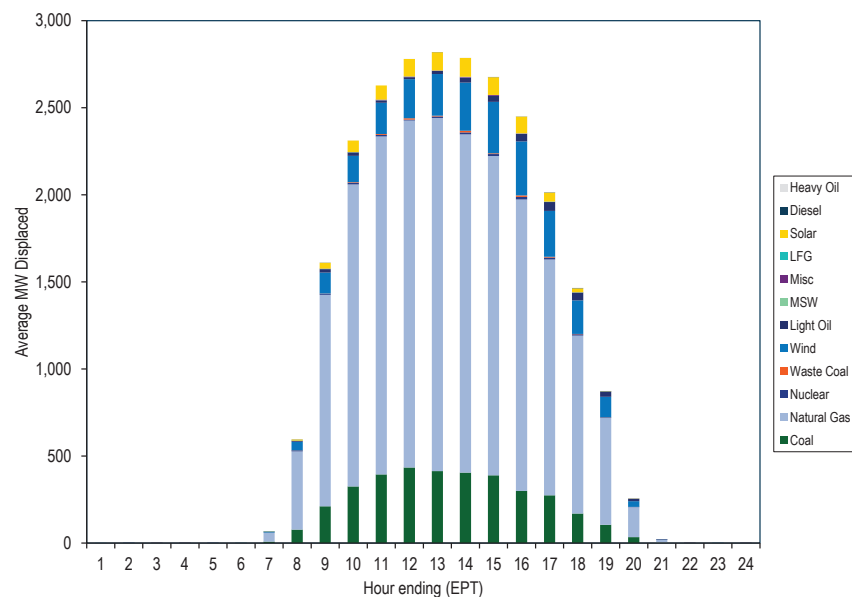


Output from solar generators displaces output from other generation types because, in general, solar photovoltaic cells generate power when the sun is shining, regardless of the price. This displacement affects the output of marginal units in PJM. The magnitude and type of effect on marginal unit output depends on the level of solar generation output, its location, time and duration. One measure of this displacement is based on the mix of marginal

<sup>271</sup> The average day-ahead generation of solar units in PJM is greater than 0 for hours when the sun is down due to some solar units being paired with landfill units.

units when a solar unit is producing output.<sup>272</sup> Figure 8-20 and Table 8-38 show the hourly average proportion of marginal units by fuel type mapped to the hourly average MW of real-time solar generation in the first nine months of 2022. This is not an exact measure of displacement because it is not based on a redispatch of the system without solar resources. In the first nine months of 2022, the SCED dispatch instruction for marginal solar resources was to reduce output for 80.8 percent of the solar unit intervals. When solar appears as the displaced fuel at times when solar resources were on the margin this means that there was no displacement for those hours, if the dispatch instruction was to lower the generation. The level of solar displaced by solar is thus overstated.

**Figure 8-20 Marginal fuel at time of solar generation: January through September, 2022**



<sup>272</sup> The measure is based on the principle that any incremental change in the solar output is balanced by the change in the output of marginal generators, while holding everything else equal.

**Table 8-38 Marginal fuel MW at time of solar generation: January through September, 2022**

Hour	Natural			Waste		Light			Heavy			Total	
	Coal	Gas	Nuclear	Coal	Wind	Oil	MSW	Misc	LFG	Solar	Diesel		Oil
0	0.1	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3
1	0.0	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3
2	0.1	0.2	0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.4
3	0.0	0.2	0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3
4	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1
5	0.1	0.9	0.0	0.0	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.1
6	8.1	51.3	0.6	0.2	6.3	0.1	0.3	0.1	0.0	0.4	0.0	0.0	67.5
7	77.3	448.9	6.2	0.4	48.9	5.8	0.9	0.0	0.1	5.9	0.0	0.0	594.4
8	211.1	1,214.7	6.5	1.3	119.8	20.1	0.7	1.4	0.4	33.3	0.3	0.0	1,609.7
9	325.3	1,734.5	9.0	3.8	151.4	19.9	0.3	0.6	0.1	66.5	0.0	0.5	2,311.9
10	394.4	1,941.0	8.0	5.3	180.0	13.9	0.3	3.8	0.0	81.5	0.0	0.0	2,628.2
11	434.4	1,992.2	5.5	7.3	224.5	11.2	0.0	3.9	0.7	99.9	0.0	1.3	2,780.9
12	413.5	2,028.2	8.1	4.3	239.8	18.1	0.5	1.7	0.0	105.0	0.5	0.0	2,819.7
13	404.9	1,942.0	11.2	9.6	276.9	28.5	0.5	3.8	0.6	107.9	0.0	0.7	2,786.7
14	389.3	1,833.2	11.9	4.2	295.0	34.7	0.0	5.0	0.0	102.3	0.4	1.5	2,677.6
15	299.1	1,674.4	14.1	9.3	309.5	43.5	1.3	2.2	0.0	95.5	0.9	0.5	2,450.2
16	274.2	1,354.5	11.0	4.8	263.5	50.8	0.6	0.3	1.3	52.3	1.2	0.9	2,015.2
17	169.6	1,021.6	7.7	2.5	192.6	44.2	0.4	0.8	1.2	22.4	1.4	2.2	1,466.5
18	105.1	612.8	3.5	1.5	117.3	28.8	0.0	0.1	0.3	1.6	1.6	0.1	872.5
19	33.9	172.4	1.1	0.4	32.5	13.0	0.1	0.0	0.0	0.5	1.0	0.0	254.9
20	3.0	14.9	0.0	0.0	1.9	0.6	0.0	0.0	0.0	0.0	0.1	0.0	20.6
21	0.0	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3
22	0.1	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3
23	0.1	0.4	0.0	0.0	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.7
Average	147.6	751.6	4.3	2.3	102.5	13.9	0.3	1.0	0.2	32.3	0.3	0.3	1,056.7