



# **Ohio Wind Working Group** **SB 221 Administrative Rules:** **Implementing the RPS**

Riffe Center, Columbus, Ohio  
May 29, 2009

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# Process

- Governor signed SB 221 on May 1, 2008
- Rules now promulgated by PUCO
- Applications for rehearing filed
- Final JCARR approval: Summer 2009?
- Litigation?





# Ohio Senate Bill 221

## Alternative Energy Portfolio Standard

Alternative Energy Technologies	2025 R.P.S. Benchmarks	In-State Requirements	Renewable Energy Credits	Enforcement/ Compliance Payments																																																			
<p><b>Renewable</b> ORC 4928.01(A)(35)</p> <ul style="list-style-type: none"> <li>• Solar – Photovoltaic</li> <li>• Solar – Thermal</li> <li>• Wind</li> <li>• Hydropower</li> <li>• Certain Solid Waste</li> <li>• Biomass</li> <li>• Bio-Methane Gas</li> <li>• Fuel Cells</li> <li>• Wind Turbines – Lake Erie</li> <li>• Off Peak Storage Facilities Utilizing Renewables</li> <li>• Distributed Generation Facilities Utilizing Renewables</li> </ul>	<p><b>Renewable and Solar Benchmarks: 12.5% +</b> ORC 4928.64(B)(2)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Y</th> <th>R</th> <th>S</th> </tr> </thead> <tbody> <tr><td>2009:</td><td>.25%</td><td>.004%</td></tr> <tr><td>2010:</td><td>.50%</td><td>.010%</td></tr> <tr><td>2011:</td><td>1.0%</td><td>.030%</td></tr> <tr><td>2012:</td><td>1.5%</td><td>.060%</td></tr> <tr><td>2013:</td><td>2.0%</td><td>.090%</td></tr> <tr><td>2014:</td><td>2.5%</td><td>.120%</td></tr> <tr><td>2015:</td><td>3.5%</td><td>.150%</td></tr> <tr><td>2016:</td><td>4.5%</td><td>.180%</td></tr> <tr><td>2017:</td><td>5.5%</td><td>.220%</td></tr> <tr><td>2018:</td><td>6.5%</td><td>.260%</td></tr> <tr><td>2019:</td><td>7.5%</td><td>.300%</td></tr> <tr><td>2020:</td><td>8.5%</td><td>.340%</td></tr> <tr><td>2021:</td><td>9.5%</td><td>.380%</td></tr> <tr><td>2022:</td><td>10.5%</td><td>.420%</td></tr> <tr><td>2023:</td><td>11.5%</td><td>.460%</td></tr> <tr><td>2024:</td><td>12.5%</td><td>.500%</td></tr> </tbody> </table>	Y	R	S	2009:	.25%	.004%	2010:	.50%	.010%	2011:	1.0%	.030%	2012:	1.5%	.060%	2013:	2.0%	.090%	2014:	2.5%	.120%	2015:	3.5%	.150%	2016:	4.5%	.180%	2017:	5.5%	.220%	2018:	6.5%	.260%	2019:	7.5%	.300%	2020:	8.5%	.340%	2021:	9.5%	.380%	2022:	10.5%	.420%	2023:	11.5%	.460%	2024:	12.5%	.500%	<p>At least ½ of renewable energy resources to be implemented by the utilities shall be met through facilities located in Ohio.</p> <p>The remainder shall be met with resources that can be shown to have been delivered into this state. ORC 4928.64(B)(3)</p>	<p>Utilities may use R.E.C.s in any of the 5 calendar years following acquisition to comply with both the renewable and solar energy resource requirements.</p> <p>1 R.E.C. shall equal 1 Mw Hour of electricity from renewable resources. ORC 4928.65</p>	<p><b>1) Annual PUCO Review</b> ORC 4928.64(C)(1)</p> <p><b>2) If Not in Compliance:</b> ORC 4928.64(C)(2)</p> <p>A) Solar Benchmark \$ per Mw hour :</p> <p>2009: \$450 2010: \$400 2012: \$350 2014: \$300 2016: \$250 2018: \$200 2020: \$150 2022: \$100 2024: \$50</p> <p>B) Renewable Benchmark 2009: \$45 Adjusted annually per CPI</p>
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<p><b>Advanced</b> ORC 4928.01(A)(34)</p> <ul style="list-style-type: none"> <li>• Clean Coal</li> <li>• Advanced Nuclear</li> <li>• Energy Efficiency</li> <li>• Fuel Cells</li> <li>• Co-gen</li> <li>• Certain Solid Waste</li> </ul> <p><b>Mercantile Sited</b> ORC 4928.01 (A)(1)</p> <ul style="list-style-type: none"> <li>• Real/Reactive Power</li> <li>• Waste Heat Efficiency</li> <li>• Demand/Load storage</li> <li>• Advanced/Renewable</li> </ul>	<p><b>Advanced Energy Requirement: 12.5%</b> ORC 4928.64(B)(1)</p>	<p><b>Key A.E.P.S. Cost Containment Mechanisms</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #4f7942; color: white;">3% Cost Cap</th> <th style="background-color: #4f7942; color: white;">Force Majeure Provision</th> </tr> </thead> <tbody> <tr> <td style="background-color: #f2f2f2;">Utilities not required to comply with benchmark to the extent compliance will result in 3+% increase in electricity production or acquisition costs. ORC 4928.64(C)(3)</td> <td style="background-color: #f2f2f2;">Utility may request PUCO to determine whether renewable resources are sufficiently available to enforce R.P.S. benchmark requirement. If utility shows good faith effort to comply with renewable benchmarks but cannot, PUCO may reduce obligation. Modification does not automatically reduce future benchmarks. ORC 4928.64(C)(4)</td> </tr> </tbody> </table>			3% Cost Cap	Force Majeure Provision	Utilities not required to comply with benchmark to the extent compliance will result in 3+% increase in electricity production or acquisition costs. ORC 4928.64(C)(3)	Utility may request PUCO to determine whether renewable resources are sufficiently available to enforce R.P.S. benchmark requirement. If utility shows good faith effort to comply with renewable benchmarks but cannot, PUCO may reduce obligation. Modification does not automatically reduce future benchmarks. ORC 4928.64(C)(4)																																															
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## “Final” Ohio S.B. 221 RES-Administrative Rules\* COST CAP

\*Subject to Rehearing and Legislative Committee Approval

- AWEA Reaction: Generally positive
- 3% Statutory Cost Cap Rules:
  - Burden on utilities to demonstrate trigger
  - Commission to compare overall utility generation rates with RPS and without RPS
  - 2 separate, independent caps; one for “renewable” and one for “advanced” tier
  - All environmental costs of brown power included for comparison purposes
  - If cap triggered, partial compliance required and “catch-up” may be as well



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## “Final” Ohio S.B. 221 RES-Administrative Rules\* QUALIFIED RESOURCES

\*Subject to Rehearing and Legislative Committee Approval

- In-service date: January 1, 1998
- Renewable Energy: Adds clarity to solid waste, fuel cell, and storage facility definitions
- Advanced Energy: Only incremental increases will be counted in certain cases
- New Technologies: PUCO authority to certify new technologies as renewable in public process



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## “Final” Ohio S.B. 221 RES-Administrative Rules\* OTHER ISSUES

\*Subject to Rehearing and Legislative Committee Approval

- Authority to Waive Requirements - PUCO can waive any requirement of rule but not of code
- Force Majeure: “Reasonably Available in Sufficient Quantities” (tracks statute)
- “Clean coal”: still not fully defined
- Deliverability: ½ in-state, ½ “deliverable to Ohio.” Power flow or deliverability study needed; not signed contracts
- Double-Counting: Not permitted for energy efficiency
- Compliance payments: \$45/MWh for wind.



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# Conclusion

- Ohio's Renewable Portfolio Standard was critical to creating marketplace for advanced energy products and services.
- Implementation remains key.

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