

118TH CONGRESS  
2D SESSION

# S. 5352

To amend title VI of the Public Utility Regulatory Policies Act of 1978 to establish a Federal renewable electricity standard for retail electricity suppliers, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 20, 2024

Mr. WELCH (for himself and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To amend title VI of the Public Utility Regulatory Policies Act of 1978 to establish a Federal renewable electricity standard for retail electricity suppliers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Renewable  
5 Energy Act of 2024”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1           (1) the Federal renewable electricity standard  
2 established by section 610 of the Public Utility Reg-  
3 ulatory Policies Act of 1978 (as added by this Act)  
4 establishes a market-based policy to create ongoing  
5 competition among renewable electricity generators  
6 across the United States and provide the greatest  
7 quantity of clean electricity for the lowest price; and

8           (2) the United States has vast wind, solar, hy-  
9 dropower, and geothermal resources that—

10                   (A) are renewable;

11                   (B) are dispersed widely across different  
12 regions of the United States;

13                   (C) can be harnessed to generate a signifi-  
14 cant share of electricity in the United States;  
15 and

16                   (D) when deployed, will significantly re-  
17 duce and eliminate the emission of harmful  
18 greenhouse gases and criteria pollutants, which  
19 have historically been concentrated in under-  
20 served communities and communities of color,  
21 contributing to disproportionate burdens and  
22 environmental injustices.

1 **SEC. 3. FEDERAL RENEWABLE ELECTRICITY STANDARD.**

2 (a) IN GENERAL.—Title VI of the Public Utility Reg-  
3 ulatory Policies Act of 1978 (Public Law 95–617; 92 Stat.  
4 3164) is amended by adding at the end the following:

5 **“SEC. 610. FEDERAL RENEWABLE ELECTRICITY STANDARD.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) BASE QUANTITY OF ELECTRICITY.—The  
8 term ‘base quantity of electricity’ means the total  
9 quantity of electricity, expressed in megawatt hours,  
10 sold by a retail electricity supplier to electric con-  
11 sumers during the relevant calendar year, excluding  
12 electricity generated by a hydroelectric facility (other  
13 than qualified hydropower).

14 “(2) CRITERIA AIR POLLUTANT.—The term  
15 ‘criteria air pollutant’ means an air pollutant for  
16 which a national ambient air quality standard has  
17 been promulgated under section 109 of the Clean  
18 Air Act (42 U.S.C. 7409).

19 “(3) DISTRIBUTED GENERATION.—The term  
20 ‘distributed generation’ means a noncentralized re-  
21 newable energy resource installation, or inter-  
22 connected series of installations, that generates elec-  
23 tricity near the point of use with a total generating  
24 capacity of 1 megawatt or less.

25 “(4) ENVIRONMENTAL JUSTICE COMMUNITY.—

1           “(A) IN GENERAL.—The term ‘environ-  
2           mental justice community’ means a low-income  
3           or low-wealth community that is impacted by  
4           environmental injustice.

5           “(B) INCLUSIONS.—The term ‘environ-  
6           mental justice community’ includes any commu-  
7           nity that—

8                   “(i) is located nearest to an existing  
9                   area of significant environmental pollution  
10                  and degradation;

11                  “(ii) bears a burden of negative public  
12                  health effects from pollution;

13                  “(iii) includes 1 or more sites of—

14                          “(I) a facility that is a part of a  
15                          polluting industry;

16                          “(II) a waste dump; or

17                          “(III) a facility for fossil resource  
18                          extraction;

19                  “(iv) experiences a high incidence of  
20                  climate change impacts and disasters;

21                  “(v) has been excluded or harmed by  
22                  racist or discriminatory policies that have  
23                  resulted in disproportionate burdens of en-  
24                  vironmental pollution and related health  
25                  and socioeconomic disparities;

1 “(vi) has a land-based or food subsist-  
 2 ence culture that is experiencing ecosystem  
 3 disruption and devastation;

4 “(vii) faces relocation and resettle-  
 5 ment resulting from—

6 “(I) climate change; or

7 “(II) impacts to the environment  
 8 and ecosystems; or

9 “(viii) is an Indigenous community.

10 “(5) FEDERAL RENEWABLE ELECTRICITY  
 11 CREDIT.—The term ‘Federal renewable electricity  
 12 credit’ means a credit that—

13 “(A) represents, for purposes of compli-  
 14 ance with this section, 1 megawatt hour of re-  
 15 newable electricity; and

16 “(B) is issued pursuant to subsection (e).

17 “(6) IMPACTED COMMUNITY.—

18 “(A) IN GENERAL.—The term ‘impacted  
 19 community’ means a community that is harmed  
 20 by environmental, economic, or socioeconomic  
 21 injustice.

22 “(B) INCLUSIONS.—The term ‘impacted  
 23 community’ includes—

24 “(i) an environmental justice commu-  
 25 nity; and

1 “(ii) a community that—

2 “(I) has a high concentration of  
3 low-income and low-wealth house-  
4 holds, including households composed  
5 primarily of members of groups that  
6 have historically experienced discrimi-  
7 nation on the basis of race, gender,  
8 national origin, or ethnicity (including  
9 Black, Indigenous, Latinx, Arab,  
10 Asian, and Pacific Islander commu-  
11 nities);

12 “(II) has experienced or is expe-  
13 riencing economic transition,  
14 deindustrialization, historic under-  
15 investment, and poverty; or

16 “(III) has high unemployment  
17 due to—

18 “(aa) a significant decline in  
19 coal mining activity; or

20 “(bb) the closure of a coal-  
21 fired power plant.

22 “(7) INDIAN TRIBE.—The term ‘Indian Tribe’  
23 means any Indian Tribe, band, nation, or other or-  
24 ganized group or community (including any Native  
25 village, Regional Corporation, or Village Corporation

1 (as those terms are defined in section 3 of the Alas-  
 2 ka Native Claims Settlement Act (43 U.S.C. 1602))  
 3 that is recognized as eligible for the special pro-  
 4 grams and services provided by the United States to  
 5 Indians because of their status as Indians.

6 “(8) QUALIFIED HYDROPOWER.—The term  
 7 ‘qualified hydropower’ means energy produced from  
 8 generating capacity added to a dam on or after Jan-  
 9 uary 1, 2001, if the Commission certifies that—

10 “(A) the dam—

11 “(i) was placed in service before the  
 12 date of enactment of this section;

13 “(ii) was operated for flood control,  
 14 navigation, or water supply purposes; and

15 “(iii) was not producing hydroelectric  
 16 power prior to the addition of the capacity;  
 17 and

18 “(B) the hydroelectric project installed on  
 19 the dam—

20 “(i) is licensed or is exempt from li-  
 21 censing by the Commission;

22 “(ii) is in compliance with—

23 “(I) the terms and conditions of  
 24 the license or exemption; and

1                   “(II) other applicable legal re-  
 2                   quirements for the protection of envi-  
 3                   ronmental quality, including applica-  
 4                   ble fish passage requirements; and

5                   “(iii) is operated so that the water  
 6                   surface elevation at any given location and  
 7                   time that would have occurred in the ab-  
 8                   sence of the hydroelectric project is main-  
 9                   tained, subject to any license or exemption  
 10                  requirements that require changes in water  
 11                  surface elevation for the purpose of im-  
 12                  proving the environmental quality of the  
 13                  affected waterway.

14                  “(9) RENEWABLE ELECTRICITY.—The term ‘re-  
 15                  newable electricity’ means electricity generated (in-  
 16                  cluding by means of a fuel cell) from a renewable en-  
 17                  ergy resource.

18                  “(10) RENEWABLE ENERGY RESOURCE.—The  
 19                  term ‘renewable energy resource’ means each of the  
 20                  following:

21                         “(A) Wind energy.

22                         “(B) Solar energy.

23                         “(C) Geothermal energy.

24                         “(D) Biogas derived from—

1                   “(i) anaerobic digestion at wastewater  
2                   treatment facilities; or

3                   “(ii) farm anaerobic digestion.

4                   “(E) Qualified hydropower.

5                   “(F) Marine energy (as defined in section  
6                   632 of the Energy Independence and Security  
7                   Act of 2007 (42 U.S.C. 17211)).

8                   “(11) RETAIL ELECTRICITY SUPPLIER.—

9                   “(A) IN GENERAL.—The term ‘retail elec-  
10                  tricity supplier’ means, for any calendar year,  
11                  an electric utility that sells not fewer than  
12                  1,000,000 megawatt hours of electricity to elec-  
13                  tric consumers during the preceding calendar  
14                  year.

15                  “(B) INCLUSIONS AND LIMITATIONS.—For  
16                  purposes of determining whether an electric  
17                  utility qualifies as a retail electricity supplier  
18                  under subparagraph (A)—

19                         “(i) the sales made by any affiliate of  
20                         the electric utility to electric consumers,  
21                         other than sales to lessees or tenants of  
22                         the affiliate, shall be considered to be sales  
23                         made by the electric utility; and

24                         “(ii) sales made by the electric utility  
25                         to an affiliate, lessee, or tenant of the elec-

1           tric utility shall not be treated as sales to  
2           electric consumers.

3           “(C) AFFILIATE.—In this paragraph, the  
4           term ‘affiliate’, when used in relation to an elec-  
5           tric utility, means any person that directly or  
6           indirectly owns or controls, is owned or con-  
7           trolled by, or is under common ownership or  
8           control with, that electric utility, as determined  
9           under regulations promulgated by the Commis-  
10          sion.

11          “(12) RETIRE AND RETIREMENT.—The terms  
12          ‘retire’ and ‘retirement’, with respect to a Federal  
13          renewable electricity credit, mean to disqualify the  
14          credit for any subsequent use under this section, re-  
15          gardless of whether the use is a sale, transfer, ex-  
16          change, or submission in satisfaction of a compliance  
17          obligation.

18          “(b) ANNUAL COMPLIANCE OBLIGATION.—

19                 “(1) IN GENERAL.—Except as otherwise pro-  
20                 vided in subsection (f), for each of calendar years  
21                 2025 through 2034, not later than March 31 of the  
22                 following calendar year, each retail electricity sup-  
23                 plier shall submit to the Commission a quantity of  
24                 Federal renewable electricity credits that represents  
25                 a quantity of megawatt hours of renewable elec-

1 tricity that is at least equal to the annual target of  
2 the retail electricity supplier under subsection (d).

3 “(2) EQUITY REQUIREMENTS.—

4 “(A) DISTRIBUTED GENERATION.—The  
5 Commission shall require that, of the quantity  
6 of Federal renewable electricity credits required  
7 to be submitted by a retail electricity supplier  
8 to comply with paragraph (1)—

9 “(i) for the period of calendar years  
10 2025 through 2028, at least 15 percent of  
11 those Federal renewable electricity credits  
12 represent megawatt hours of renewable  
13 electricity generated by distributed genera-  
14 tion; and

15 “(ii) for the period of calendar years  
16 2029 through 2034, at least 20 percent of  
17 those Federal renewable electricity credits  
18 represent megawatt hours of renewable  
19 electricity generated by distributed genera-  
20 tion.

21 “(B) IMPACTED COMMUNITIES.—The  
22 Commission shall require that, of the quantity  
23 of Federal renewable electricity credits required  
24 to be submitted by a retail electricity supplier  
25 to comply with paragraph (1)—

1           “(i) for the period of calendar years  
2           2025 through 2028, at least 15 percent of  
3           those Federal renewable electricity credits  
4           represent megawatt hours of renewable  
5           electricity generated in impacted commu-  
6           nities; and

7           “(ii) for the period of calendar years  
8           2029 through 2034, at least 20 percent of  
9           those Federal renewable electricity credits  
10          represent megawatt hours of renewable  
11          electricity generated in impacted commu-  
12          nities.

13          “(C) DISTRIBUTED GENERATION OCCUR-  
14          RING IN AN IMPACTED COMMUNITY.—For any  
15          calendar year, distributed generation that oc-  
16          curs in an impacted community may be used  
17          for purposes of complying with both subpara-  
18          graph (A) and subparagraph (B).

19          “(c) REGULATIONS.—

20                 “(1) IN GENERAL.—Not later than January 1,  
21                 2026, the Commission shall promulgate regulations  
22                 to implement and enforce the requirements of this  
23                 section.

1           “(2) CONSIDERATIONS.—In promulgating regu-  
2           lations under paragraph (1), the Commission shall,  
3           to the maximum extent practicable—

4                   “(A) preserve the integrity and incorporate  
5                   best practices of existing State and Tribal re-  
6                   newable electricity programs;

7                   “(B) preserve the integrity of voluntary re-  
8                   newable energy markets;

9                   “(C) design and implement those regula-  
10                  tions in a manner that seeks to be equitable  
11                  and just;

12                  “(D) identify and prioritize measures to  
13                  maximize reductions of emissions of greenhouse  
14                  gases and criteria air pollutants in impacted  
15                  communities;

16                  “(E) ensure that activities undertaken to  
17                  comply with those regulations result in a net  
18                  decrease in emissions of criteria air pollutants  
19                  in impacted communities;

20                  “(F) ensure that the deployment of any  
21                  new renewable electricity generation provides  
22                  economic, health, and resiliency benefits to the  
23                  communities and areas in which the applicable  
24                  generation facility or resource is built or in-  
25                  stalled, including through the use of community

1 benefit agreements or equivalent means as de-  
2 termined appropriate by the Commission;

3 “(G) prioritize measures that will  
4 incentivize or allow for distributed, community,  
5 and public ownership over renewable energy  
6 projects;

7 “(H) establish and delegate to an appro-  
8 priate entity the administration of a national  
9 Federal renewable electricity credit trading  
10 market for the issuance and trade of Federal  
11 renewable electricity credits, relying on existing  
12 and emerging State, Tribal, or regional track-  
13 ing systems that issue and track non-Federal  
14 renewable electricity credits;

15 “(I) establish and delegate to appropriate  
16 entities the administration of not fewer than 6  
17 regional, geographically-based, Federal renew-  
18 able electricity credit trading markets, and de-  
19 termine the optimal levels of credit trading al-  
20 lowed within and between regions to maximize  
21 deployment of new renewable electricity genera-  
22 tion within each region;

23 “(J) cooperate with States and Indian  
24 Tribes—

1                   “(i) to facilitate coordination between  
2                   State, Tribal, and Federal renewable elec-  
3                   tricity programs; and

4                   “(ii) to minimize administrative bur-  
5                   dens and costs to retail electricity sup-  
6                   pliers; and

7                   “(K) encourage strategic deployment of  
8                   distributed generation to maximize system ben-  
9                   efits that can lower costs for all customers, in-  
10                  cluding siting generation resources in grid-con-  
11                  strained areas and colocation of renewable en-  
12                  ergy resources with energy storage.

13                  “(d) ANNUAL COMPLIANCE REQUIREMENT.—

14                  “(1) ANNUAL TARGETS.—For each calendar  
15                  year, the annual target of a retail electricity supplier  
16                  shall be equal to the number of megawatt hours that  
17                  is equal to the product obtained by multiplying—

18                         “(A) the required annual percentage for  
19                         that calendar year under paragraph (2) or (3),  
20                         as applicable; and

21                         “(B) the base quantity of electricity of that  
22                         retail electricity supplier for that calendar year.

23                  “(2) REQUIRED ANNUAL PERCENTAGE FOR  
24                  CALENDAR YEARS 2025 THROUGH 2034.—For each of

1 calendar years 2025 through 2034, the required an-  
 2 nual percentage shall be as follows:

<b>“Year:</b>	<b>Required annual percentage:</b>
2025 .....	20.0
2026 .....	24.5
2027 .....	29.0
2028 .....	34.0
2029 .....	39.0
2030 .....	45.0
2031 .....	51.0
2032 .....	57.0
2033 .....	63.5
2034 .....	70.0

3 “(3) REQUIRED ANNUAL PERCENTAGE FOR  
 4 SUBSEQUENT CALENDAR YEARS.—

5 “(A) CALENDAR YEARS 2035 THROUGH  
 6 2044.—Not later than December 31, 2034, the  
 7 Commission shall promulgate regulations estab-  
 8 lishing required annual percentages for each of  
 9 calendar years 2035 through 2044.

10 “(B) INCREASE.—Except as provided in  
 11 subparagraph (C), for each of calendar years  
 12 2035 through 2044, the required annual per-  
 13 centage shall be equal to the sum obtained by  
 14 adding—

15 “(i) the required annual percentage  
 16 for the previous calendar year; and

17 “(ii) 3 percentage points.

18 “(C) FEASIBILITY.—

1                   “(i) ADJUSTMENT.—Subject to clause  
 2                   (ii), for any of calendar years 2035  
 3                   through 2044, the Commission may in-  
 4                   crease or decrease the 3 percentage point  
 5                   increase required under subparagraph (B)  
 6                   if the Commission determines necessary  
 7                   based on technical and economic feasibility  
 8                   studies or other equivalent means.

9                   “(ii) REQUIREMENT.—For each of  
 10                  calendar years 2035 through 2044, the  
 11                  percentage point increase required under  
 12                  this paragraph for the required annual  
 13                  percentage shall be greater than zero.

14                  “(D) MINIMUM PERCENTAGE.—In no case  
 15                  shall the required annual percentage for any  
 16                  calendar year after calendar year 2035 be less  
 17                  than the required annual percentage for cal-  
 18                  endar year 2035.

19                  “(e) FEDERAL RENEWABLE ELECTRICITY CRED-  
 20                  ITS.—

21                  “(1) IN GENERAL.—

22                         “(A)                 ISSUANCE;                 TRACKING;  
 23                         VERIFICATION.—The regulations promulgated  
 24                         under this section shall include provisions gov-

1           erning the issuance, tracking, and verification  
2           of Federal renewable electricity credits.

3           “(B) CREDIT RATIO.—Except as provided  
4           in paragraphs (2) through (5), the Commission  
5           shall issue to each generator of renewable elec-  
6           tricity 1 Federal renewable electricity credit for  
7           each megawatt hour of renewable electricity  
8           generated by the generator after December 31,  
9           2024.

10          “(C) SERIAL NUMBER.—The Commission  
11          shall assign a unique serial number to each  
12          Federal renewable electricity credit.

13          “(2) GENERATION FROM CERTAIN STATE RE-  
14          NEWABLE ELECTRICITY PROGRAMS.—

15          “(A) IN GENERAL.—If renewable elec-  
16          tricity is generated with the support of pay-  
17          ments from a retail electricity supplier pursuant  
18          to a State renewable electricity program  
19          (whether through State alternative compliance  
20          payments or through payments to a State re-  
21          newable electricity procurement fund or enti-  
22          ty)—

23                  “(i) the Commission shall issue Fed-  
24                  eral renewable electricity credits to the re-  
25                  tail electricity supplier for the portion of

1 the relevant renewable electricity genera-  
2 tion that is attributable to the payments  
3 made by the retail electricity supplier, as  
4 determined pursuant to regulations pro-  
5 mulgated by the Commission; and

6 “(ii) for any remaining portion of the  
7 relevant renewable electricity generation,  
8 the Commission shall issue Federal renew-  
9 able electricity credits to the generator, as  
10 provided in paragraph (1), subject to the  
11 condition that not more than 1 Federal re-  
12 newable electricity credit shall be issued  
13 for any 1 megawatt hour of electricity.

14 “(B) STATE GUIDANCE.—In determining  
15 how Federal renewable electricity credits will be  
16 apportioned among retail electricity suppliers  
17 and generators under this paragraph, the Com-  
18 mission shall consider information and guidance  
19 issued by the applicable 1 or more States.

20 “(3) CERTAIN POWER SALES CONTRACTS.—Ex-  
21 cept as otherwise provided in paragraph (2), if a  
22 generator has sold renewable electricity to a retail  
23 electricity supplier under a contract for power from  
24 a facility placed in service before the date of enact-  
25 ment of this section, and the contract does not pro-

1       vide for the determination of ownership of the Fed-  
2       eral renewable electricity credits associated with the  
3       generation, the Commission shall issue the Federal  
4       renewable electricity credits to the retail electricity  
5       supplier for the duration of the contract.

6               “(4) CREDITS BASED ON QUALIFIED HYDRO-  
7       POWER.—For purposes of this subsection, the num-  
8       ber of megawatt hours of renewable electricity gen-  
9       eration from qualified hydropower shall be cal-  
10      culated—

11               “(A) based solely on the increase in aver-  
12      age annual generation directly resulting from  
13      the capacity additions described in subsection  
14      (a)(8); and

15               “(B) using the same water flow informa-  
16      tion used to determine a historic average an-  
17      nual generation baseline for the applicable hy-  
18      droelectric facility, as certified by the Commis-  
19      sion.

20               “(5) CREDITS BASED ON FARM ANAEROBIC DI-  
21      GESTION.—For any calendar year, a generator may  
22      only receive Federal renewable electricity credits for  
23      renewable electricity generated from biogas that is  
24      derived from farm anaerobic digestion if—

1           “(A) any manure used for that anaerobic  
2           digestion is from a farm that only provides its  
3           manure for anaerobic digestion to 1 anaerobic  
4           digester system;

5           “(B) the anaerobic digester system used by  
6           that generator has a capacity of less than, or  
7           equal to, 1 megawatt; and

8           “(C) during that calendar year, the total  
9           renewable electricity produced from biogas de-  
10          rived from farm anaerobic digestion in the ap-  
11          plicable State represents not more than 10 per-  
12          cent of the total electricity usage in the State.

13          “(6) GENERATION FROM MIXED RENEWABLE  
14          AND NONRENEWABLE RESOURCES.—If electricity is  
15          generated using both a renewable energy resource  
16          and an energy resource that is not a renewable en-  
17          ergy resource, the Commission shall issue Federal  
18          renewable electricity credits based on the proportion  
19          that—

20                 “(A) the electricity generated that is at-  
21                 tributable to the renewable energy resource;  
22                 bears to

23                 “(B) the total electricity generated.

24          “(7) PROHIBITION AGAINST DOUBLE-COUNT-  
25          ING.—The Commission shall ensure that—

1           “(A) no Federal renewable electricity cred-  
2 it is used more than once for compliance with  
3 this section; and

4           “(B) not more than 1 Federal renewable  
5 electricity credit is issued for any megawatt  
6 hour of renewable electricity generated.

7           “(8) TRADING.—The lawful holder of a Federal  
8 renewable electricity credit may—

9           “(A) sell, exchange, or transfer the credit;

10           “(B) submit the credit for compliance  
11 under subsection (b); or

12           “(C) submit the credit for retirement by  
13 the Commission.

14           “(9) BANKING.—

15           “(A) IN GENERAL.—A Federal renewable  
16 electricity credit may be submitted in satisfac-  
17 tion of the compliance obligation under sub-  
18 section (b) for—

19           “(i) the compliance year for which the  
20 credit was issued; or

21           “(ii) the first or second compliance  
22 year thereafter.

23           “(B) RETIREMENT.—The Commission  
24 shall retire any Federal renewable electricity  
25 credit that has not been retired by April 2 of

1           the calendar year that is 2 years after the cal-  
2           endar year during which the credit was issued.

3           “(10) RETIREMENT.—The Commission shall re-  
4           tire a Federal renewable electricity credit imme-  
5           diately upon submission by the lawful holder of the  
6           credit, whether in satisfaction of a compliance obli-  
7           gation under subsection (b) or for another reason.

8           “(f) ALTERNATIVE COMPLIANCE PAYMENTS.—

9           “(1) IN GENERAL.—A retail electricity supplier  
10          may satisfy the requirements of subsection (b) in  
11          whole or in part by submitting, in accordance with  
12          this subsection, in lieu of a Federal renewable elec-  
13          tricity credit that would otherwise be submitted, an  
14          alternative compliance payment equal to \$50, ad-  
15          justed for inflation on January 1 of each year after  
16          calendar year 2024, in accordance with regulations  
17          promulgated by the Commission.

18          “(2) PAYMENT TO STATE FUNDS.—

19          “(A) IN GENERAL.—Except as provided in  
20          subparagraph (B), payments made under this  
21          subsection shall be made directly to the 1 or  
22          more States in which the applicable retail elec-  
23          tricity supplier sells electricity, subject to the  
24          conditions that—

1                   “(i) the amount of each payment shall  
2                   be based on the proportion that—

3                   “(I) the portion of the base quan-  
4                   tity of electricity of the retail elec-  
5                   tricity supplier that is sold within the  
6                   applicable State; bears to

7                   “(II) the base quantity of elec-  
8                   tricity of the retail electricity supplier;

9                   “(ii) the payments are deposited di-  
10                  rectly into a fund of the State treasury es-  
11                  tablished for that purpose; and

12                  “(iii) the State uses the funds in ac-  
13                  cordance with paragraphs (3) and (4).

14                  “(B) NONCOMPLIANCE.—If the Commis-  
15                  sion determines that a State is in substantial  
16                  noncompliance with paragraph (3) or (4), the  
17                  Commission shall direct that any future alter-  
18                  native compliance payments that would other-  
19                  wise be paid to the State under this subsection  
20                  shall instead be paid to the Commission and de-  
21                  posited in the Treasury.

22                  “(3) STATE USE OF FUNDS.—As a condition of  
23                  receipt of alternative compliance payments pursuant  
24                  to this subsection, a State shall—

25                  “(A) use the payments exclusively for—

1           “(i) deploying technologies that gen-  
2           erate electricity from renewable energy re-  
3           sources;

4           “(ii) deploying technologies that store  
5           electricity for use at a later time; or

6           “(iii) implementing cost-effective en-  
7           ergy efficiency programs to achieve energy  
8           savings; and

9           “(B) invest or use the payments in a man-  
10          ner designed to ensure that impacted commu-  
11          nities receive, or directly benefit from, at least  
12          50 percent of the funds.

13          “(4) REPORTING.—

14               “(A) IN GENERAL.—As a condition of re-  
15               ceipt of alternative compliance payments pursu-  
16               ant to this subsection, a State shall submit to  
17               the Commission an annual report, in accord-  
18               ance with regulations promulgated by the Com-  
19               mission, containing a full accounting of the use  
20               of the payments, including a detailed descrip-  
21               tion of the activities funded by the payments,  
22               and demonstrating compliance with the require-  
23               ments of this subsection.

24               “(B) DEADLINE.—A State shall submit a  
25               report under subparagraph (A)—

1                   “(i) not later than 1 year after the  
2                   date on which the first alternative compli-  
3                   ance payment is received; and

4                   “(ii) every year thereafter until all al-  
5                   ternative compliance payments are ex-  
6                   pended.

7           “(g) INFORMATION COLLECTION.—The Commission  
8   may require any retail electricity supplier, renewable elec-  
9   tricity generator, or other entity that the Commission de-  
10  termines appropriate, to provide any information the Com-  
11  mission determines appropriate to carry out this section.

12           “(h) ENFORCEMENT AND JUDICIAL REVIEW.—

13                   “(1) FAILURE TO SUBMIT CREDITS.—

14                           “(A) IN GENERAL.—If any person fails to  
15                           comply with the requirements of subsection (b)  
16                           or (f) for a calendar year, the person shall be  
17                           liable to pay to the Commission a civil penalty  
18                           equal to the product obtained by multiplying—

19                                   “(i) double the alternative compliance  
20                                   payment calculated under subsection (f)(1)  
21                                   for that calendar year; and

22                                   “(ii) the aggregate quantity of Fed-  
23                                   eral renewable electricity credits or equiva-  
24                                   lent alternative compliance payments that  
25                                   the person failed to submit in violation of

1           the requirements of subsections (b) and (f)  
2           for that calendar year.

3           “(B) ENFORCEMENT.—The Commission  
4           shall assess a civil penalty under subparagraph  
5           (A) in accordance with the procedures described  
6           in section 31(d) of the Federal Power Act (16  
7           U.S.C. 823b(d)).

8           “(2) VIOLATION OF OTHER REQUIREMENTS.—

9           “(A) IN GENERAL.—Any person who vio-  
10          lates or fails or refuses to comply with any re-  
11          quirement of this section (including any regula-  
12          tion promulgated or order issued under this sec-  
13          tion), other than a requirement of subsection  
14          (b) or (f), shall be subject to a civil penalty  
15          under section 316A(b) of the Federal Power  
16          Act (16 U.S.C. 825o-1(b)).

17          “(B) ASSESSMENT.—The penalty under  
18          subparagraph (A) shall be assessed by the Com-  
19          mission in the same manner as in the case of  
20          a violation referred to in section 316A(b) of the  
21          Federal Power Act (16 U.S.C. 825o-1(b)).

22          “(3) JUDICIAL REVIEW.—

23          “(A) IN GENERAL.—Any person aggrieved  
24          by a final action taken by the Commission  
25          under this section, other than the assessment of

1 a civil penalty under paragraph (1) or (2), may  
2 use the procedures for review described in sec-  
3 tion 313 of the Federal Power Act (16 U.S.C.  
4 825l).

5 “(B) REFERENCE.—For purposes of this  
6 paragraph, references to an order in section  
7 313 of the Federal Power Act (16 U.S.C. 825l)  
8 shall be considered to refer also to all other  
9 final actions of the Commission under this sec-  
10 tion other than the assessment of a civil penalty  
11 under paragraph (1) or (2).

12 “(i) ADMINISTRATION.—Nothing in this section—

13 “(1) diminishes or qualifies any authority of a  
14 State, a political subdivision of a State, or an Indian  
15 Tribe—

16 “(A) to adopt or enforce any law (includ-  
17 ing regulations) respecting renewable electricity,  
18 including any law establishing requirements  
19 that are more stringent than those established  
20 by this section, subject to the condition that no  
21 such law may relieve any person of any require-  
22 ment otherwise applicable under this section; or

23 “(B) to regulate the acquisition and dis-  
24 position of Federal renewable electricity credits  
25 by retail electricity suppliers within the jurisdic-



1 gram’ means a requirement imposed pursuant to  
2 State law, or by a State regulatory authority acting  
3 within its authority under State law, that an electric  
4 utility purchase renewable energy (as defined in sec-  
5 tion 609(a)) at a specified rate.

6 “(2) STATE AUTHORITY TO ADOPT RENEWABLE  
7 ENERGY INCENTIVES.—Notwithstanding any other  
8 provision of this Act or the Federal Power Act (16  
9 U.S.C. 791a et seq.), a State law or State regulatory  
10 authority may set the rates for a sale of electricity  
11 by a facility generating renewable energy (as defined  
12 in section 609(a)) pursuant to a State-approved pro-  
13 duction incentive program under which the facility  
14 voluntarily participates in the State-approved pro-  
15 duction incentive program.”.

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