

CHAPTER 125

(Senate Bill 209)

AN ACT concerning

Renewable Portfolio Standard Percentage Requirements – Acceleration

FOR the purpose of altering the renewable energy portfolio standard by increasing the percentages of electricity sales that must be met in certain years through the accumulation of renewable energy credits from certain sources, subject to a certain limitation; redefining a certain renewable energy credit; ~~requiring that if the owner of a certain wind energy generating facility chooses to sell certain renewable energy credits, the owner must first offer the credits for sale to an electricity supplier that shall apply the credits toward compliance with a certain renewable energy portfolio standard~~; increasing the maximum allowable alternative compliance payment, subject to a certain limitation; providing for the effective dates of this Act; providing for the termination of a certain provision of this Act; and generally relating to the renewable energy portfolio standard.

BY repealing and reenacting, without amendments,
Article – Public Utility Companies
Section 7-701(a) and 7-703(a)
Annotated Code of Maryland
(1998 Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Utility Companies
Section 7-701(i), 7-703(b), and 7-705(b)
Annotated Code of Maryland
(1998 Volume and 2007 Supplement)

~~BY adding to
Article – Public Utility Companies
Section 7-704(g)
Annotated Code of Maryland
(1998 Volume and 2007 Supplement)~~

BY adding to
Article – Public Utility Companies
Section 7-705(f)
Annotated Code of Maryland
(1998 Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Public Utility Companies

~~7-701.~~

~~(a) In this subtitle the following words have the meanings indicated.~~

~~(i) “Renewable energy credit” or “credit” means a credit equal to the generation attributes of 1 megawatt-hour of electricity that is derived from a Tier 1 renewable source or a Tier 2 renewable source that is located:~~

~~(1) in the PJM region [or in a state that is adjacent to the PJM region]; or~~

~~(2) outside the area described in item (1) of this subsection but in a control area that is adjacent to the PJM region, if the electricity is delivered into the PJM region.~~

7-703.

(a) (1) (i) The Commission shall implement a renewable energy portfolio standard that, except as provided under paragraph (2) of this subsection, applies to all retail electricity sales in the State by electricity suppliers.

(ii) If the standard becomes applicable to electricity sold to a customer after the start of a calendar year, the standard does not apply to electricity sold to the customer during that portion of the year before the standard became applicable.

(2) A renewable energy portfolio standard may not apply to electricity sales at retail by any electricity supplier:

(i) in excess of 300,000,000 kilowatt-hours of industrial process load to a single customer in a year;

(ii) to residential customers in a region of the State in which electricity prices for residential customers are subject to a freeze or cap contained in a settlement agreement entered into under § 7-505 of this title until the freeze or cap has expired; or

(iii) to a customer served by an electric cooperative under an electricity supplier purchase agreement that existed on October 1, 2004, until the expiration of the agreement.

- (b) The renewable energy portfolio standard shall be as follows:
- (1) in 2006, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;
 - (2) in 2007, 1% from Tier 1 renewable sources and 2.5% from Tier 2 renewable sources;
 - (3) in 2008, 2.005% from Tier 1 renewable sources, including at least 0.005% derived from solar energy, and 2.5% from Tier 2 renewable sources;
 - (4) in 2009, [~~2.01%~~ **4.02%**] from Tier 1 renewable sources, including at least 0.01% derived from solar energy, and 2.5% from Tier 2 renewable sources;
 - (5) in 2010, [~~3.025%~~ **6.05%**] from Tier 1 renewable sources, including at least 0.025% derived from solar energy, and 2.5% from Tier 2 renewable sources;
 - (6) in 2011, [~~3.04%~~ **6.08%** 5.0%] from Tier 1 renewable sources, including at least 0.04% derived from solar energy, and 2.5% from Tier 2 renewable sources;
 - (7) in 2012, [~~4.06%~~ **8.12%** 6.5%] from Tier 1 renewable sources, including at least 0.06% derived from solar energy, and 2.5% from Tier 2 renewable sources;
 - (8) in 2013, [~~4.1%~~ **8.2%**] from Tier 1 renewable sources, including at least 0.1% derived from solar energy, and 2.5% from Tier 2 renewable sources;
 - (9) in 2014, [~~5.15%~~ **10.3%**] from Tier 1 renewable sources, including at least 0.15% derived from solar energy, and 2.5% from Tier 2 renewable sources;
 - (10) in 2015, [~~5.25%~~ **10.5%**] from Tier 1 renewable sources, including at least 0.25% derived from solar energy, and 2.5% from Tier 2 renewable sources;
 - (11) in 2016, [~~6.35%~~ **12.7%**] from Tier 1 renewable sources, including at least 0.35% derived from solar energy, and 2.5% from Tier 2 renewable sources;
 - (12) in 2017, [~~6.55%~~ **13.1%**] from Tier 1 renewable sources, including at least 0.55% derived from solar energy, and 2.5% from Tier 2 renewable sources;
 - (13) in 2018, [~~7.9%~~ **15.8%**] from Tier 1 renewable sources, including at least 0.9% derived from solar energy, and 2.5% from Tier 2 renewable sources;
 - (14) in 2019, [~~8.7%~~ **17.4%**] from Tier 1 renewable sources, including at least 1.2% derived from solar energy, and 0% from Tier 2 renewable sources;

(15) in 2020, [9%] **18%** from Tier 1 renewable sources, including at least 1.5% derived from solar energy, and 0% from Tier 2 renewable sources;

(16) in 2021, [9.35%] **18.7%** from Tier 1 renewable sources, including at least 1.85% derived from solar energy, and 0% from Tier 2 renewable sources; and

(17) in 2022 and later, [9.5%] **20%** from Tier 1 renewable sources, including at least 2% derived from solar energy, and 0% from Tier 2 renewable sources.

~~7-704.~~

~~(G) IF THE OWNER OF A WIND ENERGY GENERATING FACILITY IN THE STATE CHOOSES TO SELL RENEWABLE ENERGY CREDITS FROM THAT FACILITY, THE OWNER MUST FIRST OFFER THE CREDITS FOR SALE TO AN ELECTRICITY SUPPLIER THAT SHALL APPLY THE CREDITS TOWARD COMPLIANCE WITH THE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7-703 OF THIS SUBTITLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Public Utility Companies

7-701.

(a) In this subtitle the following words have the meanings indicated.

(i) “Renewable energy credit” or “credit” means a credit equal to the generation attributes of 1 megawatt-hour of electricity that is derived from a Tier 1 renewable source or a Tier 2 renewable source that is located:

(1) in the PJM region [or in a state that is adjacent to the PJM region];

or

(2) outside the area described in item (1) of this subsection but in a control area that is adjacent to the PJM region, if the electricity is delivered into the PJM region.

7-705.

(b) If an electricity supplier fails to comply with the renewable energy portfolio standard for the applicable year, the electricity supplier shall pay into the Maryland Renewable Energy Fund established under § 7-707 of this subtitle:

(1) except as provided in item (2) of this subsection, a compliance fee of:

(i) [2] 4 cents for each kilowatt-hour of shortfall from required Tier 1 renewable sources other than the shortfall from the required Tier 1 renewable sources that is to be derived from solar energy;

(ii) the following amounts for each kilowatt-hour of shortfall from required Tier 1 renewable sources that is to be derived from solar energy:

1. 45 cents in 2008;
2. 40 cents in 2009 and 2010;
3. 35 cents in 2011 and 2012;
4. 30 cents in 2013 and 2014;
5. 25 cents in 2015 and 2016;
6. 20 cents in 2017 and 2018;
7. 15 cents in 2019 and 2020;
8. 10 cents in 2021 and 2022; and
9. 5 cents in 2023 and later; and

(iii) 1.5 cents for each kilowatt-hour of shortfall from required Tier 2 renewable sources; or

(2) for industrial process load:

(i) for each kilowatt-hour of shortfall from required Tier 1 renewable sources, a compliance fee of:

1. 0.8 cents in 2006, 2007, and 2008;
2. 0.5 cents in 2009 and 2010;
3. 0.4 cents in 2011 and 2012;
4. 0.3 cents in 2013 and 2014;
5. 0.25 cents in 2015 and 2016; and

6. 0.2 cents in 2017 and later; and

(ii) nothing for any shortfall from required Tier 2 renewable sources.

(F) (1) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, AND NOTWITHSTANDING THE REQUIREMENTS OF § 7-703(B) OF THIS SUBTITLE, IF THE ACTUAL OR PROJECTED DOLLAR-FOR-DOLLAR COST INCURRED OR TO BE INCURRED BY AN ELECTRICITY SUPPLIER SOLELY FOR THE PURCHASE OF TIER 1 RENEWABLE ENERGY CREDITS OTHER THAN SOLAR CREDITS IN ANY 1 YEAR IS GREATER THAN OR EQUAL TO, OR IS ANTICIPATED TO BE GREATER THAN OR EQUAL TO, THE GREATER OF THE APPLICABLE TIER 1 PERCENTAGE OR 10% OF THE ELECTRICITY SUPPLIER'S TOTAL ANNUAL ELECTRICITY SALES REVENUES IN MARYLAND, THE ELECTRICITY SUPPLIER MAY REQUEST THAT THE COMMISSION:

(I) DELAY BY 1 YEAR EACH OF THE SCHEDULED PERCENTAGES FOR TIER 1 CREDITS UNDER § 7-703(B) OF THIS SUBTITLE THAT WOULD APPLY TO THE ELECTRICITY SUPPLIER; AND

(II) ALLOW THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR TIER 1 FOR THAT YEAR TO CONTINUE TO APPLY TO THE ELECTRICITY SUPPLIER FOR THE FOLLOWING YEAR.

(2) IN MAKING ITS DETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION SHALL CONSIDER THE ACTUAL OR PROJECTED DOLLAR-FOR-DOLLAR COMPLIANCE COSTS OF OTHER ELECTRICITY SUPPLIERS.

(3) IF AN ELECTRICITY SUPPLIER MAKES A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION BASED ON PROJECTED COSTS, THE ELECTRICITY SUPPLIER SHALL PROVIDE VERIFIABLE EVIDENCE OF THE PROJECTIONS TO THE COMMISSION AT THE TIME OF THE REQUEST.

(4) IF THE COMMISSION ALLOWS A DELAY UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR TIER 1 APPLICABLE TO THE ELECTRICITY SUPPLIER UNDER THE DELAY CONTINUES FOR EACH SUBSEQUENT CONSECUTIVE YEAR THAT THE ACTUAL OR PROJECTED DOLLAR-FOR-DOLLAR COSTS INCURRED, OR TO BE INCURRED, BY THE ELECTRICITY SUPPLIER SOLELY FOR THE PURCHASE OF TIER 1 CREDITS OTHER THAN SOLAR CREDITS IS GREATER THAN OR EQUAL TO, OR IS ANTICIPATED TO BE GREATER THAN OR EQUAL TO, THE GREATER OF THE

APPLICABLE TIER 1 PERCENTAGE OR 10% OF THE ELECTRICITY SUPPLIER'S TOTAL ANNUAL RETAIL ELECTRICITY SALES REVENUES IN MARYLAND; AND

(II) THE RENEWABLE ENERGY PORTFOLIO STANDARD FOR TIER 1 APPLICABLE TO THE ELECTRICITY SUPPLIER UNDER THE DELAY IS INCREASED TO THE NEXT SCHEDULED PERCENTAGE INCREASE UNDER § 7-703(B) OF THIS SUBTITLE FOR EACH YEAR IN WHICH THE ACTUAL OR PROJECTED DOLLAR-FOR-DOLLAR COSTS INCURRED, OR TO BE INCURRED, BY THE ELECTRICITY SUPPLIER SOLELY FOR THE PURCHASE OF TIER 1 CREDITS OTHER THAN SOLAR CREDITS IS LESS THAN, OR IS ANTICIPATED TO BE LESS THAN, THE GREATER OF THE APPLICABLE TIER 1 PERCENTAGE OR 10% OF THE ELECTRICITY SUPPLIER'S TOTAL ANNUAL RETAIL ELECTRICITY SALES REVENUES IN MARYLAND.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect January 1, 2011.

SECTION 4. AND BE IT FURTHER ENACTED, That § 7-705(f) of the Public Utility Companies Article, as enacted by this Act, shall remain effective for a period of 8 years and, at the end of December 31, 2018, with no further action required by the General Assembly, § 7-705(f) of the Public Utility Companies Article, as enacted by this Act, shall terminate and be of no further force and effect.

SECTION ~~2~~ ~~4~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect ~~October 1, 2008~~ January 1, 2009.

Approved by the Governor, April 24, 2008.