

# HOUSE BILL 226

M3, C5

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CF SB 275

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By: **The Speaker (By Request – Administration) and Delegates Hucker, Anderson, Arora, Barkley, Barnes, Barve, Bobo, Branch, Braveboy, Busch, Carr, Clippinger, Conway, Cullison, Davis, Dumais, Feldman, Frick, Frush, Gaines, Gilchrist, Gutierrez, Guzzone, Hammen, Healey, Hixson, Holmes, Howard, Hubbard, Ivey, Kaiser, A. Kelly, Kramer, Lafferty, Lee, Love, Luedtke, McIntosh, A. Miller, Mitchell, Mizeur, Nathan–Pulliam, Niemann, Reznik, B. Robinson, S. Robinson, Rosenberg, Sophocleus, Stein, Summers, V. Turner, Valderrama, Vaughn, Waldstreicher, Walker, A. Washington, M. Washington, and Zucker**

Introduced and read first time: January 21, 2013

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Offshore Wind Energy Act of 2013**

3 FOR the purpose of altering the Maryland renewable energy portfolio standard  
4 program to include a certain amount of energy derived from offshore wind  
5 energy; prohibiting the portion of the renewable energy portfolio standard that  
6 represents offshore wind energy from applying to certain sales in excess of a  
7 certain amount of industrial process load and certain sales in excess of a certain  
8 amount of electricity sold to certain customers who are owners of agricultural  
9 land; altering the definition of “renewable energy credit” for purposes of the  
10 renewable energy portfolio standard program; requiring an electricity supplier  
11 to exclude certain retail electricity sales before calculating the number of credits  
12 required under the renewable portfolio standard; providing that certain  
13 provisions concerning the transfer of renewable energy credits do not apply to  
14 certain offshore wind renewable energy credits; authorizing a person to submit  
15 to the Public Service Commission an application for approval of a proposed  
16 offshore wind project after the effective date of certain regulations; requiring  
17 the Commission to open a certain application period and provide certain notice  
18 under certain circumstances; authorizing the Commission to provide for  
19 additional application periods; requiring the Commission to approve,  
20 conditionally approve, or deny an application within a certain time; providing  
21 for the contents of an application; requiring the Commission to use certain  
22 criteria to evaluate and compare proposed offshore wind projects; prohibiting

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the Commission from approving an offshore wind project unless certain criteria  
2 are met; requiring the Commission to contract for the services of independent  
3 consultants and experts when evaluating and comparing proposed offshore wind  
4 projects and when calculating a proposed offshore wind project's net benefits to  
5 the State; requiring the Commission to verify that representatives of the United  
6 States Department of Defense and the maritime industry have had a certain  
7 opportunity to express concerns regarding certain project siting; requiring an  
8 applicant to take certain steps if the applicant is seeking investors in a proposed  
9 offshore wind project; requiring the Governor's Office of Minority Affairs, in  
10 consultation with the Attorney General, to provide certain assistance to  
11 potential applicants and minority investors; requiring the Commission to apply  
12 the same net cost per megawatt-hour to residential and nonresidential  
13 customers when calculating certain rate impacts; incorporating certain findings  
14 and evidence associated with a certain Minority Business Enterprise Program;  
15 requiring that approved applicants comply with the Minority Business  
16 Enterprise Program; prohibiting the Commission from approving an application  
17 until certain goals and procedures are established; requiring that an order  
18 approving a proposed offshore wind project include certain information,  
19 restrictions, and conditions; providing that a certain order vests the owner of a  
20 qualified offshore wind project with a certain right; requiring a qualified  
21 offshore wind project to deposit a certain amount into a certain fund at certain  
22 times; requiring the Commission to determine the offshore wind energy  
23 component of the renewable portfolio standard based on certain projections and  
24 requiring electricity suppliers to purchase a certain number of offshore wind  
25 renewable energy credits; requiring the Commission to adopt regulations  
26 establishing a certain escrow account; requiring a certain overpayment to be  
27 refunded to ratepayers, subject to certain reserve requirements, under certain  
28 circumstances; requiring a qualified offshore wind project to sell certain energy,  
29 capacity, and ancillary services into certain markets and distribute the proceeds  
30 to electric companies to be refunded or credited to ratepayers; requiring the  
31 Commission to adopt certain regulations regarding the creation of excess  
32 offshore wind renewable energy credits; authorizing the Commission to extend  
33 the term of an OREC pricing schedule for a certain amount of time under  
34 certain circumstances; stating that an OREC transaction that takes place  
35 during an extended OREC term is subject to certain provisions and regulations  
36 applicable to the original OREC order; providing that certain provisions  
37 regarding certain compliance fees do not apply to a shortfall from the offshore  
38 wind renewable energy credit requirement; reducing a certain fee for industrial  
39 process load under certain circumstances; providing that certain provisions  
40 authorizing a delay of certain scheduled Tier 1 credits do not apply to offshore  
41 wind renewable energy credits; exempting certain energy lines from a certain  
42 prohibition on construction or installation in a beach erosion control district  
43 under certain circumstances; providing that an application for a certificate of  
44 public convenience and necessity to construct certain energy lines is subject to  
45 certain review; prohibiting the Commission from approving an application for  
46 the construction or installation of certain energy lines within a certain area;  
47 requiring the Commission to provide certain notice to the Maryland Energy

1 Administration for certain purposes; authorizing the Commission to implement  
2 a special assessment not to exceed a certain amount in certain fiscal years for  
3 certain purposes; requiring the transfer of certain funds to the Commission in  
4 certain fiscal years for certain costs and authorizing the Commission to  
5 implement a special assessment in certain fiscal years to recover certain costs;  
6 establishing a Maryland Offshore Wind Business Development Fund in the  
7 Maryland Energy Administration; authorizing the Fund to provide certain  
8 financial assistance, business development assistance, and employee training  
9 opportunities; stating the purpose and providing for the administration of the  
10 Fund; establishing the Maryland Offshore Wind Business Development  
11 Advisory Committee; requiring the Advisory Committee to make certain  
12 recommendations regarding the use of money in the Fund; requiring a certain  
13 transfer from a certain fund to the Fund; adding the Fund to the list of  
14 exceptions to the requirement that the earnings of special funds accrue to the  
15 General Fund; defining certain terms; making stylistic changes; requiring the  
16 Commission to open a certain evidentiary proceeding to evaluate a certain  
17 application; making the provisions of this Act severable; repealing an obsolete  
18 provision; providing for the termination of a portion of this Act under a certain  
19 circumstance; providing for the termination of certain provisions of this Act; and  
20 generally relating to the Maryland renewable energy portfolio standard  
21 program, development of offshore wind energy projects, and qualified  
22 submerged renewable energy lines.

23 BY repealing and reenacting, with amendments,  
24 Article – Public Utilities  
25 Section 7–208, 7–701, 7–703, 7–704(a)(2)(i), (3), and (4), (c)(3), and (e), and  
26 7–705(b) and (f)  
27 Annotated Code of Maryland  
28 (2010 Replacement Volume and 2012 Supplement)

29 BY adding to  
30 Article – Public Utilities  
31 Section 7–704.1 and 7–704.2  
32 Annotated Code of Maryland  
33 (2010 Replacement Volume and 2012 Supplement)

34 BY repealing and reenacting, without amendments,  
35 Article – Public Utilities  
36 Section 7–705(a)  
37 Annotated Code of Maryland  
38 (2010 Replacement Volume and 2012 Supplement)

39 BY repealing and reenacting, with amendments,  
40 Article – Natural Resources  
41 Section 8–1102  
42 Annotated Code of Maryland  
43 (2012 Replacement Volume)

1 BY adding to  
2 Article – State Government  
3 Section 9–20C–01 through 9–20C–04 to be under the new subtitle “Subtitle 20C.  
4 Maryland Offshore Wind Business Development Fund”  
5 Annotated Code of Maryland  
6 (2009 Replacement Volume and 2012 Supplement)

7 BY repealing and reenacting, without amendments,  
8 Article – State Finance and Procurement  
9 Section 6–226(a)(2)(i)  
10 Annotated Code of Maryland  
11 (2009 Replacement Volume and 2012 Supplement)

12 BY repealing and reenacting, with amendments,  
13 Article – State Finance and Procurement  
14 Section 6–226(a)(2)(ii)69. and 70.  
15 Annotated Code of Maryland  
16 (2009 Replacement Volume and 2012 Supplement)

17 BY adding to  
18 Article – State Finance and Procurement  
19 Section 6–226(a)(2)(ii)71.  
20 Annotated Code of Maryland  
21 (2009 Replacement Volume and 2012 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article – Public Utilities  
24 Section 7–704.1(e)  
25 Annotated Code of Maryland  
26 (2010 Replacement Volume and 2012 Supplement)  
27 (As enacted by Section 1 of this Act)

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

30 **Article – Public Utilities**

31 7–701.

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

33 (b) “Administration” means the Maryland Energy Administration.

34 (c) “Fund” means the Maryland Strategic Energy Investment Fund  
35 established under § 9–20B–05 of the State Government Article.

1            **[(c-1)] (D)** “Geothermal heating and cooling system” means a system that:

2            (1) exchanges thermal energy from groundwater or a shallow ground  
3 source to generate thermal energy through a geothermal heat pump or a system of  
4 geothermal heat pumps interconnected with any geothermal extraction facility that is:

5            (i) a closed loop or a series of closed loop systems in which fluid  
6 is permanently confined within a pipe or tubing and does not come in contact with the  
7 outside environment; or

8            (ii) an open loop system in which ground or surface water is  
9 circulated in an environmentally safe manner directly into the facility and returned to  
10 the same aquifer or surface water source;

11            (2) meets or exceeds the current federal Energy Star product  
12 specification standards;

13            (3) replaces or displaces inefficient space or water heating systems  
14 whose primary fuel is electricity or a nonnatural gas fuel source;

15            (4) replaces or displaces inefficient space cooling systems that do not  
16 meet federal Energy Star product specification standards;

17            (5) is manufactured, installed, and operated in accordance with  
18 applicable government and industry standards; and

19            (6) does not feed electricity back to the grid.

20            **[(d)] (E)** “Industrial process load” means the consumption of electricity by a  
21 manufacturing process at an establishment classified in the manufacturing sector  
22 under the North American Industry Classification System, Codes 31 through 33.

23            **(F) “OFFSHORE WIND ENERGY” MEANS ENERGY GENERATED BY A**  
24 **QUALIFIED OFFSHORE WIND PROJECT.**

25            **[(e)] (G)** “Old growth timber” means timber from a forest:

26            (1) at least 5 acres in size with a preponderance of old trees, of which  
27 the oldest exceed at least half the projected maximum attainable age for the species;  
28 and

29            (2) that exhibits several of the following characteristics:

30            (i) shade-tolerant species are present in all age and size  
31 classes;

32            (ii) randomly distributed canopy gaps are present;

1 (iii) a high degree of structural diversity characterized by  
2 multiple growth layers reflecting a broad spectrum of ages is present;

3 (iv) an accumulation of dead wood of varying sizes and stages of  
4 decomposition accompanied by decadence in live dominant trees is present; and

5 (v) pit and mound topography can be observed.

6 **(H) “OFFSHORE WIND RENEWABLE ENERGY CREDIT” OR “OREC”**  
7 **MEANS A RENEWABLE ENERGY CREDIT EQUAL TO THE GENERATION**  
8 **ATTRIBUTES OF 1 MEGAWATT-HOUR OF ELECTRICITY THAT IS DERIVED FROM**  
9 **OFFSHORE WIND ENERGY.**

10 **[(f)] (I) “PJM region” means the control area administered by the PJM**  
11 **Interconnection, [Inc.,] as the area may change from time to time.**

12 **[(g)] (J) “Poultry litter” means the fecal and urinary excretions of poultry,**  
13 **including wood shavings, sawdust, straw, rice hulls, and other bedding material for**  
14 **the disposition of manure.**

15 **(K) “QUALIFIED OFFSHORE WIND PROJECT” MEANS A WIND TURBINE**  
16 **ELECTRICITY GENERATION FACILITY, INCLUDING THE ASSOCIATED**  
17 **TRANSMISSION-RELATED INTERCONNECTION FACILITIES AND EQUIPMENT,**  
18 **THAT:**

19 **(1) IS LOCATED ON THE OUTER CONTINENTAL SHELF OF THE**  
20 **ATLANTIC OCEAN IN AN AREA THAT:**

21 **(I) THE UNITED STATES DEPARTMENT OF THE INTERIOR**  
22 **DESIGNATES FOR LEASING AFTER COORDINATION AND CONSULTATION WITH**  
23 **THE STATE IN ACCORDANCE WITH § 388(A) OF THE ENERGY POLICY ACT OF**  
24 **2005; AND**

25 **(II) IS BETWEEN 10 AND 30 MILES OFF THE COAST OF THE**  
26 **STATE;**

27 **(2) INTERCONNECTS TO THE PJM INTERCONNECTION GRID AT A**  
28 **POINT LOCATED ON THE DELMARVA PENINSULA; AND**

29 **(3) THE COMMISSION APPROVES UNDER § 7-704.1 OF THIS**  
30 **SUBTITLE.**

31 **[(h)] (L) (1) “Qualifying biomass” means a nonhazardous, organic**  
32 **material that is available on a renewable or recurring basis, and is:**

1 (i) waste material that is segregated from inorganic waste  
2 material and is derived from sources including:

3 1. except for old growth timber, any of the following  
4 forest-related resources:

5 A. mill residue, except sawdust and wood shavings;

6 B. precommercial soft wood thinning;

7 C. slash;

8 D. brush; or

9 E. yard waste;

10 2. a pallet, crate, or dunnage;

11 3. agricultural and silvicultural sources, including tree  
12 crops, vineyard materials, grain, legumes, sugar, and other crop by-products or  
13 residues; or

14 4. gas produced from the anaerobic decomposition of  
15 animal waste or poultry waste; or

16 (ii) a plant that is cultivated exclusively for purposes of being  
17 used at a Tier 1 renewable source or a Tier 2 renewable source to produce electricity.

18 (2) “Qualifying biomass” includes biomass listed in paragraph (1) of  
19 this subsection that is used for co-firing, subject to § 7-704(d) of this subtitle.

20 (3) “Qualifying biomass” does not include:

21 (i) unsegregated solid waste or postconsumer wastepaper; or

22 (ii) an invasive exotic plant species.

23 [(h-1)] (M) “Thermal biomass system” means a system that:

24 (1) uses:

25 (i) primarily animal manure, including poultry litter, and  
26 associated bedding to generate thermal energy; and

27 (ii) food waste or qualifying biomass for the remainder of the  
28 feedstock;

1 (2) is used in the State; and

2 (3) complies with all applicable State and federal statutes and  
3 regulations, as determined by the appropriate regulatory authority.

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

7 (1) in the PJM region; **[or]**

8 (2) outside the area described in item (1) of this subsection but in a  
9 control area that is adjacent to the PJM region, if the electricity is delivered into the  
10 PJM region; **OR**

11 **(3) ON THE OUTER CONTINENTAL SHELF OF THE ATLANTIC**  
12 **OCEAN IN AN AREA THAT:**

13 **(I) THE UNITED STATES DEPARTMENT OF THE INTERIOR**  
14 **DESIGNATES FOR LEASING AFTER COORDINATION AND CONSULTATION WITH**  
15 **THE STATE IN ACCORDANCE WITH § 388(A) OF THE ENERGY POLICY ACT OF**  
16 **2005; AND**

17 **(II) IS BETWEEN 10 AND 30 MILES OFF THE COAST OF THE**  
18 **STATE.**

19 **[(j)] (O)** “Renewable energy portfolio standard” or “standard” means the  
20 percentage of electricity sales at retail in the State that is to be derived from Tier 1  
21 renewable sources and Tier 2 renewable sources in accordance with § 7-703(b) of this  
22 subtitle.

23 **[(k)] (P)** “Renewable on-site generator” means a person who generates  
24 electricity on site from a Tier 1 renewable source or a Tier 2 renewable source for the  
25 person’s own use.

26 **[(k-1)] (Q)** (1) “Solar water heating system” means a system that:

27 (i) is comprised of glazed liquid-type flat-plate or tubular solar  
28 collectors as defined and certified to the OG-100 standard of the Solar Ratings and  
29 Certification Corporation;

30 (ii) generates energy using solar radiation for the purpose of  
31 heating water; and

32 (iii) does not feed electricity back to the electric grid.



1                   (2) “Solar water heating system” does not include a system that  
2 generates energy using solar radiation for the sole purpose of heating a hot tub or  
3 swimming pool.

4                   **[(1)] (R)** “Tier 1 renewable source” means one or more of the following types  
5 of energy sources:

6                   (1) solar energy, including energy from photovoltaic technologies and  
7 solar water heating systems;

8                   (2) wind;

9                   (3) qualifying biomass;

10                  (4) methane from the anaerobic decomposition of organic materials in  
11 a landfill or wastewater treatment plant;

12                  (5) geothermal, including energy generated through geothermal  
13 exchange from or thermal energy avoided by, groundwater or a shallow ground source;

14                  (6) ocean, including energy from waves, tides, currents, and thermal  
15 differences;

16                  (7) a fuel cell that produces electricity from a Tier 1 renewable source  
17 under item (3) or (4) of this subsection;

18                  (8) a small hydroelectric power plant of less than 30 megawatts in  
19 capacity that is licensed or exempt from licensing by the Federal Energy Regulatory  
20 Commission;

21                  (9) poultry litter-to-energy;

22                  (10) waste-to-energy;

23                  (11) refuse-derived fuel; and

24                  (12) thermal energy from a thermal biomass system.

25                  **[(m)] (S)** “Tier 2 renewable source” means hydroelectric power other than  
26 pump storage generation.

27 7-703.

28                  (a) (1) (i) The Commission shall implement a renewable energy  
29 portfolio standard that, except as provided under **[paragraph (2)] PARAGRAPHS (2)**

1 **AND (3)** of this subsection, applies to all retail electricity sales in the State by  
2 electricity suppliers.

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

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

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

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

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

18 **(3) THE PORTION OF A RENEWABLE ENERGY PORTFOLIO**  
19 **STANDARD THAT REPRESENTS OFFSHORE WIND ENERGY MAY NOT APPLY TO**  
20 **ELECTRICITY SALES AT RETAIL BY ANY ELECTRICITY SUPPLIER IN EXCESS OF:**

21 **(I) 75,000,000 KILOWATT-HOURS OF INDUSTRIAL PROCESS**  
22 **LOAD TO A SINGLE CUSTOMER IN A YEAR; AND**

23 **(II) 3,000 KILOWATT-HOURS OF ELECTRICITY IN A MONTH**  
24 **TO A CUSTOMER WHO IS AN OWNER OF AGRICULTURAL LAND AND FILES AN**  
25 **INTERNAL REVENUE SERVICE FORM 1040, SCHEDULE F.**

26 (b) The renewable energy portfolio standard shall be as follows:

27 (1) in 2006, 1% from Tier 1 renewable sources and 2.5% from Tier 2  
28 renewable sources;

29 (2) in 2007, 1% from Tier 1 renewable sources and 2.5% from Tier 2  
30 renewable sources;

31 (3) in 2008, 2.005% from Tier 1 renewable sources, including at least  
32 0.005% derived from solar energy, and 2.5% from Tier 2 renewable sources;

1 (4) in 2009, 2.01% from Tier 1 renewable sources, including at least  
2 0.01% derived from solar energy, and 2.5% from Tier 2 renewable sources;

3 (5) in 2010, 3.025% from Tier 1 renewable sources, including at least  
4 0.025% derived from solar energy, and 2.5% from Tier 2 renewable sources;

5 (6) in 2011, 5.0% from Tier 1 renewable sources, including at least  
6 0.05% derived from solar energy, and 2.5% from Tier 2 renewable sources;

7 (7) in 2012, 6.5% from Tier 1 renewable sources, including at least  
8 0.1% derived from solar energy, and 2.5% from Tier 2 renewable sources;

9 (8) in 2013, 8.2% from Tier 1 renewable sources, including at least  
10 0.25% derived from solar energy, and 2.5% from Tier 2 renewable sources;

11 (9) in 2014, 10.3% from Tier 1 renewable sources, including at least  
12 0.35% derived from solar energy, and 2.5% from Tier 2 renewable sources;

13 (10) in 2015, 10.5% from Tier 1 renewable sources, including at least  
14 0.5% derived from solar energy, and 2.5% from Tier 2 renewable sources;

15 (11) in 2016, 12.7% from Tier 1 renewable sources, including at least  
16 0.7% derived from solar energy, and 2.5% from Tier 2 renewable sources;

17 (12) in 2017[,]:

18 (I) 13.1% from Tier 1 renewable sources, including:

19 1. at least 0.95% derived from solar energy[, and]; AND

20 2. AN AMOUNT SET BY THE COMMISSION UNDER §  
21 7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE  
22 WIND ENERGY; AND

23 (II) 2.5% from Tier 2 renewable sources;

24 (13) in 2018[,]:

25 (I) 15.8% from Tier 1 renewable sources, including:

26 1. at least 1.4% derived from solar energy[, and]; AND

27 2. AN AMOUNT SET BY THE COMMISSION UNDER §  
28 7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE  
29 WIND ENERGY; AND

1                   **(II)** 2.5% from Tier 2 renewable sources;

2                   (14) in 2019, 17.4% from Tier 1 renewable sources, including:

3                   **(I)** at least 1.75% derived from solar energy[, and 0% from Tier  
4 2 renewable sources]; **AND**

5                   **(II) AN AMOUNT SET BY THE COMMISSION UNDER §**  
6 **7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE**  
7 **WIND ENERGY;**

8                   (15) in 2020, 18% from Tier 1 renewable sources, including:

9                   **(I)** at least 2.0% derived from solar energy[, and 0% from Tier 2  
10 renewable sources]; **AND**

11                   **(II) AN AMOUNT SET BY THE COMMISSION UNDER §**  
12 **7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE**  
13 **WIND ENERGY;**

14                   (16) in 2021, 18.7% from Tier 1 renewable sources, including:

15                   **(I)** at least 2.0% derived from solar energy[, and 0% from Tier 2  
16 renewable sources]; **and**

17                   **(II) AN AMOUNT SET BY THE COMMISSION UNDER §**  
18 **7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE**  
19 **WIND ENERGY; AND**

20                   (17) in 2022 and later, 20% from Tier 1 renewable sources, including:

21                   **(I)** at least 2% derived from solar energy[, and 0% from Tier 2  
22 renewable sources]; **AND**

23                   **(II) AN AMOUNT SET BY THE COMMISSION UNDER §**  
24 **7-704.2(A) OF THIS SUBTITLE, NOT TO EXCEED 2.5%, DERIVED FROM OFFSHORE**  
25 **WIND ENERGY.**

26                   (c) Before calculating the number of credits required to meet the percentages  
27 established under subsection (b) of this section, an electricity supplier shall exclude  
28 from its total retail electricity sales all retail electricity sales described in subsection  
29 (a)(2) **AND (3)** of this section.

1 (d) Subject to subsections (a) and (c) of this section **AND IN ACCORDANCE**  
2 **WITH § 7-704.2 OF THIS SUBTITLE**, an electricity supplier shall meet the renewable  
3 energy portfolio standard by accumulating the equivalent amount of renewable energy  
4 credits that equal the percentages required under this section.

5 7-704.

6 (a) (2) (i) [1. Except as provided in subsubparagraph 2 of this  
7 subparagraph, energy] **ENERGY** from a Tier 1 renewable source under [§ 7-701(l)(1)]  
8 **§ 7-701(R)(1)**, (5), (9), (10), or (11) of this subtitle is eligible for inclusion in meeting  
9 the renewable energy portfolio standard only if the source is connected with the  
10 electric distribution grid serving Maryland.

11 [2. On or before December 31, 2011, energy from a Tier 1  
12 renewable source under § 7-701(l)(1) of this subtitle that is not connected with the  
13 electric distribution grid serving Maryland is eligible for inclusion in meeting the  
14 renewable energy portfolio standard only if offers for solar credits from Maryland grid  
15 sources are not made to the electricity supplier that would satisfy requirements under  
16 the standard and only to the extent that such offers are not made.]

17 (3) Energy from a Tier 1 renewable source under § [7-701(l)(8)]  
18 **7-701(R)(8)** of this subtitle is eligible for inclusion in meeting the renewable energy  
19 portfolio standard if it is generated at a dam that existed as of January 1, 2004, even if  
20 a system or facility that is capable of generating electricity did not exist on that date.

21 (4) Energy from a Tier 2 renewable source under § [7-701(m)]  
22 **7-701(S)** of this subtitle is eligible for inclusion in meeting the renewable energy  
23 portfolio standard through 2018 if it is generated at a system or facility that existed  
24 and was operational as of January 1, 2004, even if the facility or system was not  
25 capable of generating electricity on that date.

26 (c) (3) On or before December 31, 2008, an electricity supplier shall  
27 receive 110% credit toward meeting the renewable energy portfolio standard for  
28 energy derived from methane under § [7-701(l)(4)] **7-701(R)(4)** of this subtitle.

29 (e) (1) In this subsection, “customer” means:

30 (i) an industrial electric customer that is not on standard offer  
31 service; or

32 (ii) a renewable on-site generator.

33 **(2) THIS SUBSECTION DOES NOT APPLY TO OFFSHORE WIND**  
34 **RENEWABLE ENERGY CREDITS.**

1            **[(2)] (3)**    (i)    A customer may independently acquire renewable  
2 energy credits to satisfy the standards applicable to the customer's load, including  
3 credits created by a renewable on-site generator.

4            (ii)    Credits that a customer transfers to its electricity supplier to  
5 meet the standard and that the electricity supplier relies on in submitting its  
6 compliance report may not be resold or retransferred by the customer or by the  
7 electricity supplier.

8            **[(3)] (4)**    A renewable on-site generator may retain or transfer at its  
9 sole option any credits created by the renewable on-site generator, including credits  
10 for the portion of its on-site generation from a Tier 1 renewable source or a Tier 2  
11 renewable source that displaces the purchase of electricity by the renewable on-site  
12 generator from the grid.

13           **[(4)] (5)**    A customer that satisfies the standard applicable to the  
14 customer's load under this subsection may not be required to contribute to a  
15 compliance fee recovered under § 7-706 of this subtitle.

16           **[(5)] (6)**    The Commission shall adopt regulations governing the  
17 application and transfer of credits under this subsection consistent with federal law.

18    **7-704.1.**

19           **(A) (1) AFTER THE EFFECTIVE DATE OF COMMISSION REGULATIONS**  
20 **IMPLEMENTING THIS SECTION AND § 7-704.2 OF THIS SUBTITLE, A PERSON MAY**  
21 **SUBMIT AN APPLICATION TO THE COMMISSION FOR APPROVAL OF A PROPOSED**  
22 **OFFSHORE WIND PROJECT.**

23           **(2) (I) ON RECEIPT OF THE APPLICATION FOR APPROVAL OF A**  
24 **QUALIFIED OFFSHORE WIND PROJECT, THE COMMISSION SHALL:**

25                    **1. OPEN AN APPLICATION PERIOD WHEN OTHER**  
26 **INTERESTED PERSONS MAY SUBMIT APPLICATIONS FOR APPROVAL OF**  
27 **QUALIFIED OFFSHORE WIND PROJECTS; AND**

28                    **2. PROVIDE NOTICE THAT THE COMMISSION IS**  
29 **ACCEPTING APPLICATIONS FOR APPROVAL OF QUALIFIED OFFSHORE WIND**  
30 **PROJECTS.**

31                    **(II) THE COMMISSION SHALL SET THE CLOSING DATE FOR**  
32 **THE APPLICATION PERIOD TO BE NO SOONER THAN 90 DAYS AFTER THE NOTICE**  
33 **PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

1           **(3) IN ITS DISCRETION, THE COMMISSION MAY PROVIDE FOR**  
2 **ADDITIONAL APPLICATION PERIODS.**

3           **(B) UNLESS EXTENDED BY MUTUAL CONSENT OF THE PARTIES, THE**  
4 **COMMISSION SHALL APPROVE, CONDITIONALLY APPROVE, OR DENY AN**  
5 **APPLICATION WITHIN 180 DAYS AFTER THE CLOSE OF THE APPLICATION**  
6 **PERIOD.**

7           **(C) AN APPLICATION SHALL INCLUDE:**

8                   **(1) A DETAILED DESCRIPTION AND FINANCIAL ANALYSIS OF THE**  
9 **OFFSHORE WIND PROJECT;**

10                   **(2) THE PROPOSED METHOD OF FINANCING THE OFFSHORE WIND**  
11 **PROJECT, INCLUDING DOCUMENTATION DEMONSTRATING THAT THE**  
12 **APPLICANT HAS APPLIED FOR ALL CURRENT ELIGIBLE STATE AND FEDERAL**  
13 **GRANTS, REBATES, TAX CREDITS, LOAN GUARANTEES, OR OTHER PROGRAMS**  
14 **AVAILABLE TO OFFSET THE COST OF THE PROJECT OR PROVIDE TAX**  
15 **ADVANTAGES;**

16                   **(3) A COST-BENEFIT ANALYSIS THAT SHALL INCLUDE AT A**  
17 **MINIMUM:**

18                           **(I) A DETAILED INPUT-OUTPUT ANALYSIS OF THE IMPACT**  
19 **OF THE OFFSHORE WIND PROJECT ON INCOME, EMPLOYMENT, WAGES, AND**  
20 **TAXES IN THE STATE WITH PARTICULAR EMPHASIS ON IN-STATE**  
21 **MANUFACTURING EMPLOYMENT;**

22                           **(II) DETAILED INFORMATION CONCERNING ASSUMED**  
23 **EMPLOYMENT IMPACTS IN THE STATE, INCLUDING THE EXPECTED DURATION**  
24 **OF EMPLOYMENT OPPORTUNITIES, THE SALARY OF EACH POSITION, AND OTHER**  
25 **SUPPORTING EVIDENCE OF EMPLOYMENT IMPACTS;**

26                           **(III) AN ANALYSIS OF THE ANTICIPATED ENVIRONMENTAL**  
27 **BENEFITS, HEALTH BENEFITS, AND ENVIRONMENTAL IMPACTS OF THE**  
28 **OFFSHORE WIND PROJECT TO THE CITIZENS OF THE STATE;**

29                           **(IV) AN ANALYSIS OF ANY IMPACT ON RESIDENTIAL,**  
30 **COMMERCIAL, AND INDUSTRIAL RATEPAYERS OVER THE LIFE OF THE**  
31 **OFFSHORE WIND PROJECT;**

1                   **(V) AN ANALYSIS OF ANY LONG-TERM EFFECT ON ENERGY**  
2 **AND CAPACITY MARKETS AS A RESULT OF THE PROPOSED OFFSHORE WIND**  
3 **PROJECT; AND**

4                   **(VI) OTHER BENEFITS, SUCH AS INCREASED IN-STATE**  
5 **CONSTRUCTION, OPERATIONS, MAINTENANCE, AND EQUIPMENT PURCHASE;**

6                   **(4) A PROPOSED OREC PRICING SCHEDULE FOR THE OFFSHORE**  
7 **WIND PROJECT THAT SHALL SET A PRICE FOR THE GENERATION ATTRIBUTES,**  
8 **INCLUDING THE ENERGY, CAPACITY, ANCILLARY SERVICES, AND**  
9 **ENVIRONMENTAL ATTRIBUTES;**

10                   **(5) A DECOMMISSIONING PLAN FOR THE PROJECT, INCLUDING**  
11 **PROVISIONS FOR DECOMMISSIONING AS REQUIRED BY THE UNITED STATES**  
12 **DEPARTMENT OF THE INTERIOR;**

13                   **(6) A COMMITMENT TO:**

14                   **(I) ABIDE BY THE REQUIREMENTS SET FORTH IN**  
15 **SUBSECTION (E) OF THIS SECTION; AND**

16                   **(II) DEPOSIT AT LEAST \$6,000,000, IN THE MANNER**  
17 **REQUIRED UNDER SUBSECTION (G) OF THIS SECTION, INTO THE MARYLAND**  
18 **OFFSHORE WIND BUSINESS DEVELOPMENT FUND ESTABLISHED UNDER §**  
19 **9-20C-03 OF THE STATE GOVERNMENT ARTICLE;**

20                   **(7) A DESCRIPTION OF THE APPLICANT'S PLAN FOR ENGAGING**  
21 **SMALL BUSINESSES, AS DEFINED IN § 14-501 OF THE STATE FINANCE AND**  
22 **PROCUREMENT ARTICLE;**

23                   **(8) A COMMITMENT THAT THE APPLICANT WILL:**

24                   **(I) USE BEST EFFORTS TO APPLY FOR ALL ELIGIBLE STATE**  
25 **AND FEDERAL GRANTS, REBATES, TAX CREDITS, LOAN GUARANTEES, OR OTHER**  
26 **SIMILAR BENEFITS AS THOSE BENEFITS BECOME AVAILABLE; AND**

27                   **(II) PASS ALONG TO RATEPAYERS, WITHOUT THE NEED FOR**  
28 **ANY SUBSEQUENT COMMISSION APPROVAL, 80% OF THE VALUE OF ANY STATE**  
29 **OR FEDERAL GRANTS, REBATES, TAX CREDITS, LOAN GUARANTEES, OR OTHER**  
30 **SIMILAR BENEFITS RECEIVED BY THE PROJECT AND NOT INCLUDED IN THE**  
31 **APPLICATION; AND**

32                   **(9) ANY OTHER INFORMATION THE COMMISSION REQUIRES.**



1           **(D) (1) THE COMMISSION SHALL USE THE FOLLOWING CRITERIA TO**  
2 **EVALUATE AND COMPARE PROPOSED OFFSHORE WIND PROJECTS:**

3                   **(I) LOWEST COST IMPACT ON RATEPAYERS OF THE PRICE**  
4 **SET UNDER A PROPOSED OREC PRICING SCHEDULE;**

5                   **(II) POTENTIAL REDUCTIONS IN TRANSMISSION**  
6 **CONGESTION PRICES WITHIN THE STATE;**

7                   **(III) POTENTIAL CHANGES IN CAPACITY PRICES WITHIN THE**  
8 **STATE;**

9                   **(IV) POTENTIAL REDUCTIONS IN LOCATIONAL MARGINAL**  
10 **PRICING;**

11                   **(V) POTENTIAL LONG-TERM CHANGES IN CAPACITY PRICES**  
12 **WITHIN THE STATE FROM THE OFFSHORE WIND PROJECT AS IT COMPARES TO**  
13 **CONVENTIONAL ENERGY SOURCES;**

14                   **(VI) THE EXTENT TO WHICH THE COST-BENEFIT ANALYSIS**  
15 **SUBMITTED UNDER SUBSECTION (C)(3) OF THIS SECTION DEMONSTRATES**  
16 **POSITIVE NET ECONOMIC, ENVIRONMENTAL, AND HEALTH BENEFITS TO THE**  
17 **STATE;**

18                   **(VII) THE EXTENT TO WHICH AN APPLICANT'S PLAN FOR**  
19 **ENGAGING SMALL BUSINESSES MEETS THE GOALS SPECIFIED IN TITLE 14,**  
20 **SUBTITLE 5 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;**

21                   **(VIII) THE EXTENT TO WHICH AN APPLICANT'S PLAN**  
22 **PROVIDES FOR THE USE OF SKILLED LABOR, PARTICULARLY WITH REGARD TO**  
23 **THE CONSTRUCTION AND MANUFACTURING COMPONENTS OF THE PROJECT,**  
24 **THROUGH OUTREACH, HIRING, OR REFERRAL SYSTEMS THAT ARE AFFILIATED**  
25 **WITH REGISTERED APPRENTICESHIP PROGRAMS UNDER TITLE 11, SUBTITLE 4**  
26 **OF THE LABOR AND EMPLOYMENT ARTICLE;**

27                   **(IX) THE EXTENT TO WHICH AN APPLICANT'S PLAN**  
28 **PROVIDES FOR THE USE OF AN AGREEMENT DESIGNED TO ENSURE THE USE OF**  
29 **SKILLED LABOR AND TO PROMOTE THE PROMPT, EFFICIENT, AND SAFE**  
30 **COMPLETION OF THE PROJECT, PARTICULARLY WITH REGARD TO THE**  
31 **CONSTRUCTION, MANUFACTURING, AND MAINTENANCE OF THE PROJECT;**

1                   **(X) THE EXTENT TO WHICH AN APPLICANT’S PLAN**  
2 **PROVIDES FOR COMPENSATION TO ITS EMPLOYEES AND SUBCONTRACTORS**  
3 **CONSISTENT WITH WAGES OUTLINED UNDER §§ 17–201 THROUGH 17–228 OF**  
4 **THE STATE FINANCE AND PROCUREMENT ARTICLE;**

5                   **(XI) SITING AND PROJECT FEASIBILITY;**

6                   **(XII) ESTIMATED ABILITY TO ASSIST IN MEETING THE**  
7 **RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7–703 OF THIS SUBTITLE;**  
8 **AND**

9                   **(XIII) ANY OTHER CRITERIA THAT THE COMMISSION**  
10 **DETERMINES TO BE APPROPRIATE.**

11                   **(2) IN EVALUATING AND COMPARING AN APPLICANT’S PROPOSED**  
12 **OFFSHORE WIND PROJECT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE**  
13 **COMMISSION SHALL CONTRACT FOR THE SERVICES OF INDEPENDENT**  
14 **CONSULTANTS AND EXPERTS.**

15                   **(3) THE COMMISSION SHALL VERIFY THAT REPRESENTATIVES OF**  
16 **THE UNITED STATES DEPARTMENT OF DEFENSE AND THE MARITIME INDUSTRY**  
17 **HAVE HAD THE OPPORTUNITY, THROUGH THE FEDERAL LEASING PROCESS, TO**  
18 **EXPRESS CONCERNS REGARDING PROJECT SITING.**

19                   **(4) (I) IN THIS PARAGRAPH, “MINORITY” MEANS AN**  
20 **INDIVIDUAL WHO IS A MEMBER OF ANY OF THE GROUPS LISTED IN §**  
21 **14–301(J)(1)(I) OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

22                   **(II) IF AN APPLICANT IS SEEKING INVESTORS IN A**  
23 **PROPOSED OFFSHORE WIND PROJECT, IT SHALL TAKE THE FOLLOWING STEPS**  
24 **BEFORE THE COMMISSION MAY APPROVE THE PROPOSED PROJECT:**

25                               **1. MAKE SERIOUS, GOOD–FAITH EFFORTS TO**  
26 **SOLICIT AND INTERVIEW A REASONABLE NUMBER OF MINORITY INVESTORS;**

27                               **2. AS PART OF THE APPLICATION, SUBMIT A**  
28 **STATEMENT TO THE COMMISSION THAT LISTS THE NAMES AND ADDRESSES OF**  
29 **ALL MINORITY INVESTORS INTERVIEWED AND WHETHER OR NOT ANY OF THOSE**  
30 **INVESTORS HAVE PURCHASED AN EQUITY SHARE IN THE ENTITY SUBMITTING**  
31 **AN APPLICATION; AND**

32                               **3. AS A CONDITION TO THE COMMISSION’S**  
33 **APPROVAL OF THE OFFSHORE WIND PROJECT, SIGN A MEMORANDUM OF**  
34 **UNDERSTANDING WITH THE COMMISSION THAT REQUIRES THE APPLICANT TO**

1 AGAIN MAKE SERIOUS, GOOD-FAITH EFFORTS TO INTERVIEW MINORITY  
2 INVESTORS IN ANY FUTURE ATTEMPTS TO RAISE VENTURE CAPITAL OR  
3 ATTRACT NEW INVESTORS TO THE OFFSHORE WIND PROJECT.

4 (III) THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, IN  
5 CONSULTATION WITH THE OFFICE OF THE ATTORNEY GENERAL, SHALL  
6 PROVIDE ASSISTANCE TO ALL POTENTIAL APPLICANTS AND POTENTIAL  
7 MINORITY INVESTORS TO SATISFY THE REQUIREMENTS UNDER SUBPARAGRAPH  
8 (II)1 AND 3 OF THIS PARAGRAPH.

9 (E) (1) THE COMMISSION MAY NOT APPROVE AN APPLICANT'S  
10 PROPOSED OFFSHORE WIND PROJECT UNLESS:

11 (I) THE PROPOSED OFFSHORE WIND PROJECT  
12 DEMONSTRATES POSITIVE NET ECONOMIC, ENVIRONMENTAL, AND HEALTH  
13 BENEFITS TO THE STATE, BASED ON THE CRITERIA SPECIFIED IN SUBSECTION  
14 (C)(3) OF THIS SECTION;

15 (II) THE PROJECTED NET RATE IMPACT FOR AN AVERAGE  
16 RESIDENTIAL CUSTOMER, BASED ON ANNUAL CONSUMPTION OF 12,000  
17 KILOWATT-HOURS, COMBINED WITH THE PROJECTED NET RATE IMPACT OF  
18 OTHER QUALIFIED OFFSHORE WIND PROJECTS, DOES NOT EXCEED \$1.50 PER  
19 MONTH IN 2012 DOLLARS, OVER THE DURATION OF THE PROPOSED OREC  
20 PRICING SCHEDULE;

21 (III) THE PROJECTED NET RATE IMPACT FOR ALL  
22 NONRESIDENTIAL CUSTOMERS CONSIDERED AS A BLENDED AVERAGE,  
23 COMBINED WITH THE PROJECTED NET RATE IMPACT OF OTHER QUALIFIED  
24 OFFSHORE WIND PROJECTS, DOES NOT EXCEED 1.5% OF NONRESIDENTIAL  
25 CUSTOMERS' TOTAL ANNUAL ELECTRIC BILLS, OVER THE DURATION OF THE  
26 PROPOSED OREC PRICING SCHEDULE; AND

27 (IV) THE PRICE SET IN THE PROPOSED OREC PRICE  
28 SCHEDULE DOES NOT EXCEED \$190 PER MEGAWATT-HOUR IN 2012 DOLLARS.

29 (2) (I) WHEN CALCULATING THE NET BENEFITS TO THE STATE  
30 UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE COMMISSION SHALL  
31 CONTRACT FOR THE SERVICES OF INDEPENDENT CONSULTANTS AND EXPERTS.

32 (II) WHEN CALCULATING THE PROJECTED NET AVERAGE  
33 RATE IMPACTS UNDER PARAGRAPH (1)(II) AND (III) OF THIS SUBSECTION, THE  
34 COMMISSION SHALL APPLY THE SAME NET OREC COST PER MEGAWATT-HOUR  
35 TO RESIDENTIAL AND NONRESIDENTIAL CUSTOMERS.

1           **(F) (1) AN ORDER THE COMMISSION ISSUES APPROVING A**  
2 **PROPOSED OFFSHORE WIND PROJECT SHALL:**

3                   **(I) SPECIFY THE OREC PRICE SCHEDULE, WHICH MAY NOT**  
4 **AUTHORIZE AN OREC PRICE GREATER THAN \$190 PER MEGAWATT-HOUR IN**  
5 **2012 DOLLARS;**

6                   **(II) SPECIFY THE DURATION OF THE OREC PRICING**  
7 **SCHEDULE, NOT TO EXCEED 20 YEARS;**

8                   **(III) SPECIFY THE NUMBER OF ORECS THE OFFSHORE WIND**  
9 **PROJECT MAY SELL EACH YEAR; AND**

10                   **(IV) PROVIDE THAT:**

11                           **1. A PAYMENT MAY NOT BE MADE FOR AN OREC**  
12 **UNTIL ELECTRICITY SUPPLY IS GENERATED BY THE OFFSHORE WIND PROJECT;**  
13 **AND**

14                           **2. RATEPAYERS AND THE STATE SHALL BE HELD**  
15 **HARMLESS FOR ANY COST OVERRUNS ASSOCIATED WITH THE OFFSHORE WIND**  
16 **PROJECT.**

17                   **(2) AN ORDER APPROVING A PROPOSED OFFSHORE WIND**  
18 **PROJECT VESTS THE OWNER OF THE QUALIFIED OFFSHORE WIND PROJECT**  
19 **WITH THE RIGHT TO RECEIVE PAYMENTS FOR ORECS ACCORDING TO THE**  
20 **TERMS IN THE ORDER.**

21           **(G) (1) WITHIN 60 DAYS AFTER THE COMMISSION APPROVES THE**  
22 **APPLICATION OF A PROPOSED OFFSHORE WIND PROJECT, THE QUALIFIED**  
23 **OFFSHORE WIND PROJECT SHALL DEPOSIT \$2,000,000 INTO THE MARYLAND**  
24 **OFFSHORE WIND BUSINESS DEVELOPMENT FUND ESTABLISHED UNDER §**  
25 **9-20C-03 OF THE STATE GOVERNMENT ARTICLE.**

26                   **(2) WITHIN 1 YEAR AFTER THE INITIAL DEPOSIT UNDER**  
27 **PARAGRAPH (1) OF THIS SUBSECTION, THE QUALIFIED OFFSHORE WIND**  
28 **PROJECT SHALL DEPOSIT AN ADDITIONAL \$2,000,000 INTO THE MARYLAND**  
29 **OFFSHORE WIND BUSINESS DEVELOPMENT FUND.**

30                   **(3) WITHIN 2 YEARS AFTER THE INITIAL DEPOSIT UNDER**  
31 **PARAGRAPH (1) OF THIS SUBSECTION, THE QUALIFIED OFFSHORE WIND**  
32 **PROJECT SHALL DEPOSIT AN ADDITIONAL \$2,000,000 INTO THE MARYLAND**  
33 **OFFSHORE WIND BUSINESS DEVELOPMENT FUND.**

1 7-704.2.

2 (A) THE COMMISSION SHALL DETERMINE THE OFFSHORE WIND  
3 ENERGY COMPONENT OF THE RENEWABLE ENERGY PORTFOLIO STANDARD  
4 UNDER § 7-703(B)(12) THROUGH (17) OF THIS SUBTITLE BASED ON THE  
5 PROJECTED ANNUAL CREATION OF ORECS BY QUALIFIED OFFSHORE WIND  
6 PROJECTS.

7 (B) THE COMMISSION SHALL ADOPT REGULATIONS ESTABLISHING AN  
8 ESCROW ACCOUNT UNDER COMMISSION SUPERVISION AND DEFINING RULES  
9 THAT FACILITATE AND ENSURE THE SECURE AND TRANSPARENT TRANSFER OF  
10 REVENUES AND ORECS AMONG THE PARTIES.

11 (C) (1) EACH ELECTRICITY SUPPLIER SHALL PURCHASE FROM THE  
12 ESCROW ACCOUNT ESTABLISHED UNDER THIS SECTION THE NUMBER OF  
13 ORECS REQUIRED TO SATISFY THE OFFSHORE WIND ENERGY COMPONENT OF  
14 THE RENEWABLE ENERGY PORTFOLIO STANDARD UNDER § 7-703(B)(12)  
15 THROUGH (17) OF THIS SUBTITLE.

16 (2) SUBJECT TO ANY ESCROW ACCOUNT RESERVE REQUIREMENT  
17 THE COMMISSION ESTABLISHES, IF THERE ARE INSUFFICIENT ORECS  
18 AVAILABLE TO SATISFY THE SUPPLIERS' OREC OBLIGATION, THE  
19 OVERPAYMENT SHALL BE DISTRIBUTED TO ELECTRIC COMPANIES TO BE  
20 REFUNDED OR CREDITED TO EACH RATEPAYER BASED ON THE RATEPAYER'S  
21 CONSUMPTION OF ELECTRICITY SUPPLY THAT IS SUBJECT TO THE RENEWABLE  
22 ENERGY PORTFOLIO STANDARD.

23 (3) FOR EACH OREC FOR WHICH A QUALIFIED OFFSHORE WIND  
24 PROJECT RECEIVES PAYMENT, A QUALIFIED OFFSHORE WIND PROJECT SHALL:

25 (I) SELL ALL ENERGY, CAPACITY, AND ANCILLARY  
26 SERVICES ASSOCIATED WITH THE CREATION OF ORECS INTO THE MARKETS  
27 OPERATED BY PJM INTERCONNECTION; AND

28 (II) DISTRIBUTE THE PROCEEDS RECEIVED FROM THE  
29 SALES TO PJM INTERCONNECTION MARKETS, UNDER SUBPARAGRAPH (I) OF  
30 THIS PARAGRAPH TO ELECTRIC COMPANIES TO BE REFUNDED OR CREDITED TO  
31 EACH RATEPAYER BASED ON THE RATEPAYER'S CONSUMPTION OF ELECTRICITY  
32 SUPPLY THAT IS SUBJECT TO THE RENEWABLE ENERGY PORTFOLIO STANDARD.

33 (4) NOTWITHSTANDING § 7-709 OF THIS SUBTITLE, THE  
34 COMMISSION SHALL ADOPT REGULATIONS REGARDING THE TRANSFER AND

1 EXPIRATION OF ORECs CREATED BY A QUALIFIED OFFSHORE WIND PROJECT  
2 IN EXCESS OF THE OREC PRICING SCHEDULE.

3 (D) (1) IF, WITHIN 2 YEARS BEFORE THE EXPIRATION OF AN OREC  
4 TERM, A QUALIFIED OFFSHORE WIND PROJECT IS ANTICIPATED TO RECEIVE  
5 PJM REVENUES GREATER THAN THE PROJECT OPERATING COSTS FOR THE 5  
6 YEARS IMMEDIATELY FOLLOWING THE EXPIRATION OF THE TERM OF THE  
7 OREC PRICING SCHEDULE, THE COMMISSION MAY EXTEND THE TERM OF THE  
8 OREC PRICING SCHEDULE FOR AN ADDITIONAL 5 YEARS AT AN OREC PRICE  
9 THAT EQUALS ONE-HALF OF THE SUM OF:

10 (I) ANTICIPATED MARKET REVENUES GENERATED BY THE  
11 PROJECT DURING THE ADDITIONAL 5-YEAR PERIOD; AND

12 (II) ANTICIPATED PROJECT OPERATING COSTS DURING THE  
13 ADDITIONAL 5-YEAR PERIOD.

14 (2) IF, WITHIN 2 YEARS BEFORE THE EXPIRATION OF AN  
15 ADDITIONAL 5-YEAR TERM EXTENDED UNDER PARAGRAPH (1) OF THIS  
16 SUBSECTION, A QUALIFIED OFFSHORE WIND PROJECT IS ANTICIPATED TO  
17 RECEIVE PJM REVENUES GREATER THAN THE PROJECT OPERATING COSTS FOR  
18 THE 5 YEARS IMMEDIATELY FOLLOWING THE EXPIRATION OF THE ADDITIONAL  
19 5-YEAR TERM, THE COMMISSION MAY EXTEND THE TERM OF THE OREC  
20 PRICING SCHEDULE FOR AN ADDITIONAL 5 YEARS AT AN OREC PRICE THAT  
21 EQUALS ONE-HALF OF THE SUM OF:

22 (I) ANTICIPATED MARKET REVENUES GENERATED BY THE  
23 PROJECT DURING THE ADDITIONAL 5-YEAR PERIOD; AND

24 (II) ANTICIPATED PROJECT OPERATING COSTS DURING THE  
25 ADDITIONAL 5-YEAR PERIOD.

26 (3) EXCEPT AS PROVIDED IN PARAGRAPHS (1) AND (2) OF THIS  
27 SUBSECTION, AN OREC TRANSACTION THAT TAKES PLACE DURING AN  
28 ADDITIONAL 5-YEAR TERM IS SUBJECT TO THE PROVISIONS AND REGULATIONS  
29 APPLICABLE TO THE ORIGINAL OREC ORDER.

30 (E) ON OR BEFORE JULY 1, 2014, THE COMMISSION SHALL ADOPT  
31 REGULATIONS TO CARRY OUT THIS SECTION AND § 7-704.1 OF THIS SUBTITLE.

32 7-705.

33 (a) Each electricity supplier shall submit a report to the Commission each  
34 year in a form and by a date specified by the Commission that:

1 (1) demonstrates that the electricity supplier has complied with the  
 2 applicable renewable energy portfolio standard under § 7–703 of this subtitle and  
 3 includes the submission of the required amount of renewable energy credits; or

4 (2) demonstrates the amount of electricity sales by which the  
 5 electricity supplier failed to meet the applicable renewable energy portfolio standard.

6 (b) (1) **THIS SUBSECTION DOES NOT APPLY TO A SHORTFALL FROM**  
 7 **THE REQUIRED TIER 1 RENEWABLE SOURCES THAT IS TO BE DERIVED FROM**  
 8 **OFFSHORE WIND ENERGY.**

9 (2) If an electricity supplier fails to comply with the renewable energy  
 10 portfolio standard for the applicable year, the electricity supplier shall pay into the  
 11 Maryland Strategic Energy Investment Fund established under § 9–20B–05 of the  
 12 State Government Article:

13 [(1)] (I) except as provided in item [(2)] (II) of this [subsection]  
 14 PARAGRAPH, a compliance fee of:

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

18 [(ii)] 2. the following amounts for each kilowatt–hour of  
 19 shortfall from required Tier 1 renewable sources that is to be derived from solar  
 20 energy:

21 [1.] A. 45 cents in 2008;

22 [2.] B. 40 cents in 2009 through 2014;

23 [3.] C. 35 cents in 2015 and 2016;

24 [4.] D. 20 cents in 2017 and 2018;

25 [5.] E. 15 cents in 2019 and 2020;

26 [6.] F. 10 cents in 2021 and 2022; and

27 [7.] G. 5 cents in 2023 and later; and

28 [(iii)] 3. 1.5 cents for each kilowatt–hour of shortfall from  
 29 required Tier 2 renewable sources; or

1            [(2)] (II) for industrial process load:

2                            [(i)] 1. for each kilowatt-hour of shortfall from required Tier  
3 1 renewable sources, a compliance fee of:

4                            [1.] A. 0.8 cents in 2006, 2007, and 2008;

5                            [2.] B. 0.5 cents in 2009 and 2010;

6                            [3.] C. 0.4 cents in 2011 and 2012;

7                            [4.] D. 0.3 cents in 2013 and 2014;

8                            [5.] E. 0.25 cents in 2015 and 2016; and

9                            [6.] F. EXCEPT AS PROVIDED IN PARAGRAPH (3) OF  
10 THIS SUBSECTION, 0.2 cents in 2017 and later; and

11                           [(ii)] 2. nothing for any shortfall from required Tier 2  
12 renewable sources.

13                           (3) FOR INDUSTRIAL PROCESS LOAD, THE COMPLIANCE FEE FOR  
14 EACH KILOWATT-HOUR OF SHORTFALL FROM REQUIRED TIER 1 RENEWABLE  
15 SOURCES IS:

16                           (I) 0.1 CENTS IN ANY YEAR DURING WHICH SUPPLIERS ARE  
17 REQUIRED TO PURCHASE ORECS UNDER § 7-704.2 OF THIS SUBTITLE; AND

18                           (II) NOTHING FOR THE YEAR FOLLOWING ANY YEAR DURING  
19 WHICH, AFTER FINAL CALCULATIONS, THE NET RATE IMPACT PER  
20 MEGAWATT-HOUR FROM QUALIFIED OFFSHORE WIND PROJECTS EXCEEDED  
21 \$1.65 IN 2012 DOLLARS.

22                           (f) (1) Except as provided in subsection (e) of this section, and  
23 notwithstanding the requirements of § 7-703(b) of this subtitle, if the actual or  
24 projected dollar-for-dollar cost incurred or to be incurred by an electricity supplier  
25 solely for the purchase of Tier 1 renewable energy credits other than solar credits OR  
26 ORECS in any 1 year is greater than or equal to, or is anticipated to be greater than  
27 or equal to, the greater of the applicable Tier 1 percentage or 10% of the electricity  
28 supplier's total annual electricity sales revenues in Maryland, the electricity supplier  
29 may request that the Commission:

30                           (i) delay by 1 year each of the scheduled percentages for Tier 1  
31 credits under § 7-703(b) of this subtitle that would apply to the electricity supplier;  
32 and



1 (ii) allow the renewable energy portfolio standard for Tier 1 for  
2 that year to continue to apply to the electricity supplier for the following year.

3 (2) In making its determination under paragraph (1) of this  
4 subsection, the Commission shall consider the actual or projected dollar-for-dollar  
5 compliance costs of other electricity suppliers.

6 (3) If an electricity supplier makes a request under paragraph (1) of  
7 this subsection based on projected costs, the electricity supplier shall provide verifiable  
8 evidence of the projections to the Commission at the time of the request.

9 (4) If the Commission allows a delay under paragraph (1) of this  
10 subsection:

11 (i) the renewable energy portfolio standard for Tier 1 applicable  
12 to the electricity supplier under the delay continues for each subsequent consecutive  
13 year that the actual or projected dollar-for-dollar costs incurred, or to be incurred, by  
14 the electricity supplier solely for the purchase of Tier 1 credits other than solar credits  
15 **OR ORECS** is greater than or equal to, or is anticipated to be greater than or equal  
16 to, the greater of the applicable Tier 1 percentage or 10% of the electricity supplier's  
17 total annual retail electricity sales revenues in Maryland; and

18 (ii) the renewable energy portfolio standard for Tier 1 applicable  
19 to the electricity supplier under the delay is increased to the next scheduled  
20 percentage increase under § 7-703(b) of this subtitle for each year in which the actual  
21 or projected dollar-for-dollar costs incurred, or to be incurred, by the electricity  
22 supplier solely for the purchase of Tier 1 credits other than solar credits **OR ORECS**  
23 is less than, or is anticipated to be less than, the greater of the applicable Tier 1  
24 percentage or 10% of the electricity supplier's total annual retail electricity sales  
25 revenues in Maryland.

## 26 Article – Natural Resources

27 8-1102.

28 (a) (1) **[For] EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (2)**  
29 **AND (3) OF THIS SUBSECTION, FOR** the purposes of maintaining the Atlantic Coast  
30 beaches of the State and the Beach Erosion Control District, the integrity and  
31 continuity of the dunal system and assuring adequate maintenance of the beaches,  
32 Beach Erosion Control District, and dunal system, to provide for shore erosion and  
33 sediment control and storm protection, and to minimize structural interference with  
34 the littoral drift of sand and any anchoring vegetation, any land clearing, construction  
35 activity, or the construction or placement of permanent structures within the Beach  
36 Erosion Control District is prohibited.

1           (2) This prohibition does not apply to any project or activity approved  
2 by the Department and the appropriate soil conservation district specifically for storm  
3 control; beach erosion and sediment control; maintenance projects designed to benefit  
4 the Beach Erosion Control District; the widening of the boardwalk in Ocean City up to  
5 an additional 40 feet to the east between South Second Street and the south side of  
6 Worcester Street and from the south side of Somerset Street to the southerly terminus  
7 of the steel and concrete bulkhead at 4th Street, and an additional 80 feet to the east  
8 between the south side of Worcester Street and the south side of Somerset Street to  
9 include associated appurtenances and construction of one restroom facility in an  
10 easterly direction between South Second Street and the southerly terminus of the steel  
11 and concrete bulkhead at 4th Street for the purpose of public health, safety, and  
12 welfare; and a planned public utility pipeline carrying treated sewage effluent from a  
13 unit not exceeding 14 million gallons per day, if, in addition to the approvals required  
14 by all other applicable federal and local laws and regulations, it is approved by the  
15 Board of Public Works as essential to the public health, safety, and welfare of the  
16 citizens of Worcester County, after having received the permission of the Secretaries of  
17 the Environment and Natural Resources, and the Director of Planning, including a  
18 guarantee that in any contract under this provision a person will not make any  
19 significant permanent environmental disruption to the area, and the construction area  
20 for the purpose of laying a single pipe with a diameter not exceeding 36 inches is  
21 limited to a single 100 foot wide area perpendicular eastward from the west crest of  
22 the natural dune line on Assateague Island and in Ocean City, and if the Secretaries  
23 of the Environment and Natural Resources and the Director of Planning find that  
24 there is no economically and environmentally feasible alternative, and that there is  
25 insufficient capacity at the existing Ocean City wastewater treatment facility and  
26 discharge pipe.

27           **(3) (I) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH,**  
28 **THIS PROHIBITION DOES NOT APPLY TO THE CONSTRUCTION AND**  
29 **INSTALLATION OF A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE, AS**  
30 **DEFINED IN § 7-208 OF THE PUBLIC UTILITIES ARTICLE, IF THE PROJECT DOES**  
31 **NOT RESULT IN ANY SIGNIFICANT PERMANENT ENVIRONMENTAL DAMAGE TO**  
32 **THE BEACH EROSION CONTROL DISTRICT, AS DETERMINED BY THE**  
33 **DEPARTMENT.**

34           **(II) AN APPLICATION FOR A CERTIFICATE OF PUBLIC**  
35 **CONVENIENCE AND NECESSITY TO CONSTRUCT A QUALIFIED SUBMERGED**  
36 **RENEWABLE ENERGY LINE, AS DEFINED IN § 7-208 OF THE PUBLIC UTILITIES**  
37 **ARTICLE, IS SUBJECT TO REVIEW BY THE DEPARTMENT AND THE DEPARTMENT**  
38 **OF THE ENVIRONMENT, AS PROVIDED IN § 3-306 OF THIS ARTICLE.**

39           **(III) THE PUBLIC SERVICE COMMISSION MAY NOT APPROVE**  
40 **AN APPLICATION FOR A QUALIFIED SUBMERGED RENEWABLE ENERGY LINE TO**  
41 **BE CONSTRUCTED OR INSTALLED WITHIN THE ASSATEAGUE NATIONAL**  
42 **SEASHORE PARK OR THE ASSATEAGUE STATE PARK.**

1 (b) The Secretary of the Environment, the Secretary of Natural Resources,  
2 and the Director of Planning, with the approval of the Board of Public Works, shall  
3 jointly adopt regulations in accordance with Title 10, Subtitle 1 of the State  
4 Government Article for the purpose of implementing the provisions of this section.

5 **Article – State Government**

6 **SUBTITLE 20C. MARYLAND OFFSHORE WIND BUSINESS DEVELOPMENT FUND.**

7 **9–20C–01.**

8 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
9 INDICATED.

10 (B) “ADVISORY COMMITTEE” MEANS THE MARYLAND OFFSHORE WIND  
11 BUSINESS DEVELOPMENT ADVISORY COMMITTEE ESTABLISHED UNDER §  
12 9–20C–02 OF THIS SUBTITLE.

13 (C) “ADMINISTRATION” MEANS THE MARYLAND ENERGY  
14 ADMINISTRATION.

15 (D) “DIRECTOR” MEANS THE DIRECTOR OF THE MARYLAND ENERGY  
16 ADMINISTRATION.

17 (E) “EMERGING BUSINESS” MEANS A BUSINESS THAT IS AT LEAST 51%  
18 OWNED AND CONTROLLED BY AN INDIVIDUAL OR INDIVIDUALS WHO ARE  
19 CERTIFIED TO HAVE A PERSONAL NET WORTH, AS DEFINED IN § 14–301 OF THE  
20 STATE FINANCE AND PROCUREMENT ARTICLE, THAT DOES NOT EXCEED  
21 \$6,500,000 AS ADJUSTED EACH YEAR FOR INFLATION ACCORDING TO THE  
22 CONSUMER PRICE INDEX.

23 (F) “FUND” MEANS THE MARYLAND OFFSHORE WIND BUSINESS  
24 DEVELOPMENT FUND ESTABLISHED UNDER § 9–20C–03 OF THIS SUBTITLE.

25 (G) “MINORITY” MEANS AN INDIVIDUAL WHO IS A MEMBER OF ANY OF  
26 THE GROUPS LISTED IN § 14–301(J)(1)(I) OF THE STATE FINANCE AND  
27 PROCUREMENT ARTICLE.

28 **9–20C–02.**

29 (A) THERE IS A MARYLAND OFFSHORE WIND BUSINESS  
30 DEVELOPMENT ADVISORY COMMITTEE.

1           **(B) THE ADVISORY COMMITTEE SHALL MAKE RECOMMENDATIONS TO**  
2 **THE ADMINISTRATION ON THE MOST EFFECTIVE MANNER TO USE MONEY IN**  
3 **THE FUND CONSISTENT WITH THE PURPOSES OF THE FUND.**

4           **(C) THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING**  
5 **MEMBERS:**

6                   **(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY**  
7 **THE PRESIDENT OF THE SENATE;**

8                   **(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY**  
9 **THE SPEAKER OF THE HOUSE;**

10                   **(3) THE DIRECTOR OR THE DIRECTOR'S DESIGNEE;**

11                   **(4) THE SECRETARY OF BUSINESS AND ECONOMIC**  
12 **DEVELOPMENT, OR THE SECRETARY'S DESIGNEE;**

13                   **(5) THE SPECIAL SECRETARY OF THE GOVERNOR'S OFFICE OF**  
14 **MINORITY AFFAIRS, OR THE SPECIAL SECRETARY'S DESIGNEE; AND**

15                   **(6) THE FOLLOWING 11 MEMBERS, APPOINTED BY THE**  
16 **GOVERNOR:**

17                           **(I) 1 REPRESENTATIVE OF A PUBLIC INSTITUTION OF**  
18 **HIGHER EDUCATION IN THE STATE;**

19                           **(II) 1 REPRESENTATIVE OF A HISTORICALLY BLACK OR**  
20 **AFRICAN AMERICAN UNIVERSITY IN THE STATE;**

21                           **(III) 1 REPRESENTATIVE OF THE STATE'S COMMUNITY**  
22 **COLLEGES;**

23                           **(IV) 1 REPRESENTATIVE OF THE MARYLAND SMALL**  
24 **BUSINESS DEVELOPMENT CENTER NETWORK;**

25                           **(V) 1 REPRESENTATIVE OF THE MARYLAND BUSINESS**  
26 **COALITION FOR OFFSHORE WIND;**

27                           **(VI) 1 REPRESENTATIVE OF A BUSINESS INCUBATOR IN THE**  
28 **STATE WITH EXPERIENCE IN PROVIDING SERVICES TO MINORITY BUSINESS**  
29 **ENTERPRISES AS DEFINED IN § 14-301 OF THE STATE FINANCE AND**

1 **PROCUREMENT ARTICLE, OR TO EMERGING BUSINESSES, INCLUDING**  
2 **EMERGING BUSINESSES OWNED BY MINORITIES;**

3 **(VII) 1 INDIVIDUAL WITH EXPERIENCE IN PROVIDING**  
4 **BUSINESS FINANCING TO MINORITY BUSINESS ENTERPRISES AS DEFINED IN §**  
5 **14-301 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, OR TO**  
6 **EMERGING BUSINESSES, INCLUDING EMERGING BUSINESSES OWNED BY**  
7 **MINORITIES;**

8 **(VIII) 1 REPRESENTATIVE OF AN OFFSHORE WIND**  
9 **DEVELOPER;**

10 **(IX) 1 REPRESENTATIVE OF AN ORIGINAL EQUIPMENT**  
11 **MANUFACTURER;**

12 **(X) 1 INDIVIDUAL WHO IS A MINORITY BUSINESS ADVOCATE;**  
13 **AND**

14 **(XI) 1 INDIVIDUAL WITH EXPERIENCE IN OFFSHORE WIND**  
15 **SUPPLY CHAIN ISSUES.**

16 **(D) THE GOVERNOR SHALL APPOINT THE CHAIR OF THE ADVISORY**  
17 **COMMITTEE.**

18 **(E) THE ADMINISTRATION SHALL PROVIDE STAFF FOR THE ADVISORY**  
19 **COMMITTEE.**

20 **(F) A MEMBER OF THE ADVISORY COMMITTEE:**

21 **(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE**  
22 **ADVISORY COMMITTEE; BUT**

23 **(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE**  
24 **STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE**  
25 **BUDGET.**

26 **(G) (1) ON OR BEFORE DECEMBER 31, 2013, THE ADVISORY**  
27 **COMMITTEE SHALL PROVIDE WRITTEN RECOMMENDATIONS TO THE**  
28 **ADMINISTRATION REGARDING THE MOST EFFECTIVE USE OF MONEY IN THE**  
29 **FUND IN ORDER TO MAXIMIZE OPPORTUNITIES FOR EMERGING BUSINESSES IN**  
30 **THE STATE, INCLUDING MINORITY-OWNED EMERGING BUSINESSES, TO**  
31 **PARTICIPATE IN THE OFFSHORE WIND INDUSTRY.**

1           **(2) IN MAKING A RECOMMENDATION UNDER PARAGRAPH (1) OF**  
2 **THIS SUBSECTION, THE ADVISORY COMMITTEE SHALL CONSIDER**  
3 **OPPORTUNITIES TO MAXIMIZE LEVERAGING OPPORTUNITIES, MENTORING AND**  
4 **PROTEGE MODELS, INNOVATION CLUSTERS, EXISTING INCUBATOR AND**  
5 **BUSINESS DEVELOPMENT PROGRAMS, AND THE APPROPRIATE ROLE OF**  
6 **PARTNERSHIPS WITH THE STATE’S UNIVERSITIES AND COMMUNITY COLLEGES.**

7           **(3) ON OR BEFORE DECEMBER 31, 2014, THE ADVISORY**  
8 **COMMITTEE SHALL PROVIDE UPDATED RECOMMENDATIONS TO THE**  
9 **ADMINISTRATION.**

10          **(H) ON COMPLETION AND SUBMISSION OF THE WRITTEN**  
11 **RECOMMENDATIONS REQUIRED UNDER SUBSECTION (G) OF THIS SECTION, THE**  
12 **ADVISORY COMMITTEE SHALL TERMINATE ITS OPERATION AND CEASE TO**  
13 **MEET.**

14 **9-20C-03.**

15          **(A) THERE IS A MARYLAND OFFSHORE WIND BUSINESS**  
16 **DEVELOPMENT FUND IN THE ADMINISTRATION.**

17          **(B) THE PURPOSES OF THE FUND ARE TO:**

18               **(1) PROVIDE FINANCIAL ASSISTANCE, BUSINESS DEVELOPMENT**  
19 **ASSISTANCE, AND EMPLOYEE TRAINING OPPORTUNITIES FOR THE BENEFIT OF**  
20 **EMERGING BUSINESSES IN THE STATE, INCLUDING**  
21 **MINORITY-OWNED EMERGING BUSINESSES, TO PREPARE THOSE BUSINESSES TO**  
22 **PARTICIPATE IN THE EMERGING OFFSHORE WIND INDUSTRY; AND**

23               **(2) ENCOURAGE EMERGING BUSINESSES IN THE STATE,**  
24 **INCLUDING MINORITY-OWNED EMERGING BUSINESSES, TO PARTICIPATE IN THE**  
25 **EMERGING OFFSHORE WIND INDUSTRY.**

26          **(C) THE ADMINISTRATION MAY USE THE FUND TO:**

27               **(1) CARRY OUT THE PURPOSES OF THE FUND; AND**

28               **(2) PAY THE COSTS OF IMPLEMENTING THIS SUBTITLE.**

29          **(D) THE DIRECTOR SHALL MANAGE AND SUPERVISE THE FUND.**

1           **(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**  
2 **SUBJECT TO REVERSION UNDER § 7-302 OF THE STATE FINANCE AND**  
3 **PROCUREMENT ARTICLE.**

4           **(2) THE STATE TREASURER SHALL HOLD THE FUND**  
5 **SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

6           **(F) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE**  
7 **FUND IN THE SAME MANNER AS OTHER STATE MONEY.**

8           **(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE**  
9 **CREDITED TO THE FUND.**

10          **(G) THE FUND CONSISTS OF:**

11           **(1) MONEY APPROPRIATED BY THE STATE TO THE FUND;**

12           **(2) MONEY PAID TO THE FUND BY A QUALIFIED OFFSHORE WIND**  
13 **PROJECT UNDER § 7-704.1(G) OF THE PUBLIC UTILITIES ARTICLE;**

14           **(3) MONEY MADE AVAILABLE TO THE FUND THROUGH FEDERAL**  
15 **PROGRAMS OR PRIVATE CONTRIBUTIONS;**

16           **(4) REPAYMENT OF PRINCIPAL OR PAYMENT OF INTEREST ON A**  
17 **LOAN MADE FROM THE FUND;**

18           **(5) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL**  
19 **BY THE ADMINISTRATION OF COLLATERAL RELATED TO FINANCING THAT THE**  
20 **ADMINISTRATION PROVIDES UNDER THIS SUBTITLE;**

21           **(6) INVESTMENT EARNINGS OF THE FUND; AND**

22           **(7) ANY OTHER MONEY MADE AVAILABLE TO THE**  
23 **ADMINISTRATION FOR THE FUND.**

24          **(H) (1) IN FISCAL YEARS 2014 AND 2015, \$1,500,000 SHALL BE**  
25 **TRANSFERRED FROM THE STRATEGIC ENERGY INVESTMENT FUND TO THE**  
26 **FUND.**

27          **(2) IN FISCAL YEAR 2016, \$1,000,000 SHALL BE TRANSFERRED**  
28 **FROM THE STRATEGIC ENERGY INVESTMENT FUND TO THE FUND.**

29 **9-20C-04.**

1           **(A) WHEN DETERMINING HOW MOST EFFECTIVELY TO USE THE MONEY**  
 2 **IN THE FUND, THE ADMINISTRATION SHALL CONSIDER THE RECOMMENDATION**  
 3 **OF THE ADVISORY COMMITTEE.**

4           **(B) IN CARRYING OUT THIS SUBTITLE, AND CONSISTENT WITH THE**  
 5 **PURPOSES OF THE FUND, THE ADMINISTRATION MAY CONTRACT WITH:**

6                   **(1) EXPERTS IN THE AREA OF OFFSHORE WIND ENERGY; AND**

7                   **(2) ENTITIES EXPERIENCED IN ASSISTING EMERGING**  
 8 **BUSINESSES, INCLUDING MINORITY-OWNED EMERGING BUSINESSES, IN**  
 9 **ACCESSING MARKET OPPORTUNITIES.**

10           **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
 11 **SUBSECTION, DIVISION II OF THE STATE FINANCE AND PROCUREMENT**  
 12 **ARTICLE DOES NOT APPLY TO A SERVICE THAT THE ADMINISTRATION OBTAINS**  
 13 **UNDER THIS SECTION.**

14                   **(2) THE ADMINISTRATION IS SUBJECT TO TITLE 12, SUBTITLE 4**  
 15 **OF THE STATE FINANCE AND PROCUREMENT ARTICLE FOR SERVICES UNDER**  
 16 **THIS SECTION.**

17                                   **Article – State Finance and Procurement**

18           6–226.

19           (a) (2) (i) Notwithstanding any other provision of law, and unless  
 20 inconsistent with a federal law, grant agreement, or other federal requirement or with  
 21 the terms of a gift or settlement agreement, net interest on all State money allocated  
 22 by the State Treasurer under this section to special funds or accounts, and otherwise  
 23 entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue  
 24 to the General Fund of the State.

25                                   (ii) The provisions of subparagraph (i) of this paragraph do not  
 26 apply to the following funds:

27                                   69. the Maryland Legal Services Corporation Fund; [and]

28                                   70. Mortgage Loan Servicing Practices Settlement Fund;

29 **AND**

30                                   71. **MARYLAND OFFSHORE WIND BUSINESS**  
 31 **DEVELOPMENT FUND.**



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

3 **Article – Public Utilities**

4 7–208.

5 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
6 **MEANINGS INDICATED.**

7 **(2) “QUALIFIED OFFSHORE WIND PROJECT” HAS THE MEANING**  
8 **STATED IN § 7–701 OF THIS TITLE.**

9 **(3) “QUALIFIED SUBMERGED RENEWABLE ENERGY LINE” MEANS:**

10 **(I) A LINE CARRYING ELECTRICITY SUPPLY AND**  
11 **CONNECTING A QUALIFIED OFFSHORE WIND PROJECT TO THE TRANSMISSION**  
12 **SYSTEM; AND**

13 **(II) A LINE IN WHICH THE PORTIONS OF THE LINE CROSSING**  
14 **ANY SUBMERGED LANDS OR ANY PART OF A BEACH EROSION CONTROL**  
15 **DISTRICT ARE BURIED OR SUBMERGED.**

16 **[(a)] (B) This section applies to any person:**

17 **(1) constructing a generating station and its associated overhead**  
18 **transmission lines designed to carry a voltage in excess of 69,000 volts; [or]**

19 **(2) exercising the right of condemnation in connection with the**  
20 **construction; OR**

21 **(3) CONSTRUCTING A QUALIFIED SUBMERGED RENEWABLE**  
22 **ENERGY LINE.**

23 **[(b)] (C) (1) To obtain the certificate of public convenience and necessity**  
24 **required under § 7–207 of this subtitle for construction under this section, a person**  
25 **shall file an application with the Commission at least 2 years before construction of**  
26 **the facility will commence.**

27 **(2) The Commission may waive the 2–year requirement on a showing**  
28 **of good cause.**

29 **[(c)] (D) The applicant shall:**

1 (1) include in an application under this section the information that  
2 the Commission requests initially; and

3 (2) furnish any additional information that the Commission requests  
4 subsequently.

5 **[(d)] (E)** (1) On the receipt of an application under this section, together  
6 with any additional information requested under subsection **[(c)(2)] (D)(2)** of this  
7 section, the Commission shall provide notice to:

8 (i) all interested persons;

9 (ii) the Department of Agriculture;

10 (iii) the Department of Business and Economic Development;

11 (iv) the Department of the Environment;

12 (v) the Department of Natural Resources;

13 (vi) the Department of Transportation; **[and]**

14 (vii) the Department of Planning; **AND**

15 **(VIII) THE MARYLAND ENERGY ADMINISTRATION.**

16 (2) The Commission shall hold a public hearing on the application as  
17 required by § 7-207 of this subtitle~~[,]~~ after:

18 (i) the receipt of any additional information requested under  
19 subsection **[(c)(2)] (D)(2)** of this section that the Commission considers necessary; and

20 (ii) any publication of notice the Commission considers to be  
21 proper.

22 (3) (i) At the public hearing, the Commission shall ensure  
23 presentation of the information and recommendations of the State units specified in  
24 paragraph (1) of this subsection and shall allow the official representative of each unit  
25 to sit during hearing of all parties.

26 (ii) Based on the evidence relating to the unit's areas of concern,  
27 the Commission shall allow each unit 15 days after the conclusion of the hearing to  
28 modify or affirm the unit's initial recommendations.

29 **[(e)] (F)** Within 90 days after the conclusion of the hearing on an  
30 application under this section, the Commission shall:



1 (e) (1) The Commission may not approve an applicant's proposed offshore  
2 wind project unless:

3 (i) the proposed offshore wind project demonstrates positive net  
4 economic, environmental, and health benefits to the State, based on the criteria  
5 specified in subsection (c)(3) of this section;

6 (ii) the projected net rate impact for an average residential  
7 customer, based on annual consumption of 12,000 kilowatt-hours, combined with the  
8 projected net rate impact of other qualified offshore wind projects, does not exceed  
9 \$1.50 per month in 2012 dollars, over the duration of the proposed OREC pricing  
10 schedule;

11 (iii) the projected net rate impact for all nonresidential  
12 customers considered as a blended average, combined with the projected net rate  
13 impact of other qualified offshore wind projects, does not exceed 1.5% of nonresidential  
14 customers' total annual electric bills, over the duration of the proposed OREC pricing  
15 schedule; and

16 (iv) the price set in the proposed OREC price schedule does not  
17 exceed \$190 per megawatt-hour in 2012 dollars.

18 (2) (i) When calculating the net benefits to the State under  
19 paragraph (1)(i) of this subsection, the Commission shall contract for the services of  
20 independent consultants and experts.

21 (ii) When calculating the projected net average rate impacts  
22 under paragraph (1)(ii) and (iii) of this subsection, the Commission shall apply the  
23 same net OREC cost per megawatt-hour to residential and nonresidential customers.

24 **(3) (I) THE FINDINGS AND EVIDENCE RELIED ON BY THE**  
25 **GENERAL ASSEMBLY FOR THE CONTINUATION OF THE MINORITY BUSINESS**  
26 **ENTERPRISE PROGRAM UNDER TITLE 14, SUBTITLE 3 OF THE STATE FINANCE**  
27 **AND PROCUREMENT ARTICLE, AS ENACTED BY CHAPTER 253 OF THE ACTS OF**  
28 **2011 AND CHAPTER 154 OF THE ACTS OF 2012, ARE INCORPORATED IN THIS**  
29 **PARAGRAPH.**

30 **(II) TO THE EXTENT PRACTICABLE AND PERMITTED BY THE**  
31 **UNITED STATES CONSTITUTION, APPROVED APPLICANTS FOR A PROPOSED**  
32 **OFFSHORE WIND PROJECT SHALL COMPLY WITH THE STATE'S MINORITY**  
33 **BUSINESS ENTERPRISE PROGRAM.**

34 **(III) 1. THE COMMISSION MAY NOT APPROVE AN**  
35 **APPLICATION UNTIL THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, IN**  
36 **CONSULTATION WITH THE OFFICE OF THE ATTORNEY GENERAL, AND THE**  
37 **APPLICANT HAVE ESTABLISHED A CLEAR PLAN FOR SETTING REASONABLE AND**

1 APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION GOALS AND  
2 PROCEDURES FOR EACH PHASE OF THE QUALIFIED OFFSHORE WIND PROJECT.

3           **2. TO THE EXTENT PRACTICABLE, THE GOALS AND**  
4 **PROCEDURES SPECIFIED IN SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH**  
5 **SHALL BE BASED ON THE REQUIREMENTS OF TITLE 14, SUBTITLE 3 OF THE**  
6 **STATE FINANCE AND PROCUREMENT ARTICLE AND THE REGULATIONS**  
7 **IMPLEMENTING THAT SUBTITLE.**

8           SECTION 4. AND BE IT FURTHER ENACTED, That:

9           (a) (1) Notwithstanding any other law, the following amounts shall be  
10 transferred from money derived from the Exelon–Constellation merger approved by  
11 the Public Service Commission in Case No. 9271, Order 84698 on February 17, 2012,  
12 and deposited into the Maryland Strategic Energy Investment Fund established under  
13 § 9–20B–05 of the State Government Article to the Public Service Commission in order  
14 to contract the services of independent consultants and experts as necessary to carry  
15 out this Act:

16                           (i) for fiscal year 2014, \$1,000,000; and

17                           (ii) for fiscal year 2015, \$2,000,000.

18           (2) The sum transferred under paragraph (1) of this subsection is in  
19 addition to any amounts transferred to the Maryland Offshore Wind Business  
20 Development Fund under § 9–20C–03(h) of the State Government Article, as enacted  
21 by this Act, from money derived from the Exelon–Constellation merger approved by  
22 the Public Service Commission in Case No. 9271, Order 84698 on February 17, 2012.

23           (3) Subject to paragraph (4) of this subsection, any funds received by  
24 the Public Service Commission under paragraph (1) of this subsection and not  
25 encumbered at the end of the fiscal year shall be carried forward to the next fiscal  
26 year.

27           (4) Any funds received by the Public Service Commission under  
28 paragraph (1) of this subsection and not encumbered by June 30, 2019, shall be  
29 transferred to the Maryland Strategic Energy Investment Fund.

30           (b) (1) Subject to subsection (a) of this section, and, notwithstanding any  
31 other law, the Public Service Commission may implement a special assessment using  
32 the assessment process authorized under § 2–110 of the Public Utilities Article in  
33 order to contract for the services of independent consultants and experts as necessary  
34 to carry out this Act.

1           (2)    The cumulative special assessment under this subsection may not  
2 exceed \$3,000,000 less the net amount transferred to the Commission under  
3 subsection (a) of this section.

4           (3)    The assessment shall be imposed only on those electric companies  
5 and electricity suppliers otherwise subject to the assessment under § 2–110 of the  
6 Public Utilities Article.

7           (4)    The limit imposed under § 2–110(c)(12) of the Public Utilities  
8 Article does not apply to any assessment made under this section.

9           SECTION 5. AND BE IT FURTHER ENACTED, That:

10          (a)    Notwithstanding any other law, for any fiscal year during which an  
11 OREC obligation exists to meet a renewable portfolio standard derived from offshore  
12 wind energy set by the Public Service Commission under § 7–703(b)(12) through (17)  
13 of the Public Utilities Article, as enacted by Section 1 of this Act, the Commission may  
14 implement a special assessment using the assessment process authorized under §  
15 2–110 of the Public Utilities Article in order to employ staff and recover  
16 administrative costs necessary to carry out this Act.

17          (b)    (1)    The cumulative special assessment under this section shall be  
18 imposed only on those electric companies and electricity suppliers otherwise subject to  
19 the assessment under § 2–110 of the Public Utilities Article.

20          (2)    The limit imposed under § 2–110(c)(12) of the Public Utilities  
21 Article does not apply to any assessment made under this section.

22          SECTION 6. AND BE IT FURTHER ENACTED, That on receipt of all  
23 applications submitted under § 7–704.1 of the Public Utilities Article, as enacted by  
24 Section 1 of this Act, the Commission shall promptly open an evidentiary proceeding to  
25 allow open and transparent evaluation of applications to the maximum extent possible  
26 consistent with applicable confidentiality laws.

27          SECTION 7. AND BE IT FURTHER ENACTED, That if any provision of this  
28 Act or the application thereof to any person or circumstance is held invalid for any  
29 reason in a court of competent jurisdiction, the invalidity does not affect other  
30 provisions or any other application of this Act which can be given effect without the  
31 invalid provision or application, and for this purpose the provisions of this Act are  
32 declared severable.

33          SECTION 8. AND BE IT FURTHER ENACTED, That § 7–705(f) of the Public  
34 Utilities Article, as enacted by Section 1 of this Act, shall remain effective until the  
35 taking effect of the termination provision specified in Section 4 of Chapters 125 and  
36 126 of the Acts of the General Assembly of 2008. If that termination provision takes  
37 effect, § 7–705(f) of the Public Utilities Article, as enacted by Section 1 of this Act,

1 shall be abrogated and of no further force and effect. This Act may not be interpreted  
2 to have any effect on that termination provision.

3 SECTION 9. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall  
4 take effect June 1, 2013. It shall remain effective for a period of 3 years and 1 month  
5 and, at the end of June 30, 2016, with no further action required by the General  
6 Assembly, Section 3 of this Act shall be abrogated and of no force and effect.

7 SECTION 10. AND BE IT FURTHER ENACTED, That except as provided in  
8 Section 9 of this Act, this Act shall take effect June 1, 2013.