

Chapter 673

(Senate Bill 65)

AN ACT concerning

**Electricity – Renewable Energy Portfolio Standard – ~~Qualifying Tier 2~~
Renewable Sources, Qualifying Biomass, and Compliance Fees**

FOR the purpose of altering the renewable energy portfolio standard for certain years; extending the eligibility of certain Tier 2 renewable sources for purposes of the renewable energy portfolio standard in certain years; altering the compliance fee for a shortfall from the required percentage of energy from certain Tier 1 renewable sources for the renewable energy portfolio standard in certain years; altering the definition of “qualifying biomass” for purposes of excluding energy derived from certain material from being eligible for meeting certain Tier 1 obligations under the renewable energy portfolio standard; providing that existing obligations or contract rights may not be impaired by this Act; providing for the application of this Act; providing for the effective dates of this Act; making a conforming change; making technical corrections; and generally relating to electricity and the renewable energy portfolio standard.

BY repealing and reenacting, without amendments,
 Article – Public Utilities
 Section 7-701(a) ~~and~~, (s), and (t)
 Annotated Code of Maryland
 (2020 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
 Article – Public Utilities
 Section 7-701(l) ~~and~~, 7-703(b)(16) through (25), 7-704(a), and 7-705(b)(2)
 Annotated Code of Maryland
 (2020 Replacement Volume and 2020 Supplement)

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

Article – Public Utilities

7-701.

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

(t) “Tier 2 renewable source” means hydroelectric power other than pump storage generation.

7-703.

(b) Except as provided in subsection (e) of this section, the renewable energy portfolio standard shall be as follows:

(16) in 2021[,]:

(I) 30.8% from Tier 1 renewable sources, including:

[(i)] 1. at least 7.5% derived from solar energy; and

[(ii)] 2. an amount set by the Commission under § 7-704.2(a) of this subtitle derived from offshore wind energy; AND

(II) 2.5% FROM TIER 2 RENEWABLE SOURCES;

(17) in 2022[, 33.1%]:

(I) 30.1% from Tier 1 renewable sources, including:

[(i)] 1. at least [8.5%] 5.5% derived from solar energy; and

[(ii)] 2. an amount set by the Commission under § 7-704.2(a) of this subtitle derived from offshore wind energy; AND

(II) 2.5% FROM TIER 2 RENEWABLE SOURCES;

(18) in 2023[, 35.4%]:

(I) 31.9% from Tier 1 renewable sources, including:

[(i)] 1. at least [9.5%] 6% derived from solar energy; and

[(ii)] 2. an amount set by the Commission under § 7-704.2(a) of this subtitle derived from offshore wind energy; AND

(II) 2.5% FROM TIER 2 RENEWABLE SOURCES;

(19) in 2024[, 37.7%]:

(I) 33.7% from Tier 1 renewable sources, including:

[(i)] 1. at least [10.5%] 6.5% derived from solar energy; and

[(ii)] 2. an amount set by the Commission under § 7-704.2(a) of this subtitle derived from offshore wind energy; AND

(II) 2.5% FROM TIER 2 RENEWABLE SOURCES;

(20) in 2025[, 40%]:

(I) 35.5% from Tier 1 renewable sources, including:

[(i)] 1. at least [11.5%] 7% derived from solar energy; and

[(ii)] 2. an amount set by the Commission under § 7-704.2(a) of this subtitle, not to exceed 10%, derived from offshore wind energy; AND

(II) 2.5% FROM TIER 2 RENEWABLE SOURCES;

(21) in 2026[, 42.5%]:

(I) 38% from Tier 1 renewable sources, including:

[(i)] 1. at least [12.5%] 8% derived from solar energy; and

[(ii)] 2. an amount set by the Commission under § 7-704.2(a) of this subtitle derived from offshore wind energy, including at least 400 megawatts of Round 2 offshore wind projects; AND

(II) 2.5% FROM TIER 2 RENEWABLE SOURCES;

(22) in 2027[, 45.5%]:

(I) 41.5% from Tier 1 renewable sources, including:

[(i)] 1. at least [13.5%] 9.5% derived from solar energy; and

[(ii)] 2. an amount set by the Commission under § 7-704.2(a) of this subtitle derived from offshore wind energy, including at least 400 megawatts of Round 2 offshore wind projects; AND

(II) 2.5% FROM TIER 2 RENEWABLE SOURCES;

(23) in 2028[, 47.5%]:

(I) 43% from Tier 1 renewable sources, including:

[(i)] 1. at least [14.5%] 11% derived from solar energy; and

[(ii)] 2. an amount set by the Commission under § 7-704.2(a) of this subtitle derived from offshore wind energy, including at least 800 megawatts of Round 2 offshore wind projects; AND

(II) 2.5% FROM TIER 2 RENEWABLE SOURCES;

(24) in 2029[, 49.5%]:

(I) 47.5% from Tier 1 renewable sources, including:

[(i)] 1. at least [14.5%] 12.5% derived from solar energy; and

[(ii)] 2. an amount set by the Commission under § 7-704.2(a) of this subtitle derived from offshore wind energy, including at least 800 megawatts of Round 2 offshore wind projects; and

(II) 2.5% FROM TIER 2 RENEWABLE SOURCES; AND

(25) in 2030 and later[.]:

(I) 50% from Tier 1 renewable sources, including:

[(i)] 1. at least 14.5% derived from solar energy; and

[(ii)] 2. an amount set by the Commission under § 7-704.2(a) of this subtitle derived from offshore wind energy, including at least 1,200 megawatts of Round 2 offshore wind projects; AND

(II) 2.5% FROM TIER 2 RENEWABLE SOURCES.

7-705.

(b) (2) 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 Strategic Energy Investment Fund established under § 9-20B-05 of the State Government Article:

(i) except as provided in item (ii) of this paragraph, a compliance fee of:

1. the following amounts 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:

- A. 4 cents through 2016;
- B. 3.75 cents in 2017 and 2018;
- C. 3 cents in 2019 through 2023;
- D. 2.75 cents in 2024;
- E. 2.5 cents in 2025;
- F. 2.475 cents in 2026;
- G. 2.45 cents in 2027;
- H. 2.25 cents in 2028 and 2029; and
- I. 2.235 cents in 2030 and later;

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

- A. 45 cents in 2008;
- B. 40 cents in 2009 through 2014;
- C. 35 cents in 2015 and 2016;
- D. 19.5 cents in 2017;
- E. 17.5 cents in 2018;
- F. 10 cents in 2019;
- G. 10 cents in 2020;
- H. 8 cents in 2021;
- I. 6 cents in 2022;
- J. [4.5] 6 cents in 2023;
- K. [4] 6 cents in 2024;
- L. [3.5] 5.5 cents in 2025;

M. [3] 4.5 cents in 2026;

N. [2.5] 3.5 cents in 2027 [and 2028];

O. [2.25] 3.25 cents in [2029] 2028; [and]

P. [2.235] 2.5 cents in [2030 and later] 2029; and

Q. 2.25 CENTS IN 2030 AND LATER; AND

3. 1.5 cents for each kilowatt-hour of shortfall from required Tier 2 renewable sources; or

(ii) for industrial process load:

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

A. 0.8 cents in 2006, 2007, and 2008;

B. 0.5 cents in 2009 and 2010;

C. 0.4 cents in 2011 and 2012;

D. 0.3 cents in 2013 and 2014;

E. 0.25 cents in 2015 and 2016; and

F. except as provided in paragraph (3) of this subsection, 0.2 cents in 2017 and later; and

2. nothing for any shortfall from required Tier 2 renewable sources.

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

Article – Public Utilities

7–701.

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

(l) (1) “Qualifying biomass” means a nonhazardous, organic material that is available on a renewable or recurring basis, and is:

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

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

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

B. ~~precommercial~~ soft wood thinning;

~~C. slash;~~

~~D. brush; or~~

~~E. yard waste;~~

2. a pallet, crate, or dunnage;

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

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

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

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

(3) “Qualifying biomass” does not include:

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

(ii) **BLACK LIQUOR, OR ANY PRODUCT DERIVED FROM BLACK LIQUOR; OR**

(III) an invasive exotic plant species.

(s) “Tier 1 renewable source” means one or more of the following types of energy sources:

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

- (2) wind;
- (3) qualifying biomass;
- (4) methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;
- (5) geothermal, including energy generated through geothermal exchange from or thermal energy avoided by, groundwater or a shallow ground source;
- (6) ocean, including energy from waves, tides, currents, and thermal differences;
- (7) a fuel cell that produces electricity from a Tier 1 renewable source under item (3) or (4) of this subsection;
- (8) a small hydroelectric power plant of less than 30 megawatts in capacity that is licensed or exempt from licensing by the Federal Energy Regulatory Commission;
- (9) poultry litter-to-energy;
- (10) waste-to-energy;
- (11) refuse-derived fuel; and
- (12) thermal energy from a thermal biomass system.

7-704.

- (a) (1) Energy from a Tier 1 renewable source:
 - (i) is eligible for inclusion in meeting the renewable energy portfolio standard regardless of when the generating system or facility was placed in service; and
 - (ii) may be applied to the percentage requirements of the standard for either Tier 1 renewable sources or Tier 2 renewable sources.
- (2) (i) Energy from a Tier 1 renewable source under [§ 7-701(r)(1)] **§ 7-701(s)(1)**, (5), (9), (10), or (11) of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard only if the source is connected with the electric distribution grid serving Maryland.
- (ii) If the owner of a solar generating system in this State chooses to sell solar renewable energy credits from that system, the owner must first offer the credits for sale to an electricity supplier or electric company that shall apply them toward compliance with the renewable energy portfolio standard under § 7-703 of this subtitle.

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

(4) Energy from a Tier 2 renewable source under ~~[\S 7-701(s)]~~ **\S 7-701(T)** of this subtitle is eligible for inclusion in meeting the renewable energy portfolio standard ~~through 2020~~ if it is generated at a system or facility that existed and was operational as of January 1, 2004, even if the facility or system was not capable of generating electricity on that date.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That a presently existing obligation or contract right may not be impaired in any way by this Act.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That *Section 2* of this Act shall take effect October 1, 2021, and shall apply to all renewable energy portfolio standard compliance years beginning January 1, 2022, or later.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect June 1, ~~2020~~ 2021.

Enacted under Article II, \S 17(c) of the Maryland Constitution, May 30, 2021.