

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 34.**  
**PUBLIC UTILITIES.**

**CHAPTER 14A.**  
**RENEWABLE ENERGY PORTFOLIO STANDARDS.**

**2001 Edition**

**DISTRICT OF COLUMBIA OFFICIAL CODE**  
**CHAPTER 14A. RENEWABLE ENERGY PORTFOLIO**  
**STANDARDS.**

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# **CHAPTER 14A. RENEWABLE ENERGY PORTFOLIO STANDARDS.**

## **§ 34-1431. DEFINITIONS.**

For the purposes of this chapter, the term:

- (1) "Brush" means shrubs and stands of short, scrubby trees that do not reach merchantable size.
- (2) "Commission" means the Public Service Commission.
- (3) "Customer generation" means generation that is not principally dedicated to selling power into the wholesale market.
- (4) "Dunnage" means loose materials or padding used to support or protect cargo within shipping containers.
- (5) "Energy Office" means the District of Columbia Energy Office.
- (6) "Electricity supplier" means a person, including an aggregator, broker, or marketer, who generates electricity; sells electricity; or purchases, brokers, arranges or, markets electricity for sale to customers. The term excludes the following:
  - (A) Building owners, lessees, or managers who manage the internal distribution system serving such building and who supply electricity solely to occupants of the building for use by the occupants;
  - (B)(i) Any person who purchases electricity for its own use or for the use of its subsidiaries or affiliates; or
    - (ii) Any apartment building or office building manager who aggregates electric service requirements for his or her building or buildings, and who does not:
      - (I) Take title to electricity;
      - (II) Market electric services to the individually-metered tenants of his or her building; or
      - (III) Engage in the resale of electric services to others;
  - (C) Property owners who supply small amounts of power, at cost, as an accommodation to lessors or licensees of the property; and
  - (D) A consolidator.
- (7) "Fund" means the District of Columbia Renewable Energy Development Fund.
- (8) "PJM Interconnection" means the regional transmission organization that is regulated by the Federal Energy Regulatory Commission that functionally controls the transmission system for the region that includes the District of Columbia.
- (9) "Qualifying biomass" means a solid, nonhazardous, cellulosic waste material that is segregated from other waste materials, and is derived from any of the following forest-related resources, with the exception of old growth timber, unsegregated solid waste, or post-consumer wastepaper:
  - (A) Mill residue;
  - (B) Precommercial soft wood thinning;
  - (C) Slash;
  - (D) Brush;
  - (E) Yard waste;
  - (F) A waste pallet, crate, or dunnage;
  - (G) Agricultural sources, including tree crops, vineyard materials, grain, legumes, sugar, and other crop by-products or residues; or
  - (H) Cofired biomass, subject to the condition under § 34-1433(f).

(10) "Renewable energy credit" or "credit" means a credit representing one megawatt-hour of energy produced by a tier one or tier two renewable source located within the PJM Interconnection region or within a state that is adjacent to the PJM Interconnection region.

(11) "Renewable energy portfolio standard" or "standard" means the percentage of electricity sales at retail in the District of Columbia that is to be derived from tier one renewable sources and tier two renewable sources in accordance with § 34-1432(c).

(12) "Renewable on-site generator" means a person that generates electricity on site from a tier one renewable source or tier two renewable source for the person's own use.

(13) "Slash" means:

(A) Tree tops, branches, bark, or other residue left on the ground after logging or other forestry operations; or

(B) Tree debris left after a natural catastrophe.

(14) "Solar energy" means radiant energy, direct, diffuse, or reflected, received from the sun at wavelengths suitable for conversion into thermal, chemical, or electrical energy, that is collected, generated, or stored for use at a later time.

(15) "Tier one renewable source" means one or more of the following types of energy sources:

(A) Solar energy;

(B) Wind;

(C) Qualifying biomass;

(D) Methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;

(E) Geothermal;

(F) Ocean, including energy from waves, tides, currents, and thermal differences; and

(G) Fuel cells producing electricity from a tier one renewable source under subparagraph (C) or (D) of this paragraph.

(16) "Tier two renewable source" means one or more of the following types of energy sources:

(A) Hydroelectric power other than pumped storage generation; or

(B) Waste-to-energy.

(Apr. 12, 2005, D.C. Law 15-340, § 3, 52 DCR 2285; Oct. 22, 2008, D.C. Law 17-250, § 301(a), 55 DCR 9225; Sept. 24, 2010, D.C. Law 18-223, § 2223(a), 57 DCR 6242.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Effect of Amendments*

D.C. Law 17-250 rewrote par. (14), which had read as follows:

"(14) 'Solar energy' means radiant energy, direct, diffuse, or reflected, received from the sun at wavelengths suitable for conversion into thermal, chemical, or electrical energy."

D.C. Law 18-223 rewrote par. (10), which had read as follows:

"(10) 'Renewable energy credit' or 'credit' means a credit representing one megawatt-hour of electricity consumed within the PJM Interconnection region that is derived from a tier one renewable source or a tier two renewable source that is located:

"(A) In the PJM Interconnection region or in a state that is adjacent to the PJM Interconnection region; or

"(B) Outside the area described in subparagraph (A) of this paragraph but in a control area that is adjacent to the PJM Interconnection region, if the electricity is delivered into the PJM Interconnection region."

##### *Temporary Amendments of Section*

Section 2(a) of D.C. Law 18-217, in the lead-in language of par. (10), deleted "consumed".

Section 4(b) of D.C. Law 18-217 provides that the act shall expire after 225 days of its having taken effect.

##### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 301(a) of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

For temporary (90 day) amendment of section, see § 2(a) of Solar Thermal Incentive Emergency Amendment Act of 2010 (D.C. Act 18-426, May 21, 2010, 57 DCR 4775).

For temporary (90 day) amendment of section, see § 2223(a) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Law 15-340, the "Renewable Energy Portfolio Standard Act of 2004", was introduced in Council and assigned Bill No. 15-747 which was referred to the Committee on Public Interest. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on January 19, 2005, it was assigned Act No. 15-755 and transmitted to both Houses of Congress for its review. D.C. Law 15-340 became effective on April 12, 2005.

For Law 17-250, see notes following § 34-804.

For Law 18-223, see notes following § 34-706.

## **§ 34-1432. RENEWABLE ENERGY PORTFOLIO STANDARD.**

(a) The Commission shall implement a renewable energy portfolio standard which applies to all District of Columbia retail electricity sales, except as provided under subsection (b) of this section.

(a-1)(1) For nonresidential solar heating, cooling, or process heat property systems producing or displacing greater than 10,000 kilowatt hours per year, the solar collectors used shall be SRCC OG-100 certified and the energy output shall be determined by an onsite energy meter that meets performance standards established by OIML.

(2) For nonresidential solar heating, cooling, or process heat property systems producing or displacing 10,000 or less than 10,000 kilowatt hours per year, the solar collectors used shall be SRCC OG-100 certified and the energy output shall be determined by the SRCC OG-300 annual system performance rating protocol or the solar collectors used shall be SRCC OG-100 certified and the energy output shall be determined by an onsite energy meter that meets performance standards established by OIML; and

(3) For residential solar thermal systems, the systems shall be SRCC OG-300 system certified and the energy output shall be determined by the SRCC OG-300 annual rating protocol or the solar collectors used shall be SRCC OG-100 certified and the energy output shall be determined by an onsite energy meter that meets performance standards established by OIML.

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

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

(1) In 2011, 4% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.40% from solar energy;

(2) In 2012, 5% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.50% from solar energy;

(3) In 2013, 6.5% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.50% from solar energy;

(4) In 2014, 8% from tier one renewable sources; 2.5% from tier two renewable sources, and not less than 0.60% from solar energy;

(5) In 2015, 9.5% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.70% from solar energy;

(6) In 2016, 11.5% from tier one renewable sources, 2% from tier two renewable sources, and not less than 0.825% from solar energy;

(7) In 2017, 13.5% from tier one renewable sources, 1.5% from tier two renewable sources, and not less than 0.98% from solar energy;

(8) In 2018, 15.5% from tier one renewable sources, 1% from tier two renewable sources, and not less than 1.15% from solar energy;

(9) In 2019, 17.5% from tier one renewable sources, 0.5% from tier two renewable sources, and not less than 1.35% from solar energy;

(10) In 2020, 20% from tier one renewable sources, 0% from tier two renewable sources, and not less than 1.58% from solar energy;

(11) In 2021, 20% from tier one renewable sources, 0% from tier two renewable sources, and not less than 1.85% from solar energy;

(12) In 2022, 20% from tier one renewable sources, 0% from tier two renewable sources, and not less than 2.175% from solar energy; and

(13) In 2023 and thereafter, 20% from tier one renewable sources, 0% from tier two renewable sources, and not less than 2.50% from solar energy.

(d) Subject to subsections (a) and (c) of this section, an electricity supplier shall meet the standard by

obtaining the equivalent amount of renewable energy credits that equal the percentage required under this section for each electricity product sold at retail by the electricity supplier.

(e)(1) Subject to subsections (a) and (c) of this section, an electricity supplier shall meet the solar requirement by obtaining the equivalent amount of renewable energy credits from solar energy systems no larger than 5MW in capacity located within the District or in locations served by a distribution feeder serving the District.

(2)(A) After January 31, 2011, the Commission shall not certify any tier one renewable source solar energy system larger than 5MW in capacity or any tier one renewable source solar energy system not located within the District or in locations served by a distribution feeder serving the District.

(B) Any tier one renewable source solar energy system larger than 5MW in capacity shall be decertified by the Commission. Any tier one renewable source solar energy system not located within the District or in locations served by a distribution feeder serving the District, first certified by the Commission between February 1, 2011, and August 1, 2011, shall be decertified by the Commission.

(Apr. 12, 2005, D.C. Law 15-340, § 4, 52 DCR 2285; Oct. 22, 2008, D.C. Law 17-250, § 301(b), 55 DCR 9225; Sept. 24, 2010, D.C. Law 18-223, § 2223(b), 57 DCR 6242; Oct. 20, 2011, D.C. Law 19-36, § 2(a), 58 DCR 6837.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Effect of Amendments*

D.C. Law 17-250 added subsecs. (a-1) and (e); and rewrote subsec. (c), which had read as follows:

"(c) The renewable energy portfolio standard shall be as follows:

"(1) In 2007, 1.5% from tier one renewable sources, 2.5% from tier two renewable sources, and 0.005% from solar energy;

"(2) In 2008, 2% from tier one renewable sources, 2.5% from tier two renewable sources, and 0.011 % from solar energy;

"(3) In 2009, 2.5% from tier one renewable sources, 2.5% from tier two renewable sources, and 0.019% from solar energy;

"(4) In 2010, 3% from tier one renewable sources, 2.5% from tier two renewable sources, and 0.028 % from solar energy;

"(5) In 2011, 3.5% from tier one renewable sources, 2.5% from tier two renewable sources, and 0.38% from solar energy;

"(6) In 2012, 4% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.066 % from solar energy;

"(7) In 2013, 4.5% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.083 % from solar energy;

"(8) In 2014, 5% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.104 % from solar energy;

"(9) In 2015, 5.5% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.128 % from solar energy;

"(10) In 2016, 6% from tier one renewable sources, 2% from tier two renewable sources, and not less than 0.157 % from solar energy;

"(11) In 2017, 6.5% from tier one renewable sources, 1.5% from tier two renewable sources, and not less than 0.192% from solar energy;

"(12) In 2018, 7% from tier one renewable sources, 1% from tier two renewable sources, and not less than 0.233% from solar energy;

"(13) In 2019, 7.5% from tier one renewable sources, 0.5% from tier two renewable sources, and not less than 0.281 % from solar energy;

"(14) In 2020, 8.5% from tier one renewable sources, 0% from tier two renewable sources, and not less than 0.329% from solar energy;

"(15) In 2021, 9.5% from tier one renewable sources, 0 % from tier two renewable sources, and not less than 0.386 % from solar energy;

"(16) In 2022 and later, 11% from tier one renewable sources, 0 % from tier two renewable sources, and not less than 0.386 % from solar energy."

D.C. Law 18-223 rewrote subsec. (e), which had read as follows:

"(e) Subject to subsections (a) and (c) of this section, an electricity supplier shall meet the solar requirement

by obtaining the equivalent amount of renewable energy credits from solar energy systems interconnected to the distribution grid serving the District of Columbia. Only after an electricity supplier exhausts all opportunity to meet this requirement that the solar energy systems be connected to the grid within the District of Columbia, can that supplier obtain renewable energy credits from jurisdictions outside the District of Columbia."

D.C. Law 19-36 rewrote subsecs. (a-1), (c), and (e), which had read as follows:

"(a-1)(1) For nonresidential solar heating, cooling, or process heat property systems producing or displacing greater than 10,000 kilowatt hours per year, the solar systems shall be rated and certified by the SRCC and the energy output shall be determined by an onsite energy meter that meets performance standards established by OIML.

"(2) For nonresidential solar heating, cooling, or process heat property systems producing or displacing 10,000 or less than 10,000 kilowatt hours per year, the solar systems shall be rated and certified by the SRCC and the energy output shall be determined by the SRCC OG-300 annual system performance rating protocol applicable to the property, by the SRCC OG-100 solar collector rating protocol, or by an onsite energy meter that meets performance standards established by OIML; and

"(3) For residential solar thermal systems, the system shall be certified by the SRCC and the energy output shall be determined by the SRCC OG-300 annual rating protocol or by an onsite energy meter that meets performance standards established by OIML."

"(c) The renewable energy portfolio standard shall be as follows:

"(1) In 2008, 2% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.011% from solar energy;

"(2) In 2009, 2.5% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.019% from solar energy;

"(3) In 2010, 3% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.028% from solar energy;

"(4) In 2011, 4% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.04% from solar energy;

"(5) In 2012, 5% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.07% from solar energy;

"(6) In 2013, 6.5% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.10% from solar energy;

"(7) In 2014, 8% from tier one renewable sources; 2.5% from tier two renewable sources, and not less than 0.13% from solar energy;

"(8) In 2015, 9.5% from tier one renewable sources, 2.5% from tier two renewable sources, and not less than 0.17% from solar energy;

"(9) In 2016, 11.5% from tier one renewable sources, 2% from tier two renewable sources, and not less than 0.21% from solar energy;

"(10) In 2017, 13.5% from tier one renewable sources, 1.5% from tier two renewable sources, and not less than 0.25% from solar energy;

"(11) In 2018, 15.5% from tier one renewable sources, 1% from tier two renewable sources, and not less than 0.30% from solar energy;

"(12) In 2019, 17.5% from tier one renewable sources, 0.5% from tier two renewable sources, and not less than 0.35% from solar energy; and

"(13) In 2020, 20% from tier one renewable sources, 0% from tier two renewable sources, and not less than 0.4% from solar energy."

"(e) Subject to subsections (a) and (c) of this section, an electricity supplier shall meet the solar requirement by obtaining the equivalent amount of renewable energy credits from solar energy systems located within the District or interconnected to the distribution grid serving the District. Only after an electricity supplier exhausts all opportunity to meet this requirement can that supplier obtain renewable energy credits from other solar energy systems."

#### *Temporary Amendments of Section*

Section 2(b) of D.C. Law 18-217 substituted "located within the District" for "interconnected to the distribution grid serving the District of Columbia"; and deleted "that the solar energy systems be connected to the grid within the District of Columbia,".

Section 4(b) of D.C. Law 18-217 provides that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 18-303 amended subsec. (a-1) to read as follows:

"(a-1)(1) For nonresidential solar heating, cooling, or process heat property systems producing or displacing

greater than 10,000 kilowatt hours per year, the solar collectors used shall be SRCC OG-100 certified and the energy output shall be determined by an onsite energy meter that meets performance standards established by the International Organization of Legal Metrology ('OIML').

"(2) For nonresidential solar heating, cooling, or process heat property systems producing not more than 10,000 kilowatt hours per year, the solar collectors used shall be SRCC OG-100 certified and the energy output shall be determined by the SRCC OG-300 annual system performance rating protocol or by an onsite energy meter that meets performance standards established by OIML.

"(3) For residential solar thermal systems, the systems shall be SRCC OG-300 system certified and the energy output shall be determined by the SRCC OG-300 annual rating protocol or by an onsite energy meter that meets performance standards established by OIML."

Section 4(b) of D.C. Law 18-303 provides that the act shall expire after 225 days of its having taken effect.

#### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 301(b) of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

For temporary (90 day) amendment of section, see § 2(b) of Solar Thermal Incentive Emergency Amendment Act of 2010 (D.C. Act 18-426, May 21, 2010, 57 DCR 4775).

For temporary (90 day) amendment of section, see § 2223(b) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) amendment of section, see § 2 of Solar Collector Certification Emergency Amendment Act of 2010 (D.C. Act 18-600, November 17, 2010, 57 DCR 11035).

For temporary (90 day) amendment of section, see § 2(a) of Distributed Generation Emergency Amendment Act of 2011 (D.C. Act 19-126, August 1, 2011, 58 DCR 6766).

For temporary (90 day) amendment of section, see § 2(a) of Distributed Generation Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19- 192, October 18, 2011, 58 DCR 9154).

#### *Legislative History of Laws*

For Law 15-340, see notes following § 34-1431.

For Law 17-250, see notes following § 34-804.

Law 19-36, the "Distributed Generation Amendment Act of 2011", was introduced in Council and assigned Bill No. 19-10, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on June 7, 2011, and July 12, 2011, respectively. Signed by the Mayor on August 9, 2011, it was assigned Act No. 19-151 and transmitted to both Houses of Congress for its review. D.C. Law 19-36 became effective on October 20, 2011.

#### *Editor's Note*

For definitions of "SRCC" and "OML" found in subsection (a-1), see § 8-1773.01.

For Law 18-223, see notes following § 34-706.

#### *Miscellaneous Notes*

Section 3 of D.C. Law 19-36 provides:

"Sec. 3. Applicability.

"(a) This act shall apply as of the effective date of the Distributed Generation Emergency Amendment Act of 2011, passed on emergency basis on July 12, 2011 (Enrolled version of Bill 19-384) [August 11, 2011].

"(b) This act shall not apply to contracts entered into prior to the date determined pursuant to subsection (a) of this section."

## **§ 34-1433. RENEWABLE ENERGY CREDITS.**

(a) Energy from a tier one renewable source:

(1) Shall be eligible for inclusion in meeting the standard regardless of when the generating system or facility was placed in service; and

(2) May be applied to the percentage requirements of the standard for either tier one renewable sources or tier two renewable sources.

(b) Energy from a tier two renewable source shall be eligible for inclusion in meeting the renewable energy portfolio standard through 2017 if it is generated at a system or facility that existed and was operational as of January 1, 2004.

(c) On or after January 1, 2006, an electricity supplier may:

- (1) Receive renewable energy credits; and
  - (2) Accumulate renewable energy credits under this chapter.
  - (d) On or before December 31, 2006, an electricity supplier shall receive 120% credit toward meeting the renewable energy portfolio standard for energy derived from wind or solar sources.
  - (e) After December 31, 2006, and on or before December 31, 2009, an electricity supplier shall receive 110% credit toward meeting the renewable energy portfolio standard for energy derived from wind or solar sources.
  - (f) On or before December 31, 2009, an electricity supplier shall receive 110% credit toward meeting the renewable energy portfolio standard for energy derived from methane under § 34-1431(14)(D).
  - (g)(1) An electricity supplier may not use the incineration of solid waste to meet more than 20% of the standard for tier two renewable sources for a given year.
    - (2) After December 31, 2012, the incineration of solid waste shall not be eligible to generate renewable energy credits.
  - (h)(1) An electricity supplier shall receive credit toward meeting the standard for electricity derived from the biomass fraction of biomass cofired with other fuels.
    - (2) Credits that a renewable on-site generator surrenders to its electricity supplier to meet the standard and that the electricity supplier relies on in submitting its compliance report shall not be resold or retransferred by the renewable on-site generator.
    - (3) The renewable on-site generator may retain or transfer any credits in excess of the amount needed to satisfy the standard for the renewable on-site generator's load.
    - (4) A renewable on-site generator that satisfies the standard applicable to the renewable on-site generator's load under this subsection shall not be required to contribute to a compliance fee recovered under § 34-1435.
    - (5) The Commission shall adopt regulations or orders governing the application and transfer of credits under this subsection.
  - (i) A tier one renewable source or tier two renewable source that creates a renewable energy credit shall comply with all applicable environmental and administrative requirements, including air quality, water quality, solid waste, and right-to-know provisions, permit conditions, and administrative orders.
- (Apr. 12, 2005, D.C. Law 15-340, § 5, 52 DCR 2285.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Legislative History of Laws*

For Law 15-340, see notes following § 34-1431.

### **§ 34-1434. REPORTING REQUIREMENTS AND COMPLIANCE FEE.**

- (a) Each electricity supplier shall submit an annual compliance report to the Commission, by a date and in a form prescribed by the Commission.
- (b)(1) Each report shall include clear and concise information that:
  - (A) Demonstrates that the electricity supplier has complied with the applicable standard under § 34-1432 and includes the submission of the required amount of renewable energy credits; or
  - (B) Demonstrates the amount of electricity sales by which the electricity supplier fails to meet the applicable renewable energy portfolio standard.
- (2) Each report shall also include any other information that the Commission by regulation or order may consider relevant.
- (c) If an electricity supplier fails to comply with the renewable energy portfolio standard for the applicable year, the electricity supplier shall pay into the Fund a compliance fee of:
  - (1) Five cents for each kilowatt-hour of shortfall from required tier one renewable sources;
  - (2) One cent for each kilowatt-hour of shortfall from required tier two renewable sources; and
  - (3) Fifty cents in 2011 through 2016; 35 cents in 2017; 30 cents in 2018; 20 cents in 2019 through 2020; 15 cents in 2021 through 2022; and 5 cents in 2023 and thereafter for each kilowatt-hour of shortfall from required solar energy sources.
- (d) Beginning on March 1, 2010, and annually thereafter, energy companies that sell electricity in the District of Columbia shall file an energy portfolio report for the preceding calendar year with DDOE, which shall include a breakdown of the average cost per kilowatt hour of electricity that the company sold in the District of Columbia by source of generation, to include coal, gas, oil, nuclear, solar, land-based wind, off-

shore wind, and other renewable sources. The breakdown of cost should also include the average capital cost per kilowatt, as well as the average fixed and variable costs associated with operations and maintenance per megawatt.

(e) Repealed.

(Apr. 12, 2005, D.C. Law 15-340, § 6, 52 DCR 2285; Oct. 22, 2008, D.C. Law 17-250, § 301(c), 55 DCR 9225; Oct. 20, 2011, D.C. Law 19-36, § 2(b), 58 DCR 6837.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Effect of Amendments*

D.C. Law 17-250 rewrote subsecs. (c)(1) and (3); and added subsecs. (c)(4), (5). Prior to amendment, subsecs. (c)(1) and (3) read as follows:

"(1) Two and 1/2 cents for each kilowatt-hour of shortfall from required tier one renewable sources;"

"(3) Thirty cents for each kilowatt-hour of shortfall from required solar energy sources."

D.C. Law 19-36 rewrote subsec. (c)(3); redesignated subsec. (c)(4) as subsec. (d); redesignated subsec. (c)(5) as subsec. (e); and repealed newly designated subsec. (e). Prior to amendment or repeal, subsecs. (c)(3) and (c)(5) [now subsec. (e)] read as follows:

"(3) Fifty cents in 2009 until 2018 for each kilowatt-hour of shortfall from required solar energy sources."

"(5) Beginning in 2018, and every year thereafter, the DDOE shall review the data found in the energy portfolio reports, and recommend to the Council a revised annual compliance fee. The proposed alternative compliance fee shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, and legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed alternative compliance fee by resolution within this 45-day review period, the proposed rules shall be deemed approved."

##### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 301(c) of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

For temporary (90 day) amendment of section, see § 2(b) of Distributed Generation Emergency Amendment Act of 2011 (D.C. Act 19-126, August 1, 2011, 58 DCR 6766).

For temporary (90 day) amendment of section, see § 2(b) of Distributed Generation Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19- 192, October 18, 2011, 58 DCR 9154).

##### *Legislative History of Laws*

For Law 15-340, see notes following § 34-1431.

For Law 17-250, see notes following § 34-804.

For history of Law 19-36, see notes under § 34-1432.

##### *Miscellaneous Notes*

Section 3 of D.C. Law 19-36 provides:

"Sec. 3. Applicability.

"(a) This act shall apply as of the effective date of the Distributed Generation Emergency Amendment Act of 2011, passed on emergency basis on July 12, 2011 (Enrolled version of Bill 19-384) [August 11, 2011].

"(b) This act shall not apply to contracts entered into prior to the date determined pursuant to subsection (a) of this section."

## **§ 34-1435. RECOVERY OF FEES AND COSTS.**

(a) The Commission shall allow the local distribution company to recover actual dollar-for-dollar prudently costs incurred, including a compliance fee under § 34-1434, in complying with a mandated renewable energy portfolio standard. The electricity distribution company may also pass through its prudently incurred additional costs, if any, associated with complying with the standard, through the end of the year of standard offer service in which the requirement took effect.

(b) An electricity supplier may recover a compliance fee if:

(1) The payment of a compliance fee is the least-cost measure to ratepayers as compared to the purchase of tier one renewable sources, tier two renewable sources, or solar energy to comply with a renewable energy portfolio standard; or

(2) There are insufficient tier one renewable sources, tier two renewable sources, or solar energy available for the electricity supplier to comply with a renewable energy portfolio standard.

(c) Any cost recovery under this section:

(1) May be in the form of a nonbypassable surcharge to current applicable customers; and

(2) Shall be disclosed on applicable customer bills.

(Apr. 12, 2005, D.C. Law 15-340, § 7, 52 DCR 2285.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Legislative History of Laws*

For Law 15-340, see notes following § 34-1431.

### **§ 34-1436. RENEWABLE ENERGY DEVELOPMENT FUND.**

(a) There is established a fund designated as the Renewable Energy Development Fund, which shall be separate from the General Fund of the District of Columbia and shall be used solely for the purposes set forth in this section. All fees, payment, investment earnings, or other funds received, and all interest on the funds, shall be deposited into the Fund without regard to fiscal year limitation and shall not any time be transferred to, or lapse into, or be commingled with the General Fund of the District of Columbia or any other fund or account of the District of Columbia, except as delineated in this section. The Fund shall be continually available for the uses and purposes set forth in subsection (c) of this section.

(b) The Fund established by this section shall be administered by the Energy Office. The Energy Office shall receive and review applications for loans, grants, rebates, and other financial incentives for eligible projects from the Fund.

(c) The Fund shall be used solely for the purpose of making loans, grants, rebates, and other financial incentives to support the creation of new solar energy sources in the District of Columbia and for otherwise administering the Fund.

(d) Proceeds for the Fund shall be collected from the following:

(1) Compliance fees paid under § 34-1434;

(2) Payments received in repayment of a loan;

(3) Investment earnings of the Fund; and

(4) Any other money from any other source accepted for the benefit of the Fund.

(e) The Energy Office shall establish the eligibility criteria for projects supported by the Fund. The Energy Office may allow the use of money of the Fund for administrative expenses related to the Fund and project review and oversight.

(f) The DDOE shall provide to the Council a quarterly report detailing:

(1) Expenditures from the Renewable Energy Development Fund; and

(2) The performance of programs or projects funded by the Renewable Energy Development Fund.

(g) Any compliance fees paid into the Fund by an electricity supplier that were charged to the District of Columbia government through a cost recovery surcharge authorized in § 34-1435(c) shall be transferred from the Fund to the General Fund of the District of Columbia and used to cover any surcharge owed by the District of Columbia government.

(Apr. 12, 2005, D.C. Law 15-340, § 8, 52 DCR 2285; Oct. 22, 2008, D.C. Law 17-250, § 301(d), 55 DCR 9225; Sept. 24, 2010, D.C. Law 18-223, § 1112, 57 DCR 6242; Oct. 20, 2011, D.C. Law 19-36, § 2(c), 58 DCR 6837.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Effect of Amendments*

D.C. Law 17-250 added subsec. (f).

D.C. Law 18-223, in subsecs. (b) and (c), substituted "loans, grants, rebates, and other financial incentives" for "loans and grants".

D.C. Law 19-36, in subsec. (a), substituted "account of the District of Columbia, except as delineated in this section" for "account of the District of Columbia"; and added subsec. (g).

##### *Emergency Act Amendments*

For temporary (90 day) amendment of section, see § 301(d) of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

For temporary (90 day) amendment of section, see § 1112 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) amendment of section, see § 2(c) of Distributed Generation Emergency Amendment Act of 2011 (D.C. Act 19-126, August 1, 2011, 58 DCR 6766).

For temporary (90 day) amendment of section, see § 2(c) of Distributed Generation Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19- 192, October 18, 2011, 58 DCR 9154).

*Legislative History of Laws*

For Law 15-340, see notes following § 34-1431.

For Law 17-250, see notes following § 34-804.

For Law 18-223, see notes following § 34-706.

For history of Law 19-36, see notes under § 34-1432.

*Miscellaneous Notes*

Short title: Section 1111 of D.C. Law 18-223 provided that subtitle L of title I of the act may be cited as the "Renewable Energy Development Amendment Act of 2010".

Section 3 of D.C. Law 19-36 provides:

"Sec. 3. Applicability.

"(a) This act shall apply as of the effective date of the Distributed Generation Emergency Amendment Act of 2011, passed on emergency basis on July 12, 2011 (Enrolled version of Bill 19-384) [August 11, 2011].

"(b) This act shall not apply to contracts entered into prior to the date determined pursuant to subsection (a) of this section."

## **§ 34-1437. RENEWABLE ELECTRICITY TRACKING SYSTEM.**

(a) The Commission shall select a market-based renewable electricity tracking system to facilitate the creation and transfer of renewable energy credits.

(b) The Commission may designate the Energy Office to administer the electricity tracking system. The Commission or the Energy Office may contract with a for-profit or a nonprofit entity to assist in the administration of the electricity tracking system required under this section.

(c) To the extent practicable, the tracking system shall be the generation attributes tracking system developed by PJM Interconnection.

(Apr. 12, 2005, D.C. Law 15-340, § 9, 52 DCR 2285.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 15-340, see notes following § 34-1431.

## **§ 34-1438. APPLICATION OF RENEWABLE ENERGY CREDITS.**

(a) An electricity supplier may use accumulated renewable energy credits to meet the renewable energy portfolio standard by submitting them to the Commission as evidence of compliance.

(b) A renewable energy credit may be sold or otherwise transferred.

(c) Except as authorized under section (d) of this section, a renewable energy credit shall exist for 3 years from the date created.

(d) A renewable energy credit may be diminished or extinguished before the expiration of 3 years by:

(1) The electricity supplier that received the credit;

(2) A nonaffiliated entity of the electricity supplier:

(A) That purchased the credit from the electricity supplier receiving the credit;

(B) To whom the electricity supplier otherwise transferred the credit; or

(3) Demonstrated compliance by the generating facility with the requirements of § 34-1433(i).

(Apr. 12, 2005, D.C. Law 15-340, § 10, 52 DCR 2285.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 15-340, see notes following § 34-1431.

## **§ 34-1439. RULES, DUTIES, AND POWERS OF THE COMMISSION.**

(a) The Commission may impose an administrative fee on a renewable energy credit transaction, but the amount of the fee may not exceed the Commission's actual direct cost of processing the transaction.

(b) On or before April 1 of each year, the Commission shall provide a report to the Council on the status of implementation of this chapter, including the availability of tier one renewable sources, certification of the number of credits generated by the utilities meeting the requirements of § 34-1432, and any other such information as the Council shall consider necessary.

(c) The Commission shall adopt regulations to implement the provisions of this chapter.

(d) The Commission shall establish standards, by order or regulation, to account for customer generation from eligible renewable resources for compliance with § 34-1432.

(Apr. 12, 2005, D.C. Law 15-340, § 11, 52 DCR 2285.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Legislative History of Laws*

For Law 15-340, see notes following § 34-1431.