

AMENDMENTS TO H.R. 2454
OFFERED BY MR. BILBRAY OF CALIFORNIA

Page 10, strike line 5 and all that follows down to
line 12 on page 48 and insert:

1 **SEC. 101. RENEWABLE ELECTRICITY STANDARD.**

2 (a) IN GENERAL.—Title VI of the Public Utility Reg-
3 ulatory Policies Act of 1978 (16 U.S.C. 2601 and fol-
4 lowing) is amended by adding at the end the following:

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

6 “(a) DEFINITIONS.—For purposes of this section:

7 “(1) FEDERAL LAND.—The term ‘Federal land’
8 means land owned by the United States, other than
9 land held in trust for an Indian or Indian tribe.

10 “(2) FEDERAL RENEWABLE ELECTRICITY
11 CREDIT.—The term ‘Federal renewable electricity
12 credit’ means a credit, representing one megawatt
13 hour of renewable electricity, issued pursuant to sub-
14 section (e).

15 “(3) HIGH CONSERVATION PRIORITY LAND.—
16 The term ‘high conservation priority land’ means
17 land that is not Federal land and is—

1 “(A) globally or State ranked as critically
2 imperiled or imperiled under a State Natural
3 Heritage Program; or

4 “(B) old-growth or late-successional forest,
5 as identified by the office of the relevant State
6 Forester or relevant State agency with regu-
7 latory jurisdiction over forestry activities.

8 “(4) OTHER QUALIFYING ENERGY RE-
9 SOURCE.—The term ‘other qualifying energy re-
10 source’ means any of the following:

11 “(A) Landfill gas.

12 “(B) Wastewater treatment gas.

13 “(C) Coal mine methane used to generate
14 electricity at or near the mine mouth.

15 “(D) Qualified waste-to-energy.

16 “(5) QUALIFIED WASTE-TO-ENERGY.—The
17 term ‘qualified waste-to-energy’ means energy from
18 the combustion of municipal solid waste or construc-
19 tion, demolition, or disaster debris, or from the gas-
20 fication or pyrolization of such waste or debris and
21 the combustion of the resulting gas at the same fa-
22 cility, provided that—

23 “(A) such term shall include only the en-
24 ergy derived from the non-fossil biogenic por-
25 tion of such waste or debris;

1 “(B) the Commission determines, with the
2 concurrence of the Administrator of the Envi-
3 ronmental Protection Agency, that the total
4 lifecycle greenhouse gas emissions attributable
5 to the generation of electricity from such waste
6 or debris are lower than those attributable to
7 the likely alternative method of disposing of
8 such waste or debris; and

9 “(C) the owner or operator of the facility
10 generating electricity from such energy provides
11 to the Commission, on an annual basis—

12 “(i) a certification that the facility is
13 in compliance with all applicable State,
14 tribal, and Federal environmental permits;

15 “(ii) in the case of a facility that com-
16 menced operation before the date of enact-
17 ment of this section, a certification that
18 the facility meets emissions standards pro-
19 mulgated under sections 112 or 129 of the
20 Clean Air Act (42 U.S.C. 7412 or 7429)
21 that apply as of the date of enactment of
22 this section to new facilities within the rel-
23 evant source category; and

24 “(iii) in the case of the combustion,
25 pyrolization, or gasification of municipal

1 solid waste, a certification that each local
2 government unit from which such waste
3 originates operates, participates in the op-
4 eration of, contracts for, or otherwise pro-
5 vides for, recycling services for its resi-
6 dents.

7 “(6) RENEWABLE BIOMASS.—The term ‘renew-
8 able biomass’ means any of the following:

9 “(A) Plant material, including waste mate-
10 rial, harvested or collected from actively man-
11 aged agricultural land that was in cultivation,
12 cleared, or fallow and nonforested on January
13 1, 2009.

14 “(B) Plant material, including waste mate-
15 rial, harvested or collected from pastureland
16 that was nonforested on January 1, 2009.

17 “(C) Nonhazardous vegetative matter de-
18 rived from waste, including separated yard
19 waste, landscape right-of-way trimmings, con-
20 struction and demolition debris or food waste
21 (but not municipal solid waste, recyclable waste
22 paper, painted, treated or pressurized wood, or
23 wood contaminated with plastic or metals).

24 “(D) Animal waste or animal byproducts,
25 including products of animal waste digesters.

1 “(E) Algae.

2 “(F) Trees, brush, slash, residues, or any
3 other vegetative matter removed from within
4 600 feet of any building, campground, or route
5 designated for evacuation by a public official
6 with responsibility for emergency preparedness,
7 or from within 300 feet of a paved road, electric
8 transmission line, utility tower, or water supply
9 line.

10 “(G) Residues from or byproducts of
11 milled logs.

12 “(H) Any of the following removed from
13 forested land that is not Federal and is not
14 high conservation priority land:

15 “(i) Trees, brush, slash, residues,
16 interplanted energy crops, or any other
17 vegetative matter removed from an actively
18 managed tree plantation established—

19 “(I) prior to January 1, 2009; or

20 “(II) on land that, as of January
21 1, 2009, was cultivated or fallow and
22 non-forested.

23 “(ii) Trees, logging residue, thinnings,
24 cull trees, pulpwood, and brush removed
25 from naturally-regenerated forests or other

1 non-plantation forests, including for the
2 purposes of hazardous fuel reduction or
3 preventative treatment for reducing or con-
4 taining insect or disease infestation.

5 “(iii) Logging residue, thinnings, cull
6 trees, pulpwood, brush and species that are
7 non-native and noxious, from stands that
8 were planted and managed after January
9 1, 2009, to restore or maintain native for-
10 est types.

11 “(iv) Dead or severely damaged trees
12 removed within 5 years of fire, blowdown,
13 or other natural disaster, and badly in-
14 fested trees.

15 “(I) Materials, pre-commercial thinnings,
16 or removed invasive species from National For-
17 est System land and public lands (as defined in
18 section 103 of the Federal Land Policy and
19 Management Act of 1976 (43 U.S.C. 1702)),
20 including those that are byproducts of preven-
21 tive treatments (such as trees, wood, brush,
22 thinnings, chips, and slash), that are removed
23 as part of a federally recognized timber sale, or
24 that are removed to reduce hazardous fuels, to

1 reduce or contain disease or insect infestation,
2 or to restore ecosystem health, and that are—

3 “(i) not from components of the Na-
4 tional Wilderness Preservation System,
5 Wilderness Study Areas, Inventoried
6 Roadless Areas, old growth or mature for-
7 est stands, components of the National
8 Landscape Conservation System, National
9 Monuments, National Conservation Areas,
10 Designated Primitive Areas, or Wild and
11 Scenic Rivers corridors;

12 “(ii) harvested in environmentally sus-
13 tainable quantities, as determined by the
14 appropriate Federal land manager; and

15 “(iii) harvested in accordance with
16 Federal and State law and applicable land
17 management plans.

18 “(7) RENEWABLE ELECTRICITY.—The term ‘re-
19 newable electricity’ means electricity generated (in-
20 cluding by means of a fuel cell) from a renewable en-
21 ergy resource or other qualifying energy resources.

22 “(8) RENEWABLE ENERGY RESOURCE.—The
23 term ‘renewable energy resource’ means each of the
24 following:

25 “(A) Wind energy.

1 “(B) Solar energy.

2 “(C) Geothermal energy.

3 “(D) Renewable biomass.

4 “(E) Biogas derived exclusively from re-
5 newable biomass.

6 “(F) Biofuels derived exclusively from re-
7 newable biomass.

8 “(G) Hydropower.

9 “(H) Marine and hydrokinetic renewable
10 energy, as that term is defined in section 632
11 of the Energy Independence and Security Act
12 of 2007 (42 U.S.C. 17211).

13 “(I) Nuclear power.

14 “(9) RETAIL ELECTRIC SUPPLIER.—

15 “(A) IN GENERAL.—The term ‘retail elec-
16 tric supplier’ means, for any given year, an
17 electric utility that sold not less than 4,000,000
18 megawatt hours of electric energy to electric
19 consumers for purposes other than resale dur-
20 ing the preceding calendar year.

21 “(B) INCLUSIONS AND LIMITATIONS.—For
22 purposes of determining whether an electric
23 utility qualifies as a retail electric supplier
24 under subparagraph (A)—

1 “(i) the sales of any affiliate of an
2 electric utility to electric consumers, other
3 than sales to the affiliate’s lessees or ten-
4 ants, for purposes other than resale shall
5 be considered to be sales of such electric
6 utility; and

7 “(ii) sales by any electric utility to an
8 affiliate, lessee, or tenant of such electric
9 utility shall not be treated as sales to elec-
10 tric consumers.

11 “(C) AFFILIATE.—For purposes of this
12 paragraph, the term ‘affiliate’ when used in re-
13 lation to a person, means another person that
14 directly or indirectly owns or controls, is owned
15 or controlled by, or is under common ownership
16 or control with, such person, as determined
17 under regulations promulgated by the Commis-
18 sion.

19 “(10) RETAIL ELECTRIC SUPPLIER’S BASE
20 AMOUNT.—The term ‘retail electric supplier’s base
21 amount’ means the total amount of electric energy
22 sold by the retail electric supplier, expressed in
23 megawatt hours, to electric customers for purposes
24 other than resale during the relevant calendar year,
25 excluding the proportion of electricity generated by

1 a fossil-fueled generating unit that is equal to the
2 proportion of greenhouse gases produced by such
3 unit that are captured and geologically sequestered.

4 “(11) RETIRE AND RETIREMENT.—The terms
5 ‘retire’ and ‘retirement’ with respect to a Federal re-
6 newable electricity credit, means to disqualify such
7 credit for any subsequent use under this section, re-
8 gardless of whether the use is a sale, transfer, ex-
9 change, or submission in satisfaction of a compliance
10 obligation.

11 “(b) ANNUAL COMPLIANCE OBLIGATION.—For each
12 of calendar years 2012 through 2039, not later than
13 March 31 of the following calendar year, each retail elec-
14 tric supplier shall submit to the Commission an amount
15 of Federal renewable electricity credits that, in the aggre-
16 gate, is equal to such retail electric supplier’s annual com-
17 bined target as set forth in subsection (d), except as other-
18 wise provided in subsection (g).

19 “(c) ESTABLISHMENT OF PROGRAM.—Not later than
20 1 year after the date of enactment of this section, the
21 Commission shall promulgate regulations to implement
22 and enforce the requirements of this section. In promul-
23 gating such regulations, the Commission shall, to the ex-
24 tent practicable—

1 “(1) preserve the integrity, and incorporate best
 2 practices, of existing State and tribal renewable elec-
 3 tricity programs;

4 “(2) rely upon existing and emerging State,
 5 tribal, or regional tracking systems that issue and
 6 track non-Federal renewable electricity credits; and

7 “(3) cooperate with the States and Indian
 8 tribes to facilitate coordination between State, tribal,
 9 and Federal renewable electricity programs and to
 10 minimize administrative burdens and costs to retail
 11 electric suppliers.

12 “(d) ANNUAL COMPLIANCE REQUIREMENT.—

13 “(1) ANNUAL TARGETS.—For each of calendar
 14 years 2025 through 2050, a retail electric supplier’s
 15 annual target shall be the product of—

16 “(A) the required annual percentage for
 17 such year, as set forth in paragraph (2); and

18 “(B) the retail electric supplier’s base
 19 amount for such year.

20 “(2) REQUIRED ANNUAL PERCENTAGE.—For
 21 each of calendar years 2025 through 2050, the re-
 22 quired annual percentage shall be as follows:

“Calendar year	Required annual percentage
2025	50
2050	70

1 “(e) FEDERAL RENEWABLE ELECTRICITY CRED-
2 ITS.—

3 “(1) IN GENERAL.—The regulations promul-
4 gated under this section shall include provisions gov-
5 erning the issuance, tracking, and verification of
6 Federal renewable electricity credits. Except as pro-
7 vided in paragraph (3) of this subsection, the Com-
8 mission shall issue to each generator of renewable
9 electricity, 1 Federal renewable electricity credit for
10 each megawatt hour of renewable electricity gen-
11 erated by such generator after December 31, 2011.
12 The Commission shall assign a unique serial number
13 to each Federal renewable electricity credit.

14 “(2) CERTAIN POWER SALES CONTRACTS.—
15 When a generator has sold renewable electricity to
16 a retail electric supplier under a contract for power
17 from a facility placed in service before the date of
18 enactment of this section, and the contract does not
19 provide for the determination of ownership of the
20 Federal renewable electricity credits associated with
21 such generation, the Commission shall issue such
22 Federal renewable electricity credits to the retail
23 electric supplier for the duration of the contract.

24 “(3) CREDIT MULTIPLIER FOR CERTAIN GEN-
25 ERATION.—The Commission shall issue 3 Federal

1 renewable electricity credits for each megawatt hour
2 of renewable electricity generated by residential and
3 commercial building solar and micro-wind project

4 “(4) GENERATION FROM QUALIFIED WASTE-TO-
5 ENERGY.—In the case of electricity generated from
6 the combustion of any municipal solid waste or con-
7 struction, demolition, or disaster debris that is in-
8 cluded in the definition of renewable biomass, or
9 from the gasification or pyrolyzation of such waste or
10 debris and the combustion of the resulting gas at
11 the same facility, the Commission shall issue Federal
12 renewable electricity credits only for electricity gen-
13 erated from qualified waste-to-energy.

14 “(5) GENERATION FROM MIXED RENEWABLE
15 AND NONRENEWABLE RESOURCES.—If electricity is
16 generated using both a renewable energy resource or
17 other qualifying energy resource and an energy
18 source that is not a renewable energy resource or
19 other qualifying energy resource (as, for example, in
20 the case of co-firing of renewable biomass and fossil
21 fuel), the Commission shall issue Federal renewable
22 electricity credits based on the proportion of the
23 electricity that is attributable to the renewable en-
24 ergy resource or other qualifying energy resource.

1 “(6) PROHIBITION AGAINST DOUBLE-COUNT-
2 ING.—Except as provided in paragraph (3) of this
3 subsection, the Commission shall ensure that no
4 more than 1 Federal renewable electricity credit will
5 be issued for any megawatt hour of renewable elec-
6 tricity and that no Federal renewable electricity
7 credit will be used more than once for compliance
8 with this section.

9 “(7) RETIREMENT.—The Commission shall re-
10 tire a Federal renewable electricity credit imme-
11 diately upon submission by the lawful holder of such
12 credit, whether in satisfaction of a compliance obli-
13 gation under subsection (b) or on some other basis.

14 “(h) INFORMATION COLLECTION.—The Commission
15 may require any retail electric supplier, renewable elec-
16 tricity generator, or such other entities as the Commission
17 deems appropriate, to provide any information the Com-
18 mission determines appropriate to carry out this section.
19 Failure to submit such information or submission of false
20 or misleading information under this subsection shall be
21 a violation of this section.

22 “(i) ENFORCEMENT AND JUDICIAL REVIEW.—

23 “(1) FAILURE TO SUBMIT CREDITS OR DEM-
24 ONSTRATE SAVINGS.—If any person fails to comply
25 with the requirements of subsection (b) or (g), such

1 person shall be liable to pay to the Commission a
2 civil penalty equal to the product of—

3 “(A) double the alternative compliance
4 payment calculated under subsection (g)(1),
5 and

6 “(B) the aggregate quantity of Federal re-
7 newable electricity credits, total annual elec-
8 tricity savings, or equivalent alternative compli-
9 ance payments that the person failed to submit
10 in violation of the requirements of subsections
11 (b) and (g).

12 “(2) ENFORCEMENT.—The Commission shall
13 assess a civil penalty under paragraph (1) in accord-
14 ance with the procedures described in section 31(d)
15 of the Federal Power Act (16 U.S.C. 823b(d)).

16 “(3) VIOLATION OF REQUIREMENT OF REGULA-
17 TIONS OR ORDERS.—Any person who violates, or
18 fails or refuses to comply with, any requirement of
19 a regulation promulgated or order issued under this
20 section shall be subject to a civil penalty under sec-
21 tion 316A(b) of the Federal Power Act (16 U.S.C.
22 825o-1). Such penalty shall be assessed by the Com-
23 mission in the same manner as in the case of a vio-
24 lation referred to in section 316A(b) of such Act.

1 “(j) JUDICIAL REVIEW.—Any person aggrieved by a
2 final action taken by the Commission under this section,
3 other than the assessment of a civil penalty under sub-
4 section (i), may use the procedures for review described
5 in section 313 of the Federal Power Act (16 U.S.C. 825l).
6 For purposes of this paragraph, references to an order in
7 section 313 of such Act shall be deemed to refer also to
8 all other final actions of the Commission under this section
9 other than the assessment of a civil penalty under sub-
10 section (i).

11 “(k) SAVINGS PROVISIONS.—Nothing in this section
12 shall—

13 “(1) diminish or qualify any authority of a
14 State, a political subdivision of a State, or an Indian
15 tribe to—

16 “(A) adopt or enforce any law or regula-
17 tion respecting renewable electricity or energy
18 efficiency, including any law or regulation es-
19 tablishing requirements more stringent than
20 those established by this section, provided that
21 no such law or regulation may relieve any per-
22 son of any requirement otherwise applicable
23 under this section; or

24 “(B) regulate the acquisition and disposi-
25 tion of Federal renewable electricity credits by

1 retail electric suppliers within the jurisdiction of
2 such State, political subdivision, or Indian tribe,
3 including the authority to require such retail
4 electric supplier to acquire and submit to the
5 Secretary for retirement Federal renewable
6 electricity credits in excess of those submitted
7 under this section; or

8 “(2) affect the application of, or the responsi-
9 bility for compliance with, any other provision of law
10 or regulation, including environmental and licensing
11 requirements.”.

12 (b) CONFORMING AMENDMENT.—The table of con-
13 tents set forth in section 1(b) of the Public Utility Regu-
14 latory Policies Act of 1978 (16 U.S.C. 2601 and following)
15 is amended by inserting after the item relating to section
16 609 the following:

“Sec. 610. Renewable electricity standard.”.

