AMERICAN RENEWABLE ENERGY ACT (AREA) of 2021

Section-by-Section

***Reps. Peter Welch & Yvette D. Clarke***

**SECTION 1. SHORT TITLE; FINDINGS.**

The title of this Act is, the “American Renewable Energy Act of 2021.”

**SECTION 2. FEDERAL RENEWABLE ELECTRICITY STANDARD.**

The bill amends the Public Utility Regulatory Policies Act of 1978 to create a Federal Renewable Electricity Standard. It is overseen by the Federal Energy Regulatory Commission. (“The Commission”).

**Definitions**

Criteria Air Pollutants An air pollutant for which a national ambient air quality standard has been promulgated under section 109 of the Clean Air Act.

Impacted Community A community that is harmed by environmental, economic, or socioeconomic injustice. This includes environmental justice communities, communities with a high concentration of low-income and low-wealth households, communities with a high concentration of households comprised primarily of members of groups that have historically experienced discrimination, communities that experience economic transition, deindustrialization, and poverty, and communities that have high unemployment due to a significant decline in coal mining activity or the closure of a coal-fired power plant. Environmental Justice communities are low-income or low-wealth communities impacted by environmental injustice.

Distributed Generation A non-centralized renewable energy resource installation, or interconnected series of installations, that generates electricity near the point of use with a total generating capacity of 1 megawatt or less.

Federal Renewable Electricity Credit A credit that represents 1 megawatt hour of renewable electricity that complies with this bill.

Indian Tribe The term ‘Indian Tribe’ means any Indian Tribe, band, nation, or other organized group or community (including any Native village, Regional Corporation, or Village Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act)) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Qualified Hydropower Energy produced from generating capacity added to a dam on or after January 1, 2001 that complies with the criteria of this section.

Renewable Energy Resource Eligible renewable energy resources defined as wind energy, solar energy, geothermal energy, marine energy, limited forms of hydropower, and a limited allowance of methane digesters for smaller farms and wastewater plants.

Retail Electricity Supplier An electric utility that sells not fewer than 1,000,000 megawatt hours of electricity to electric consumers during the preceding calendar year.

Retail Electricity Supplier Base Quantity The total quantity of electricity sold by the retail electricity supplier, expressed in megawatt hours, to electric consumers in a calendar year excluding electricity generated by a hydroelectric facility other than qualified hydropower.

**Annual Compliance Obligation** Each year starting in 2021 each retail electricity supplier shall submit their quantity of Federal renewable electricity credits that is at least equal to the annual target.

Distributed Generation For 5 years starting in 2021 electricity suppliers must ensure 15% of their required quantity of Federal renewable electricity credits come from distributed renewable energy generation. That requirement increases to 20% in the second five years.

Impacted Communities For 5 years starting in 2021 electricity suppliers must ensure 15% of their required quantity of Federal renewable electricity credits come from renewable energy generated in impacted communities. That requirement increases to 20% in the second five years.

Distributed Generation Occurring In An Impacted Community Distributed generation that occurs in an impacted community may be used to comply with both required thresholds for distributed generation and impacted communities’ requirements.

**Establishment** This bill works to design a program that identifies and prioritizes the maximum reduction of emissions of greenhouse gases and criteria air pollutants in impacted communities. AREA ensures that the deployment of all new renewable electricity generation provides economic, health, and resiliency benefits to the community and surrounding areas. The bill works to preserve the integrity and best practices of existing State and Tribal level renewable electricity programs and to implement programs in a manner that is just and equitable.

Regional Markets This bill establishes no fewer than 6 regional, geographically-based Federal renewable electricity credit trading markets to maximize the deployment of new renewable electricity generation in each region.

**Annual Compliance Requirement** The bill establishes a Federal target of 70% of eligible renewable energy resources by 2030. Starting at 20% renewables in 2021 and increasing each year to meet 70% by 2030. The compliance requirement is calculated using the annual compliance percentage multiplied by the retail electricity supplier’s base quantity.

**Federal Renewable Electricity Credits** The Commission will issue to each generator the number of renewable electricity credits for each megawatt hour of renewable electricity generated after December 31, 2020. Unless otherwise stated, each renewable electricity credit will apply to one megawatt of eligible renewable energy generated. Each credit will have a unique serial number for identification and tracking.

Generation from Certain State Renewable Electricity ProgramsIf a State program enables retail electricity suppliers to support the generation of eligible renewable electricity, then the Commission will issue Federal renewable electricity credits to the retail electricity supplier.

Trading and Banking The holder of a Federal renewable electricity credit can sell, exchange or transfer the credit, submit the credit for compliance, or submit the credit for retirement with the Commission. Credits can be submitted for the compliance year in which the credit was issued or for any of the 2 immediately subsequent compliance years. The commission will retire any credits that have not been retired by April 2 the second year the credit was issued.

Retirement The Commission will retire all renewable electricity credits submitted by the lawful holder and will retire any credit issued by April 2 two years after it has been granted.

Digesters Anaerobic digesters qualify for Federal renewable electricity credits if farms provide manure to a single digestion system, the system capacity is less than, or qual to, 1 megawatt, and the applicable State’s energy mix is made up of no more than 10% electricity generated by anaerobic digestion.

**Alternative Compliance Payments** Retail electricity supplies that do not comply with the renewable electricity requirement can, in lieu of each Federal renewable electricity credit that would otherwise be submitted, make an alternative compliance payment (ACP) that in 2021 is equal to $50/Mwh and increasing year-after-year with inflation.

Payment to State Funds ACPs will be made to the State in which the retail electricity supplier sells electricity, in proportion to the portion of the retail electricity supplier’s base quantity that is sold within each applicable State.

Noncompliance If State funds are not being used to comply with AREA the Commission can direct any further alternative compliance be paid directly to the Commission and deposited in the Treasury.

State Use of Funds Out of these penalty payments made to the states, at least 50% of investments must go towards renewable, storage, and energy efficiency projects that are either located within or will have a direct benefit to overburdened communities.

Reporting States will report annually to the Commission the use of ACPs including a detailed description of the activities funded by the payments and States will demonstrate compliance with the requirements of this subsection.

Enforcement Failure to submit credits will result in a civil penalty paid to the Commission equaling double the ACP and the aggregate quantity of Federal renewable electricity credits or equivalent alternative compliance payments that the entity failed to submit.

SEC. 3. CLARIFYING STATE AUTHORITY TO ADOPT RENEWABLE ENERGY INCENTIVES

**Definition of State-Approved Production Incentive Program**

State approved production incentive program A requirement imposed by State law or a State regulatory authority that requires an electric utility to purchase renewable energy at a specified rate.

**State Authority to Adopt Renewable Energy Incentives** Notwithstanding provisions in this act, a State authority may set rates for the sale of electricity by a facility generating renewable energy to follow a State-approved production incentive program.

SEC. 4. GUIDELINES FOR DETERMINING QUALIFIED RENEWABLE BIOGAS

**Definition and use of qualified renewable biogas**

Qualified renewable biogas Includes biogas derived from anaerobic digestion at a wastewater treatment facility or through farms utilizing anaerobic digesters, of which on-farm anaerobic digesters are limited to 1 MW capacity for an individual digester.

Guidelines for use of qualified renewable biogas Retail electricity supplies may only receive credit for qualified renewable biogas generated on-farm if total biogas production represents no more than 10% of a State’s overall electricity load