

118TH CONGRESS
2D SESSION

S. 3899

To direct the Administrator of the Environmental Protection Agency to provide for the generation of Renewable Identification Numbers under the renewable fuel program for electricity from renewable biomass, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 11, 2024

Mr. KING (for himself and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To direct the Administrator of the Environmental Protection Agency to provide for the generation of Renewable Identification Numbers under the renewable fuel program for electricity from renewable biomass, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Biomass for Transpor-
5 tation Fuel Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ELECTRIC UTILITY.—The term “electric
2 utility” has the meaning given the term in section
3 of the Federal Power Act (16 U.S.C. 796).

4 (2) INDIAN TRIBE.—The term “Indian Tribe”
5 has the meaning given the term in section 302 of the
6 Clean Air Act (42 U.S.C. 7602).

7 (3) PATHWAY PETITION.—The term “pathway
8 petition” means a petition for approval of a fuel
9 pathway that has electricity from renewable biomass
10 as a fuel type under the renewable fuel program.

11 (4) REGISTRATION REQUEST.—The term “reg-
12 istration request” means a request for registration
13 of a facility producing electricity from renewable bio-
14 mass under an approved fuel pathway under the re-
15 newable fuel program.

16 (5) RENEWABLE BIOMASS.—The term “renew-
17 able biomass” has the meaning given the term in
18 section 211(o)(1) of the Clean Air Act (42 U.S.C.
19 7545(o)(1)).

20 (6) RENEWABLE FUEL PROGRAM.—The term
21 “renewable fuel program” means the renewable fuel
22 program under section 211(o) of the Clean Air Act
23 (42 U.S.C. 7545(o)).

1 (7) STATE.—The term “State” has the mean-
2 ing given the term in section 302 of the Clean Air
3 Act (42 U.S.C. 7602).

4 (8) TRANSPORTATION FUEL.—The term “trans-
5 portation fuel” has the meaning given the term in
6 section 211(o)(1) of the Clean Air Act (42 U.S.C.
7 7545(o)(1)).

8 **SEC. 3. RENEWABLE ELECTRICITY UNDER THE RENEW-**
9 **ABLE FUEL PROGRAM.**

10 (a) TIMELY REVIEW OF PETITIONS AND REGISTRA-
11 TIONS.—The Administrator of the Environmental Protec-
12 tion Agency (referred to in this section as the “Adminis-
13 trator”) shall review and make a determination for path-
14 way petitions and registration requests—

15 (1) in the case of a complete pathway petition
16 or registration request, by not later than the date
17 that is 365 days after the date of submission of the
18 pathway petition or registration request; and

19 (2) in the case of other pathway petitions and
20 registration requests, in a timely and expeditious
21 manner.

22 (b) PUBLIC DISCLOSURE.—The Administrator shall
23 publish on the public internet website of the Environ-
24 mental Protection Agency, and update on a quarterly
25 basis, the following:

1 (1) With respect to each pathway petition that
2 is pending, approved, or denied on or after the date
3 of enactment of this Act—

4 (A) the date on which the pathway petition
5 is submitted to the Environmental Protection
6 Agency;

7 (B) the date on which any fee assessed
8 pursuant to subsection (e) is collected by the
9 Environmental Protection Agency;

10 (C) the date on which the Administrator
11 determines that the pathway petition is com-
12 plete; and

13 (D) the date on which the pathway petition
14 is approved or denied by the Administrator.

15 (2) With respect to each registration request
16 that is pending, approved, or denied on or after the
17 date of enactment of this Act—

18 (A) the date on which the registration re-
19 quest is submitted to the Environmental Pro-
20 tection Agency;

21 (B) the date on which any fee assessed
22 pursuant to subsection (e) is collected by the
23 Environmental Protection Agency;

1 (C) the date on which the Administrator
2 determines that the registration request is com-
3 plete; and

4 (D) the date on which the registration re-
5 quest is approved or denied by the Adminis-
6 trator.

7 (c) FEES.—

8 (1) ASSESSMENT AND COLLECTION.—The Ad-
9 ministrator may assess and collect a fee, in amounts
10 determined by the Administrator necessary to cover
11 the costs described in paragraph (2), from the oper-
12 ator of a facility that submits, updates, or renews—

13 (A) a pathway petition; or

14 (B) a registration request.

15 (2) USE OF FEES.—A fee assessed and col-
16 lected pursuant to paragraph (1) shall be available,
17 without further appropriation or fiscal year limita-
18 tion, for use by the Administrator for the costs of—

19 (A) reviewing pathway petitions, including
20 any associated costs for personnel;

21 (B) reviewing registration requests, includ-
22 ing any associated costs for personnel; and

23 (C) otherwise carrying out this Act.

24 (3) REFUND.—If the Administrator has not
25 completed a review of a complete pathway petition or

1 registration request for which a fee has been as-
 2 sessed and collected pursuant to paragraph (1) by
 3 the date that is 18 months after the date of that col-
 4 lection—

5 (A) the operator of a facility that sub-
 6 mitted the pathway petition or registration re-
 7 quest may request a refund of the fee;

8 (B) not later than 90 days after receiving
 9 a request under subparagraph (A), the Admin-
 10 istrator shall issue a full refund of the fee; and

11 (C) the Administrator shall complete re-
 12 view and disposition of the pathway petition or
 13 registration request without imposing any fur-
 14 ther fee under this section for that process.

15 (4) WAIVER.—The Administrator may, at the
 16 discretion of the Administrator, waive the fee under
 17 paragraph (1)—

18 (A) for an electric utility that is wholly
 19 owned by a State (including any political sub-
 20 division thereof) or an Indian Tribe; or

21 (B) if the Administrator determines that
 22 the waiver is in the public interest.

23 (d) RULEMAKING ON GENERATION OF CREDITS
 24 (ERINS) FOR ELECTRICITY FROM RENEWABLE BIO-
 25 MASS.—

1 (1) DEFINITION OF REGISTERED PARTY.—In
2 this subsection, the term “registered party” means
3 an electric utility with—

4 (A) a fuel pathway approved by the Ad-
5 ministrator under the renewable fuel program;
6 and

7 (B) a facility that—

8 (i) produces electricity from renewable
9 biomass; and

10 (ii) is registered under the renewable
11 fuel program.

12 (2) REGULATION REQUIRED.—Subject to para-
13 graph (4), the Administrator shall—

14 (A) not later than 90 days after the date
15 of enactment of this Act, promulgate a regula-
16 tion providing for the generation of credits
17 under section 211(o)(5) of the Clean Air Act
18 (42 U.S.C. 7545(o)(5)) for electricity produced
19 from renewable biomass that is sold, distrib-
20 uted, or used as transportation fuel; and

21 (B) not later than 1 year after the date of
22 enactment of this Act, finalize that regulation.

23 (3) CONTENTS.—The regulation under para-
24 graph (2) shall prescribe and clarify—

1 (A) which registered parties can generate
 2 the credits and associated Renewable Identifica-
 3 tion Numbers;

4 (B) how to prevent the credits from result-
 5 ing in double-counting for purposes of the re-
 6 newable fuel program; and

7 (C) data requirements for valid generation
 8 of the credits and associated Renewable Identi-
 9 fication Numbers.

10 (4) OPTION TO FINALIZE PRIOR PROPOSED
 11 RULE.—In lieu of promulgating a regulation pursu-
 12 ant to paragraph (2), the Administrator may choose
 13 to modify and finalize the proposed rule of the Envi-
 14 ronmental Protection Agency entitled “Renewable
 15 Fuel Standard (RFS) Program: Standards for 2023-
 16 2025 and Other Changes” (87 Fed. Reg. 80582
 17 (December 30, 2022)) to include—

18 (A) provisions for the generation of credits
 19 as described in paragraph (2); and

20 (B) each requirement and clarification list-
 21 ed in paragraph (3).

22 **SEC. 4. ELIMINATION OF CERTAIN RESTRICTIONS ON RE-**
 23 **NEWABLE BIOMASS FROM FORESTLANDS.**

24 Section 211(o)(1)(I) of the Clean Air Act (42 U.S.C.
 25 7545(o)(1)(I)) is amended—

1 (1) by striking clause (ii) and inserting the fol-
 2 lowing:

3 “(ii) Trees and tree residue from
 4 forestlands (including forestlands belonging
 5 to an Indian Tribe or an Indian individual,
 6 that are held in trust by the United States
 7 or subject to a restriction against alien-
 8 ation imposed by the United States).”; and

9 (2) in clause (iv)—

10 (A) by striking “Slash and pre-commercial
 11 thinnings that are from non-federal
 12 forestlands” and inserting “Slash and thinnings
 13 from forestlands”; and

14 (B) by inserting “, unless the slash and
 15 thinnings are derived off those forests or
 16 forestlands for restoration purposes following a
 17 natural disturbance event” after “or late suc-
 18 cessional forest”.

19 **SEC. 5. FEDERAL DATA REPORTING ON RENEWABLE ELEC-**
 20 **TRICITY FROM BIOMASS.**

21 (a) IN GENERAL.—The Administrator of the Energy
 22 Information Administration (referred to in this section as
 23 the “Administrator”) shall include in the Electric Power
 24 Monthly, Electric Power Annual, Annual Energy Outlook,
 25 and any other relevant report of the Energy Information

1 Administration, data on electricity generated from renew-
2 able biomass.

3 (b) SEPARATE LINE ITEM.—In carrying out sub-
4 section (a), the Administrator shall include data on elec-
5 tricity generated from renewable biomass as a separate
6 line item or in a manner that otherwise identifies such
7 data as a separate subtotal of electricity generated.

8 (c) CONSULTATION.—In carrying out this section, the
9 Administrator shall consult with the Administrator of the
10 Environmental Protection Agency.

11 **SEC. 6. TECHNICAL CORRECTIONS.**

12 (a) DEFINITIONS.—Section 211(o)(1)(G) of the
13 Clean Air Act (42 U.S.C. 7545(o)(1)(G)) is amended, in
14 the first sentence, by inserting “and” before “sulfur
15 hexafluoride”.

16 (b) PERIODIC REVIEWS.—Section 211(o)(11) of the
17 Clean Air Act (42 U.S.C. 7545(o)(11)) is amended by
18 striking subparagraph (C) and inserting the following:

19 “(C) the impacts of the requirements de-
20 scribed in paragraph (2)(B) on—

21 “(i) refineries, blenders, distributors,
22 and importers referred to in paragraph
23 (2)(A)(iii)(I); and

1 “(ii) consumers described in subpara-
2 graph (A)(iv) or (B)(ii)(V) of paragraph
3 (2).”.

4 (c) BLENDING OF COMPLIANT REFORMULATED GAS-
5 OLINES.—Section 211(t)(1) of the Clean Air Act (42
6 U.S.C. 7545(t)(1)) is amended, in the matter preceding
7 subparagraph (A), by striking “this subtitle” and insert-
8 ing “this part”.

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