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RENEWABLE ENERGY STANDARD

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39-26-1. Legislative findings. -- The legislature finds that:

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(a) The increased use of renewable energy would present opportunities for Rhode Island

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businesses that could lead to job creation and stimulate the state's economy;

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(b) Fossil fuel prices are extremely variable, and create economic hardships for

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employers and families, and increased use of renewable energy can both lower and stabilize

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energy costs;

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(c) Our nation's continued reliance on energy from distant sources is a threat to our

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economic and political security;

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(d) A renewable energy standard is a market-oriented policy for accelerating the

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introduction of renewable energy sources into the deregulated electric sector without expenditure

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of state funds;

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(e) Electricity generation using fossil fuels is the leading cause of global warming;

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(f) Global warming threatens the lives and property of Rhode Islanders due to rising sea

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levels, more frequent and intense storms, and increased prevalence of disease;

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(g) The particulates from burning fossil fuels cause one thousand six hundred sixty

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(1,660) asthma attacks and eighty-eight (88) deaths in Rhode Island each year;

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(h) Ozone resulting from the burning of fossil fuels continues to impact our health, and

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that from 1999-2002 there were sixty-three (63) days when ozone levels were so high that

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breathing the air was hazardous to the health of Rhode Islanders;

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(i) The New England Governors and Eastern Canadian Premiers have pledged to reduce

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greenhouse gas emission across the region to 1990 levels by 2010, and Rhode Island has been

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developing a Greenhouse Gas Action Plan that includes a renewable energy standard;

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(j) In a deregulated electric market such as Rhode Islands, consumers are in need of

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information as to the generation sources of their electricity so that they may make informed

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decisions in choosing electricity suppliers;

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(k) Therefore, it is necessary to establish renewable energy standards and energy source

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disclosure requirements.

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39-26-2. Definitions. - - When used in this chapter:

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(1) Alternative compliance payment: means a payment to the Rhode Island economic

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development corporation of fifty dollars (\$50.00) per megawatt-hour of renewable energy

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obligation, in 2004 dollars, adjusted up or down by the consumer price index in each applicable

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year, which may be made in lieu of standard means of compliance with this statute;

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(2) Commission: means the Rhode Island public utilities commission;

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(3) Compliance year: means a calendar year beginning January 1 and ending December

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31, for which an obligated entity must demonstrate that it has met the requirements of this statute;

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(4) Customer-sited generation facility: means a generation unit that is interconnected on

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the end-use customer's side of the retail electricity meter in such a manner that it displaces all or

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part of the metered consumption of the end-use customer;

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(5) Electrical energy product: means an electrical energy offering, including last resort

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and standard offer service, that can be distinguished by its generation attributes or other

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characteristics, and that is offered for sale by an obligated entity to end-use customers;

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(6) Eligible biomass fuel: means fuel sources including brush, stumps, lumber ends and

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trimmings, wood pallets, bark, wood chips, shavings, slash and other clean wood that is not

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mixed with other solid wastes; agricultural waste, food and vegetative material; energy crops;

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landfill methane; biogas; or neat bio-diesel and other neat liquid fuels that are derived from such

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fuel sources;

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(7) Eligible renewable energy resource: means resources as defined in section 39-26-4 of

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this chapter;

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(8) End-use customer: means a person or entity in Rhode Island that purchases electrical

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energy at retail from an obligated entity;

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(9) Existing renewable energy resources: means generation units using eligible renewable

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energy resources and first going into commercial operation before December 31, 1997;

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(10) Generation attributes: means the nonprice characteristics of the electrical energy

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output of a generation unit including, but not limited to, the unit's fuel type, emissions, vintage

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and policy eligibility;

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(11) Generation unit: means a facility that converts a fuel or an energy resource into

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electrical energy;

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(12) NE-GIS: means the generation information system operated by NEPOOL, its

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designee or successor entity, which includes a generation information database and certificate

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system, and that accounts for the generation attributes of electrical energy consumed within

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NEPOOL;

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(13) NE-GIS certificate: means an electronic record produced by the NE-GIS that

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identifies the relevant generation attributes of each Megawatt-hour accounted for in the NE-GIS;

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(14) NEPOOL: means the New England Power Pool or its successor;

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(15) New renewable energy resources: means generation units using eligible renewable

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energy resources and first going into commercial operation after December 31, 1997; or the

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incremental output of generation units using eligible renewable energy resources that have

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demonstrably increased generation in excess of ten percent (10%) through capital investments

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made after December 31, 1997; but in no case involved any new impoundment or diversion of

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water with an average annual salinity of twenty (20) parts per thousand or less;

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(16) Obligated entity: means a person or entity that sells electrical energy to end-use

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customers in Rhode Island, including, but not limited to: nonregulated power producers; electric

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utility distribution companies supplying standard offer service, last resort service, or any

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successor service to end-use customers; and including Narragansett Electric, but not to include

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Block Island Power Company as described in section 39-26-7 or Pascoag utility district;

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(17) Off-grid generation facility: means a generation unit that is not connected to a utility

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transmission or distribution system;

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(18) Reserved certificate: means a NE-GIS certificate sold independent of a transaction

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involving electrical energy, pursuant to Rule 3.4 or a successor rule of the operating rules of the

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NE-GIS;

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(19) Reserved certificate account: means a specially designated account established by an

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obligated entity, pursuant to Rule 3.4 or a successor rule of the operating rules of the NE-GIS, for

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transfer and retirement of reserved certificates from the NE-GIS;

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(20) Self-generator: means an end-use customer in Rhode Island that displaces all or a

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part of its retail electricity consumption, as metered by the distribution utility to which it

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interconnects, through the use of customer-sited generation facility;

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(21) Small hydro facility: means a facility employing one or more hydroelectric turbine

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generators and with an aggregate capacity not exceeding thirty (30) megawatts. For purposes of

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this definition, “facility” shall be defined in a manner consistent with Title 18 of the Code of

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Federal Regulations, section 292.201 et seq.; provided, however, that the size of the facility is

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limited to thirty (30) megawatts, rather than eighty (80) megawatts.

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39-26-3. Renewable energy standard. -- (a) The commission is directed to develop and

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implement regulations establishing a renewable energy standard by no later than December 31,

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2005. Such regulations shall be designed: to foster Rhode Island's economic development, jobs

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creation, and investment in new technologies; to increase electric supply diversity so as to protect

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Rhode Islanders against energy price volatility and enhance energy supply security; to limit fish

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and water quality impacts of electrical energy development; and to achieve substantial

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greenhouse gas emission reductions; to improve local and regional air quality.

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(b) Starting in calendar year 2006, all obligated entities shall derive at least three percent

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(3%) of the electricity they sell at retail to Rhode Island end-use customers, adjusted for electric

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line losses, from eligible renewable energy resources, escalating annually, according to the

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following schedule:

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(i) At least three percent (3%) of retail electricity sales by December 31, 2006;

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(ii) An additional one percent (1%) of retail electricity sales in each year thereafter until

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2013; and

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(iii) After 2013, these minimum renewable energy percentages shall increase by one

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percent (1%) of retail sales per year until 2020, unless the commission revises the schedule of

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annual increases. The commission may make such revisions only after hearings and review of the

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conditions in the wholesale electricity market, the adequacy of renewable energy supplies to meet

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requirement imposed by this section, efforts by obligated entities to meet the minimum

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percentage requirements, and other factors that affect the rates to residential customers, and

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thereby determines that compliance costs exceed five percent (5%) of the bill of a typical

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residential customer using 500 kilowatt-hours per month despite good faith efforts by the

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obligated entity to comply with the annual percentage schedule. At no time shall the minimum

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renewable energy percentage decrease below the percentage in effect at the time revision to the

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schedule is implemented. Any revisions to the schedule of annual increases shall be announced at

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least two (2) years prior to the first year of the revised schedule of annual increases.

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(c) For each obligated entity, no more than two percent (2%) of retail electricity sales out

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of each year's total renewable energy standard obligation may be derived from existing

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renewable energy resources. All remaining obligations must be met with new renewable energy

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resources.

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(d) The regulations shall require that these minimum renewable energy percentages be

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met for each electrical energy product offered to end-use customers in Rhode Island, to ensure

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that end-use customers voluntarily purchasing renewable energy in excess of minimum

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requirements receive renewable energy supply that exceeds that which is required by the

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renewable energy standard.

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(e) At such future date that the commission determines that substantial penetration of

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Rhode Island-based nonrenewable customer-sited generation facilities undermines the objectives

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of the renewable energy standard or the fair distribution of compliance costs, the commission

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may, after conducting hearings, adopt rules requiring all or a subset of Rhode Island self-

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generators to directly comply with the renewable energy standard in the same way as other

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obligated entities. Such rules shall not take effect until at least one year after their promulgation

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to maximize market stability.

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(f) In 2020 the minimum renewable energy standard shall be maintained at that level

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achieved indefinitely, unless the commission proposed to eliminate the standard, and if so, only

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after:

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(i) Sufficient time has passed to allow amortization of generation investments, a

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minimum of ten (10) years; and

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(ii) The commission has found that the market for renewable energy has been

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transformed to a point that makes continued enforcement of the renewable energy standard

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unnecessary to maintain its targets and objectives.

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39-26-4. Eligible renewable energy resources. - - (a) For the purposes of the

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regulations promulgated under this chapter, eligible renewable energy resources are generation

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units in the NEPOOL control area using:

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(i) direct solar radiation;

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(ii) the wind;

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(iii) movement or the latent heat of the ocean;

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(iv) the heat of the earth;

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(v) small hydro facilities;

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(vi) biomass facilities using eligible biomass fuels and maintaining compliance with

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current air permits; and

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(vii) fuel cells using the renewable resources referenced here.

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Eligible renewable energy resources must be certified as such by the commission.
Waste-

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to-energy combustion of any sort or manner shall in no instance be considered eligible
except for

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fuels as identified in paragraph 39-2-2(6).

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(b) A generation unit located in an adjacent control area outside of the NEPOOL may

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qualify as an eligible renewable energy resource, but the associated generation attributes shall be

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applied to the renewable energy standard only to the extent that the energy produced by the

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generation unit is actually delivered into NEPOOL for consumption by New England customers.

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The delivery of such energy from the generation unit into NEPOOL must be demonstrated by:

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(i) a unit-specific bilateral contract for the sale and delivery of such energy into New

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England; and

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(ii) confirmation from ISO-New England that the renewable energy was actually settled

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in the NEPOOL system; and

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(iii) confirmation through the North American Reliability Council tagging system that the

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import of the energy into NEPOOL actually occurred; or

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(iv) any such other requirements as the commission deems appropriate.

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(c) Eligible biomass fuels may be co-fired with fossil fuels, provided that only the

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renewable energy fraction of production from multi-fuel facilities shall be considered eligible.

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(d) NE-GIS certificates associated with energy production from off-grid generation and

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customer sited generation facilities certified by the commission as eligible renewable energy

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resources may also be used to demonstrate compliance, provided that the facilities are physically

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located in Rhode Island.

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39-26-5. Administration. - - (a) The commission shall be charged with determining,

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verifying, and assuring compliance with this chapter. The commission is directed to adopt final

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implementing regulations by no later than December 31, 2005.

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(b) To the extent consistent with the requirements of this chapter, compliance with the

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renewable energy standard may be demonstrated through procurement of NE-GIS certificates

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relating to generating units certified by the commission as using eligible renewable energy

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sources, as evidenced by reports issued by the NE-GIS administrator. Procurement of NE-GIS

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certificates from off-grid and customer-sited generation facilities, if located in Rhode Island and

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certified by the commission as eligible renewable energy resources, may also be used to

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demonstrate compliance. With the exception of contracts for generation supply entered into prior

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to 2002, initial title to NE-GIS certificates from off-grid and customer-sited generation facilities

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and from all other eligible renewable energy resources shall accrue to the owner of such a

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generation facility, unless such title has been explicitly deemed transferred pursuant to contract or

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regulatory order.

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(c) In lieu of providing NE-GIS certificates pursuant to subsection 39-26-5(b), an

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obligated entity may also discharge all or any portion of its compliance obligations by making an

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alternative compliance payment to the Rhode Island economic development corporation. Any

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alternative compliance payments collected by the Rhode Island economic development

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corporation under this provision shall be dedicated to maximize the amount of new renewable

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energy added to the NEPOOL grid. The commission shall coordinate with the Rhode Island

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economic development corporation in establishing rules and procedures to implement the

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alternative compliance payment.

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(d) The commission shall certify eligible renewable energy resources by issuing

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statements of qualifications within ninety (90) days of application, subject to rules to be

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established by the commission. The commission shall promulgate such rules as necessary to

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verify the eligibility of renewable energy generators and the production of energy from such

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generators, including requirements to notify the commission in the event of a change in a

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generator's eligibility status. The commission shall provide prospective reviews for applicants

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seeking to determine whether a planned facility would be eligible under this statute. In order to

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minimize duplication of effort, the commission should, to the extent feasible, seek to coordinate

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its certification process with that of Massachusetts.

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(e) The commission shall establish sanctions for those obligated entities that after

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investigation have been found to fail to reasonably comply with the commission's regulations. No

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sanction or penalty shall relieve or diminish an obligated entity from liability for fulfilling any

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shortfall in its compliance obligation, provided, however, that no sanction shall be imposed if

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compliance is achieved through alternative compliance payments, if the alternative compliance

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payment was used in good faith and no renewable generation was available for purchase. The

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commission may suspend or revoke the certification of generation units that are found to provide

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false information, or that fail to notify the commission in the event of a change in eligibility status

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or otherwise comply with its rules. Financial penalties resulting from sanctions from obligated

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entities shall not be recoverable in rates.

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(f) In order to ease compliance burdens and recognize the challenges to bringing new

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renewable resources on-line, the commission shall establish rules for flexibility mechanisms that

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allow obligated entities to: (i) demonstrate compliance over a compliance year; (ii) bank excess

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compliance for two (2) subsequent compliance years, capped at thirty percent (30%) of the

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current year's obligation; and (iii) allow renewable energy generated during 2005 to be banked by

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an obligated entity as early compliance, usable towards meeting an obligated entity's 2006

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requirement. Any such flexibility mechanisms shall be designed to avoid or mitigate conflicts

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with state level source disclosure requirements and green marketing claims throughout the region.

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Generation used for early compliance must result in the retirement of NE-GIS certificates in a

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reserved certificate account designated for such purposes.

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(g) The commission shall require annual compliance filings to be made by all obligated

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entities within one (1) month of NE-GIS reports being available for the fourth (4th) quarter of

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each calendar year. All electric distribution utilities are directed to cooperate with the

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commission in providing data necessary to assess the magnitude of obligation and verify the

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compliance of all obligated entities.

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(h) In concert with adopting final implementing regulations, the commission shall open a

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proceeding to develop renewable energy contracting standards for obligated entities. Such

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contracting standards shall balance the objectives of: (i) assuring that new renewable generation

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can receive financing at commercial rates; (ii) assuring that ratepayers bear a minimum cost of

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compliance; and (iii) minimizing interference with emerging competitive electric market

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opportunities in the state. Such standards should address minimum contract duration and

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quantities associated with renewable energy standard compliance for standard offer service, last

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resort service, or any successor service to end-use customers, independently and in aggregate.

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appropriate in the prevailing marketing conditions. Such standards shall only be maintained until

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the commission finds that they are no longer necessary to support the objectives of this statute.

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(i) The commission shall require obligated entities to submit annual renewable energy

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standard procurement plans, which are consistent with the provisions of section 39-26-59(h).

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Those procurement plans shall be approved, rejected, or amended, as required by the commission.

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The commission shall deem as prudent for rate recovery all compliance costs, including the cost

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of purchasing renewable energy, alternative compliance payments, all NE-GIS costs and other

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incremental costs for complying with the renewable energy standards, by distribution companies

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supplying standard offer service, last resort service, or any successor service to end-use

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customers, found to be fully consistent with approved renewable energy standard procurement

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plans and the contracting standards in effect at the time.

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39-26-6. Interaction with other policies. - - (a) Rhode Island has established a system-

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benefits charge (SBC) dedicated to supporting renewable energy, administered by the state

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energy office; other states have similar policies. The Rhode Island economic development

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corporation is hereby directed to collaborate with the commission in maximizing the combined

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impact and efficiency of the SBC and the renewable energy standard.

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(b) It is the intent of this chapter that generation attributes and NE-GIS certificates

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applied towards Rhode Island renewable energy standard compliance may not be used towards

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compliance with state renewable energy obligations relating to an obligated entity's load in other

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states.

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39-26-7. Block Island. -- In recognition of the very unique energy situation on Block

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Island, obligated entities exclusively serving Block Island or electrical energy products offered

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exclusively on Block Island shall be exempt from the renewable energy standard described in

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sections 39-26-3 through 39-26-8.

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39-26-8. Energy source disclosure requirements. - - (a) The commission shall, by

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December 31, 2004, establish and enforce right-to-know regulations requiring any obligated

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entity, to distribute energy source disclosures to all customers of each electrical energy product

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offered.

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(b) The energy source disclosure shall indicate what sources of energy were used to

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generate electricity for each electrical energy product, expressed as a percentage of the total

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amount of energy used towards each electrical energy product. The energy source disclosure shall

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show the percentages of energy obtained from each of the eligible renewable energy resources, as

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well as the percentage energy obtained from nuclear plants, natural gas, oil (which may include

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any fossil oil), hydroelectric plants that are not an eligible renewable energy resource, coal, and

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any other sources that the commission may require to be included. The energy source disclosure

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shall also indicate the emission created as a result of generating said electricity.

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(c) Energy source disclosures shall be distributed to consumers on a quarterly basis. The

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obligated entities shall be allowed to recover in rates all incremental costs associated with

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preparation and distribution of the disclosure label.

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(d) The commission shall allow for or require the use of NE-GIS certificates for the

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calculation of the energy source disclosure.

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(e) The energy source disclosure presented to any particular end-use customer shall take

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into consideration and account for voluntary purchases of generation attributes or related

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products, including purchases made by the end-use customer from providers other than the

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obligated entity, even if the end-use customer is billed by the obligated entity and also served by

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that obligated entity's electrical energy product.

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39-26-9. Severability and construction. - - If any provision of this chapter or its

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application to any person or circumstances is held invalid, the invalidity does not affect other

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provisions or applications of this chapter which can be given effect without the invalid provision

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or application, and to this end the provisions of this chapter are severable. The provisions of this

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chapter shall be liberally construed to give effect to the purposes thereof.

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SECTION 2. This act shall take effect upon passage.

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LC00091/SUB A/2

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- RENEWABLE ENERGY

STANDARD

11-1

 This act would establish renewable energy portfolio standards and energy source

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disclosure requirements by requiring the public utilities commission to adopt regulations

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specifically relating thereto.

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 This act would take effect upon passage.

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LC00091/SUB A/2

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