

CHAPTER 272
SB 218-FN – FINAL VERSION

03/21/12 1235s
03/21/12 1368s
17May2012... 2180h
06/06/12 2392CofC
06/06/12 2499EBA

2012 SESSION

12-2842
06/10

SENATE BILL ***218-FN***

AN ACT relative to electric renewable portfolio standards.

SPONSORS: Sen. Bradley, Dist 3; Sen. Barnes, Jr., Dist 17; Sen. Lambert, Dist 13; Sen. Odell,
Dist 8; Sen. Gallus, Dist 1; Sen. Forrester, Dist 2; Sen. Luther, Dist 12;
Rep. Introne, Rock 3; Rep. Cataldo, Straf 3

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill modifies the electric renewable portfolio standards.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to electric renewable portfolio standards.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 272:1 Electric Renewable Portfolio Standards; Definitions; Eligible Biomass Technologies.
2 Amend RSA 362-F:2, VIII(a) to read as follows:

3 (a) Has a quarterly average nitrogen oxide (NO_x) emission rate of less than or equal to
4 0.075 pounds/million British thermal units (lbs/Mmbtu), and ***either has*** an average particulate
5 emission rate of less than or equal to 0.02 lbs/Mmbtu as measured and verified under RSA 362-F:12
6 ***or is participating in a plan approved by the department under RSA 362-F:11, IV for***
7 ***reductions in particulate matter emissions from other emission sources comparable to the***
8 ***difference between the generation unit's particulate matter emissions rate and the 0.02***
9 ***lbs/Mmbtu rate***; and

10 272:2 Definitions; Renewable Energy Source; Useful Thermal Energy. Amend RSA 362-F:2, XV
11 to read as follows:

12 XV. "Renewable energy source," "renewable source," or "source" means a class I, II, III, or IV
13 source of electricity or ~~electricity displacement by a class I source under RSA 362-F:4, I(g)~~ ***a class I***
14 ***source of useful thermal energy***. An electrical generating facility, while selling its electrical
15 output at long-term rates established before January 1, 2007 by orders of the commission under
16 RSA 362-A:4, shall not be considered a renewable source.

17 ***XV-a. "Useful thermal energy" means renewable energy delivered from class I***
18 ***sources that can be metered and that is delivered in New Hampshire to an end user in the***
19 ***form of direct heat, steam, hot water, or other thermal form that is used for heating,***
20 ***cooling, humidity control, process use, or other valid thermal end use energy requirements***
21 ***and for which fuel or electricity would otherwise be consumed.***

22 272:3 Minimum Electric Renewable Portfolio Standards. Amend RSA 362-F:3 to read as follows:

23 362-F:3 Minimum Electric Renewable Portfolio Standards. For each year specified in the table
24 below, each provider of electricity shall obtain and retire certificates sufficient in number and class
25 type to meet or exceed the following percentages of total megawatt-hours of electricity supplied by
26 the provider to its end-use customers that year, except to the extent that the provider makes
27 payments to the renewable energy fund under RSA 362-F:10, II:

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	2008	2009	2010	2011	2012	2013	2014	2015	2025
Class I	0.0%	0.5%	1%	2%	3%	4%	5%	6%	[16%] 15% (*)
Class II	0.0%	0.0%	0.04%	0.08%	0.15%	0.2%	0.3%	0.3%	0.3%
Class III	3.5%	4.5%	5.5%	6.5%	6.5%	6.5%	[6.5%] 7.0%	[6.5%] 8.0%	[6.5%] 8.0%
Class IV	0.5%	1%	1%	1%	1%	[1%] 1.3%	[1%] 1.4%	[1%] 1.5%	[1%] 1.5%

*Class I increases an additional ~~[one]~~ **0.9** percent per year from 2015 through 2025. ***A set percentage of the class I totals shall be satisfied annually by the acquisition of renewable energy certificates from qualifying renewable energy technologies producing useful thermal energy as defined in RSA 362-F:2, XV-a. The set percentage shall be 0.2 percent in 2013, 0.4 percent in 2014, and increased annually by 0.2 percent per year from 2015 through 2025.***

Classes II-IV remain at the same percentages from 2015 through 2025 except as provided in RSA 362-F:4, V-VI.

272:4 Electric Renewable Energy Classes. Amend the introductory paragraph of RSA 362-F:4, I to read as follows:

I. Class I (New) shall include the production of electricity ***or useful thermal energy*** from any of the following, provided the source began operation after January 1, 2006, except as noted below:

272:5 Electric Renewable Energy Classes. Amend RSA 362-F:4, I(b) to read as follows:

(b) Geothermal energy, ***if the geothermal energy output is in the form of useful thermal energy only if the unit began operation after January 1, 2013.***

272:6 Electric Renewable Energy Classes. Amend RSA 362-F:4, I(g) to read as follows:

(g) ~~[The equivalent displacement of electricity, as determined by the commission, by end-use customers, from solar hot water heating systems used instead of electric hot water heating]~~ ***Solar thermal energy; if the solar thermal energy output is in the form of useful thermal energy only if the unit began operation after January 1, 2013.***

272:7 Electric Renewable Energy Classes. Amend RSA 362-F:4, I(j) to read as follows:

(j) The production of electricity from a class III or IV source that has begun operation as a new facility by demonstrating that 80 percent of its resulting tax basis of the source's plant and equipment, but not its property and intangible assets, is derived from capital investment directly related to restoring generation or increasing capacity including department permitting requirements for new plants. Such production shall not qualify for class III or IV certificates. ***Commencing July 1, 2013, a class III source eligible as a class I source under this subparagraph or subparagraph (i) may submit a notice to the commission electing to be a class III source instead of a class I source. Once such notice is given, the production from such a source shall qualify for class III certificates, provided the source meets the other requirements of a class III eligible biomass technology.***

1 (k) *The production of electricity from any fossil-fueled generating facility that*
2 *originally commenced operation prior to January 1, 2006, if after January 1, 2012 such*
3 *facility co-fires with class I eligible biomass fuels to displace the combustion of an amount*
4 *of fossil fuels. The portion of the total electrical energy output that qualifies as class I*
5 *from a facility in a given time period shall be the fraction of electrical production derived*
6 *from the combustion of biomass fuels based on the heat input at the facility in that time*
7 *period as determined by the commission in consultation with the department. To qualify*
8 *under this paragraph, the electricity generation facility that co-fires with biomass fuels*
9 *shall:*

10 (1) *Either have a quarterly average nitrogen oxide (NOx) emission rate, as*
11 *measured and verified under RSA 362-F:12, of less than or equal to 0.075 pounds/million*
12 *British thermal units (lbs/Mmbtu) or be a participant in a plan approved by the*
13 *department for reductions in NOx from other emission sources. The quantity of reductions*
14 *required shall be the fraction of electrical production derived from the combustion of*
15 *biomass fuels, as determined under this paragraph, multiplied by the difference between*
16 *the generation unit's NOx emissions rate and the 0.075 lbs/Mmbtu rate. The plan shall*
17 *contain reductions, in the aggregate or individually, in NOx emissions from other emission*
18 *sources under the jurisdiction of the department and demonstrate that the reductions will*
19 *be quantifiable. The department shall expeditiously review the plan and, if approved,*
20 *provide such information as it deems relevant to the commission. The application*
21 *submitted to the commission under RSA 362-F:11 shall inform the commission of the plan*
22 *and the commission shall certify the source in accordance with the plan approved by the*
23 *department; and*

24 (2) *Either have an average particulate emission rate, as measured and*
25 *verified under RSA 362-F:12, of less than or equal to 0.02 lbs/Mmbtu or be a participant in*
26 *a plan approved by the department for reductions in particulate matter emissions from*
27 *emission sources owned by or affiliated with the co-firing entity. The quantity of*
28 *reductions required shall be the fraction of electrical production derived from the*
29 *combustion of biomass fuels, as determined under this paragraph, multiplied by the*
30 *difference between the generation unit's particulate matter emissions rate and the 0.02*
31 *lbs/Mmbtu rate. The plan shall contain reductions, in the aggregate or individually, in*
32 *particulate matter emissions from other emission sources under the jurisdiction of the*
33 *department and demonstrate that the reductions will be quantifiable. The department*
34 *shall expeditiously review the plan and, if approved, provide such information as it deems*
35 *relevant to the commission. The application submitted to the commission under RSA 362-*

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1 *F:11 shall inform the commission of the plan and the commission shall certify the source in*
2 *accordance with the plan approved by the department.*

3 *(l) Biomass renewable energy technologies producing useful thermal energy*
4 *that began operation after January 1, 2013 provided that:*

5 *(1) If the unit is a biomass unit rated between 3 and 30 Mmbtu/hr design*
6 *gross heat input, and has an average particulate emission rate of less than or equal to 0.10*
7 *lbs/Mmbtu as measured and verified by conducting and reporting the results of a one-time*
8 *initial stack test in accordance with methods approved by the department;*

9 *(2) If the unit is a biomass unit rated equal to or greater than 30 Mmbtu/hr*
10 *design gross heat input, and has an average particulate emission rate of less than or equal*
11 *to 0.02 lbs/Mmbtu as measured and verified under RSA 362-F:12;*

12 *(3) If the unit is a biomass unit rated less than 100 Mmbtu/hr design gross*
13 *heat input, and it implements best management practices as determined by the*
14 *department; and*

15 *(4) If the unit is a biomass unit rated equal to or greater than 100 Mmbtu/hr*
16 *design gross heat input, and it has a quarterly average NOx emission rate of less than or*
17 *equal to 0.075 Mmbtu/hr as measured and verified under RSA 362-F:12.*

18 272:8 Renewable Energy Portfolio; Purchased Power Agreements. No provision of RSA 362-F
19 shall be construed to affect the cost recovery of any contract or agreement entered into pursuant to
20 RSA 362-F:9 prior to the effective date of this act. Such contract or agreement shall be governed by
21 the commission's order approving the same.

22 272:9 Electric Renewable Energy Classes. Amend RSA 362-F:4, IV(a) to read as follows:

23 IV.(a) Class IV (Existing Small Hydroelectric) shall include the production of electricity from
24 hydroelectric energy, provided the facility:

25 *(1) Began operation prior to January 1, 2006[;];*

26 *(2) When required, has documented applicable state water quality*
27 *certification pursuant to section 401 of the Clean Water Act for hydroelectric projects; and*

28 *(3) Either:*

29 *(A) Has a total nameplate capacity of 5 MWs or less as measured by the sum of*
30 *the nameplate capacities of all the generators at the facility[;] and has actually installed both*
31 *upstream and downstream diadromous fish passages and such installations have been approved by*
32 *the Federal Energy Regulatory Commission, [~~and when required, has documented applicable state~~*
33 *~~water quality certification pursuant to section 401 of the Clean Water Act for hydroelectric projects]~~*
34 *or;*

35 *(B) Has a total nameplate capacity of one MW or less as measured by the*
36 *sum of the nameplate capacities of all generators at the facility, is in compliance with*

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1 *applicable Federal Energy Regulatory Commission fish passage restoration requirements,*
2 *and is interconnected with an electric distribution system located in New Hampshire.*

3 272:10 Renewable Energy Certificates. Amend RSA 362-F:6, II to read as follows:

4 II. The commission shall establish procedures by which electricity ***and useful thermal***
5 ***energy*** production not tracked by ISO-New England from customer-sited sources, including behind
6 the meter production, may be included within the certificate program, provided such sources are
7 located in New Hampshire. The procedures may include the aggregation of sources and shall be
8 compatible with procedures of the certificate program administrator, ***where possible***. The
9 production shall be monitored and verified by an independent entity designated by the commission,
10 which may include electric distribution companies, ***or by such other means as the commission***
11 ***finds adequate in verifying that such production is occurring***.

12 ***II-a. The commission shall establish a methodology to estimate the total yearly***
13 ***production for customer-sited sources that are net metered under RSA 362-A:9 and for***
14 ***which class I or II certificates are not issued. For purposes of estimation, the commission***
15 ***shall use a capacity factor rating of 20 percent for each installation and shall keep class II***
16 ***production separate from class I production. Providers of electricity required to obtain***
17 ***and retire certificates under RSA 362-F:3 shall receive an annual credit for such***
18 ***production. By February 28 of each year, the commission shall compute and make public***
19 ***credit percentages that are equal to the estimated production for the prior calendar year***
20 ***in each class divided by the total amount of electricity supplied by providers of electricity***
21 ***to end-use customers in the prior calendar year, with the result converted to a percentage.***
22 ***Each provider may then, at the time of its annual report filing under RSA 362-F:8, claim a***
23 ***class I and a class II certificate credit equal to the credit percentage times the total***
24 ***megawatt-hours of electricity supplied by the provider to its end-use customers the prior***
25 ***calendar year.***

26 272:11 New Paragraph; Renewable Energy Certificates. Amend RSA 362-F:6 by inserting after
27 paragraph IV the following new paragraph:

28 V. A qualified producer of useful thermal energy shall provide for the metering of useful
29 thermal energy produced in order to calculate the quantity of megawatt-hours for which renewable
30 energy certificates are qualified, and to report to the public utilities commission under rules adopted
31 pursuant to RSA 362-F:13. Monitoring, reporting, and calculating the useful thermal energy
32 produced in each quarter shall be expressed in megawatt-hours, where each 3,412,000 BTUs of
33 useful thermal energy is equivalent to one megawatt-hour.

34 272:12 Sale, Exchange, and Use of Certificates. Amend RSA 362-F:7, I to read as follows:

35 I. A certificate may be sold or otherwise exchanged by the source to which it was initially
36 issued or by any other person or entity that acquires the certificate. A certificate may only be used

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1 once for compliance with the requirements of this chapter. It may not be used for compliance with
2 this chapter if it has been or will be used for compliance with any similar requirements of another
3 non-federal jurisdiction, or otherwise sold, retired, claimed, or represented as part of any other
4 electrical energy output or sale. Certificates shall only be used by providers of electricity for
5 compliance with the requirements of RSA 362-F:3 in the year in which the generation represented by
6 the certificate was produced, except that unused certificates of the proper class issued for production
7 during the prior 2 years ~~[or the first quarter of the subsequent year]~~ may be used to meet up to 30
8 percent of a provider's requirements for a given class obligation in the current year of compliance.

9 272:13 Renewable Energy Fund. Amend RSA 362-F:10, I-III to read as follows:

10 I. There is hereby established a renewable energy fund. This nonlapsing, special fund shall
11 be continually appropriated to the commission to be expended in accordance with this section. The
12 state treasurer shall invest the moneys deposited therein as provided by law. Income received on
13 investments made by the state treasurer shall also be credited to the fund. All payments to be made
14 under this section shall be deposited in the fund. The moneys paid into the fund under paragraph II
15 of this section, excluding class II moneys, shall be used by the commission to support thermal and
16 electrical renewable energy initiatives. Class II moneys shall only be used to support solar energy
17 technologies in New Hampshire. All initiatives supported out of these funds shall be subject to audit
18 by the commission as deemed necessary. All fund moneys including those from class II may be used
19 to administer this chapter, but all new employee positions shall be approved by the fiscal committee
20 of the general court. ***No new employees shall be hired by the commission due to the inclusion***
21 ***of useful thermal energy in class I production.***

22 II. In lieu of meeting the portfolio requirements of RSA 362-F:3 for a given year if, and to the
23 extent sufficient certificates are not otherwise available at a price below the amounts specified in
24 this paragraph, an electricity provider may, at the time of report submission for that year under
25 RSA 362-F:8, make payment to the commission at the following rates for each megawatt-hour not
26 met for a given class obligation through the acquisition of certificates:

27 (a) Class I—~~[\$57.12,]~~ ***\$55, except for that portion of the class electric renewable***
28 ***portfolio standards to be met by qualifying renewable energy technologies producing useful***
29 ***thermal energy under RSA 362-F:3 which shall be \$25 beginning January 1, 2013.***

30 (b) Class II—~~[\$150]~~ ***\$55.***

31 (c) Class III—~~[\$28]~~ ***\$31.50.***

32 (d) Class IV—~~[\$28]~~ ***\$26.50.***

33 III. Beginning in ~~[2008]~~ ***2013***, the commission shall adjust these rates by January 31 of each
34 year using the Consumer Price Index as published by the Bureau of Labor Statistics of the
35 United States Department of Labor ***for classes III and IV and ½ of such Index for classes I and***
36 ***II.***

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1 272:14 Renewable Energy Fund. Amend RSA 362-F:10, X to read as follows:

2 X. Consistent with RSA 362-F:10, VI, the commission shall, over each 2-year period
3 commencing July 1, 2010, reasonably balance overall amounts expended, ***allocated, or obligated***
4 from the fund, net of administrative expenditures, between residential and nonresidential sectors.
5 Funds from the renewable energy fund awarded to renewable projects in the residential sector shall
6 be in approximate proportion to the amount of electricity sold at retail to that sector in
7 New Hampshire, and the remaining funds from the renewable energy fund shall be awarded to
8 projects in the nonresidential sector which include commercial and industrial sited renewable energy
9 projects, existing generators, and developers of new commercial-scale renewable generation in
10 New Hampshire.

11 272:15 New Paragraph; Application. Amend RSA 362-F:11 by inserting after paragraph III the
12 following new paragraph:

13 IV. A biomass facility otherwise meeting the eligibility requirements of class III, but which
14 as of January 1, 2012 was not an eligible biomass technology due to the inability to achieve the
15 particulate matter emissions rate specified in RSA 362-F:2, VIII(a), may consult with the
16 department and submit a plan to meet the alternative requirement under that paragraph. The plan
17 shall contain reductions, in the aggregate or individually, in emissions from other emission sources
18 and demonstrate that the reductions will be quantifiable. The department shall expeditiously
19 review the plan and, if approved, provide such information it deems relevant to the commission. The
20 application submitted under this section shall inform the commission of the plan and the commission
21 shall certify the source in accordance with the plan approved by the department.

22 272:16 New Paragraph; Rulemaking. Amend RSA 362-F:13 by inserting after paragraph VI the
23 following new paragraph:

24 VI-a. Adopt procedures for the metering, verification, and reporting of useful thermal energy
25 output.

26 272:17 New Paragraph; Rulemaking. Amend RSA 362-F:13 by inserting after paragraph VII
27 the following new paragraph:

28 VIII. The department may adopt rules, under RSA 541-A, to determine best management
29 practices for qualifying renewable energy technologies producing useful thermal energy.

30 272:18 New Section; Phase-In for Existing Supply Contract Load. Amend RSA 362-F by
31 inserting after section 13 the following new section:

32 362-F:14 Phase-In for Existing Supply Contract Load. The increases in the annual purchase
33 percentages in RSA 362-F:3 as compared to those in effect as of January 1, 2012 shall apply to the
34 electrical load under any electrical power supply contracts for a term of years entered into by
35 providers of electricity prior to or on July 1, 2012, upon the expiration of the term of any such
36 contract. Providers of electricity shall inform the commission by July 1 of each year of all such

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1 contracts and their terms, including but not limited to the execution date and expiration date of the
2 contract and the annual volume of electrical energy supplied.

3 272:19 Effective Date. This act shall take effect upon its passage.

4 Approved: June 19, 2012

5 Effective Date: June 19, 2012