



General Assembly

January Session, 2013

**Amendment**

LCO No. 6346

**\*SB0113806346SR0\***

Offered by:  
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To: Subst. Senate Bill No. 1138      File No. 120      Cal. No. 141

**"AN ACT CONCERNING CONNECTICUT'S CLEAN ENERGY GOALS."**

1      Strike everything after the enacting clause and substitute the  
2      following in lieu thereof:

3      "Section 1. Subdivision (26) of subsection (a) of section 16-1 of the  
4      general statutes is repealed and the following is substituted in lieu  
5      thereof (*Effective from passage*):

6      (26) "Class I renewable energy source" means (A) [energy] electricity  
7      derived from (i) solar power, (ii) wind power, (iii) a fuel cell, [methane  
8      gas from landfills,] (iv) geothermal, (v) landfill methane gas, anaerobic  
9      digestion or other biogas derived from biological sources, (vi) thermal  
10     electric direct energy conversion from a certified Class I renewable  
11     energy source, (vii) ocean thermal power, (viii) wave or tidal power,  
12     (ix) low emission advanced renewable energy conversion technologies,  
13     (x) a run-of-the-river hydropower facility [provided such facility] that  
14     began operations after July 1, 2003, and has a generating capacity of  
15     not more than [five megawatts, does not cause an appreciable change  
16     in the river flow, and began operation after July 1, 2003] thirty

17 megawatts, provided a facility that applies for certification under this  
18 clause after January 1, 2013, shall not be based on a new dam or a dam  
19 identified by the commissioner as a candidate for removal, and shall  
20 meet applicable state and federal requirements, including applicable  
21 site-specific standards for water quality and fish passage, or (xi) a  
22 [sustainable biomass facility with] biomass facility that uses  
23 sustainable biomass fuel and has an average emission rate for the  
24 previous calendar quarter of equal to or less than (I) .075 pounds of  
25 nitrogen oxides per million BTU of heat input, and (II) on or after  
26 January 1, 2016, has an average emission rate of equal to or less than  
27 .07 pounds of nitrogen oxides per million BTU of heat input and an  
28 average combined particulate emission rate of equal to or less than .038  
29 pounds per million BTU of heat input for the previous calendar  
30 quarter, except that energy derived from a [sustainable] biomass  
31 facility with a capacity of less than five hundred kilowatts that began  
32 construction before July 1, 2003, may be considered a Class I renewable  
33 energy source, or (B) any electrical generation, including distributed  
34 generation, generated from a Class I renewable energy source,  
35 provided, on and after January 1, 2014, any megawatt hours of  
36 electricity from a renewable energy source described under this  
37 subparagraph that are claimed or counted by a load-serving entity,  
38 province or state toward compliance with renewable portfolio  
39 standards or renewable energy policy goals in another province or  
40 state, other than the state of Connecticut, shall not be eligible for  
41 compliance with the renewable portfolio standards established  
42 pursuant to section 16-245a, as amended by this act;

43       Sec. 2. Subdivision (44) of subsection (a) of section 16-1 of the  
44 general statutes is repealed and the following is substituted in lieu  
45 thereof (*Effective from passage*):

46       (44) "Class III source" means the electricity output from combined  
47 heat and power systems with an operating efficiency level of no less  
48 than fifty per cent that are part of customer-side distributed resources  
49 developed at commercial and industrial facilities in this state on or

50 after January 1, 2006, a waste heat recovery system installed on or after  
51 April 1, 2007, that produces electrical or thermal energy by capturing  
52 preexisting waste heat or pressure from industrial or commercial  
53 processes, or the electricity savings created in this state from  
54 conservation and load management programs begun on or after  
55 January 1, 2006, provided on and after January 1, 2014, no such  
56 programs supported by ratepayers, including programs overseen by  
57 the Energy Conservation Management Board or third-party programs  
58 pursuant to section 16-245m, shall be considered a Class III source,  
59 except that any demand-side management project awarded a contract  
60 pursuant to section 16-243m shall remain eligible as a Class III source  
61 for the term of such contract;

62 Sec. 3. Subdivision (45) of subsection (a) of section 16-1 of the  
63 general statutes is repealed and the following is substituted in lieu  
64 thereof (*Effective from passage*):

65 (45) "Sustainable biomass fuel" means biomass that is cultivated and  
66 harvested in a sustainable manner. "Sustainable biomass fuel" does not  
67 mean construction and demolition waste, as defined in section 22a-  
68 208x, finished biomass products from sawmills, paper mills or stud  
69 mills, organic refuse fuel derived separately from municipal solid  
70 waste, or biomass from old growth timber stands, except where (A)  
71 such biomass is used in a biomass gasification plant that received  
72 funding prior to May 1, 2006, from the Clean Energy Fund established  
73 pursuant to section 16-245n, [or] (B) the energy derived from such  
74 biomass is subject to a long-term power purchase contract pursuant to  
75 subdivision (2) of subsection (j) of section 16-244c entered into prior to  
76 May 1, 2006, or (C) such biomass is used in a renewable energy facility  
77 [that is certified as a Class I renewable energy source by the authority  
78 until such time as the authority certifies that any biomass gasification  
79 plant, as defined in subparagraph (A) of this subdivision, is  
80 operational and accepting such biomass,] in an amount not to exceed  
81 one hundred forty thousand tons annually [, is used in a renewable  
82 energy facility] that was certified as a Class I renewable energy source

83 by the authority prior to December 31, 2007, and uses biomass,  
84 including construction and demolition waste as defined in section 22a-  
85 208x, from a Connecticut-sited transfer station and volume-reduction  
86 facility that generated biomass during calendar year 2007 that was  
87 used during calendar year 2007 to generate Class I renewable energy  
88 certificates, [ or (D) in the event there is no facility as described in  
89 subparagraph (A) or (C) of this subdivision accepting such biomass, in  
90 an amount not to exceed one hundred forty thousand tons annually, is  
91 used in one or more other renewable energy facilities certified either as  
92 a Class I or Class II renewable energy source by the authority,  
93 provided such facilities use biomass, including construction and  
94 demolition waste as defined in said section 22a-208x, from a  
95 Connecticut-sited transfer station and volume-reduction facility that  
96 generated biomass during calendar year 2007 that was used during  
97 calendar year 2007 to generate Class I renewable energy certificates.  
98 Notwithstanding the provisions of [subparagraphs (C) and (D)]  
99 subparagraph (C) of this subdivision, the amount of biomass specified  
100 in [said subparagraphs] subparagraph (C) of this subdivision shall not  
101 apply to a biomass gasification plant, as defined in subparagraph (A)  
102 of this subdivision;

103 Sec. 4. Subsection (a) of section 16-1 of the general statutes is  
104 amended by adding subdivision (53) as follows (*Effective from passage*):

105 (NEW) (53) "Large-scale hydropower" means any hydropower  
106 facility that (A) began operation on or after January 1, 2003, (B) is  
107 located in the New England Power Pool Generation Information  
108 System geographic eligibility area in accordance with Rule 2.3 or an  
109 area abutting the northern boundary of the New England Power Pool  
110 Generation Information System geographic eligibility area that is not  
111 interconnected with any other control area that is not a part of the New  
112 England Power Pool Generation Information System geographic  
113 eligibility area, (C) delivers power into such geographic eligibility area,  
114 and (D) has a generating capacity of more than thirty megawatts.

115 Sec. 5. (NEW) (*Effective from passage*) Any biomass facility that has

116 not applied for certification as a Class I renewable energy source, as  
117 defined in section 16-1 of the general statutes, as amended by this act,  
118 as of December 31, 2013, shall not be eligible as a Class I renewable  
119 energy source unless such facility began operation on or after July 1,  
120 2003.

121 Sec. 6. (NEW) (*Effective from passage*) On or after January 1, 2013, the  
122 Commissioner of Energy and Environmental Protection, in  
123 consultation with the procurement manager identified in subsection (l)  
124 of section 16-2 of the general statutes, the Office of Consumer Counsel  
125 and the Attorney General, may, in coordination with other states in the  
126 region of the regional independent system operator, as defined in  
127 section 16-1 of the general statutes, as amended by this act, or on the  
128 commissioner's own, solicit proposals, in one solicitation or multiple  
129 solicitations, from providers of Class I renewable energy sources, as  
130 defined in section 16-1 of the general statutes, as amended by this act,  
131 constructed on or after January 1, 2013. If the commissioner finds such  
132 proposals to be in the interest of ratepayers including, but not limited  
133 to, the delivered price of such sources, and consistent with the  
134 requirements to reduce greenhouse gas emissions in accordance with  
135 section 22a-200a of the general statutes, and in accordance with the  
136 policy goals outlined in the Comprehensive Energy Strategy, adopted  
137 pursuant to section 16a-3d of the general statutes, the commissioner  
138 may select proposals from such resources to meet up to four per cent  
139 of the load distributed by the state's electric distribution companies.  
140 The commissioner may direct the electric distribution companies to  
141 enter into power purchase agreements for energy, capacity and  
142 environmental attributes, or any combination thereof, for periods of  
143 not more than twenty years. Certificates issued by the New England  
144 Power Pool Generation Information System for any Class I renewable  
145 energy sources procured under this section shall be sold in the New  
146 England Power Pool Generation Information System renewable energy  
147 credit market to be used by any electric supplier or electric distribution  
148 company to meet the requirements of section 16-245a of the general  
149 statutes, as amended by this act. Any such agreement shall be subject

150 to review and approval by the Public Utilities Regulatory Authority,  
151 which review shall commence upon the filing of the signed power  
152 purchase agreement with the authority. The authority shall issue a  
153 decision on such agreement not later than thirty days after such filing.  
154 In the event the authority does not issue a decision within thirty days  
155 after such agreement is filed with the authority, the agreement shall be  
156 deemed approved. The net costs of any such agreement shall be  
157 recovered through a fully reconciling component of electric rates for all  
158 customers of electric distribution companies. Such costs may include  
159 reasonable costs incurred by electric distribution companies pursuant  
160 to this section.

161       Sec. 7. (NEW) (*Effective from passage*) On or after July 1, 2013, the  
162 Commissioner of Energy and Environmental Protection, in  
163 consultation with the procurement manager identified in subsection (l)  
164 of section 16-2 of the general statutes, the Office of Consumer Counsel  
165 and the Attorney General, may, in coordination with other states in the  
166 region of the regional independent system operator, as defined in  
167 section 16-1 of the general statutes, as amended by this act, or on the  
168 commissioner's own, solicit proposals, in one solicitation or multiple  
169 solicitations, from providers of Class I renewable energy sources, as  
170 defined in section 16-1 of the general statutes, as amended by this act,  
171 or verifiable large-scale hydropower, as defined in section 16-1 of the  
172 general statutes, as amended by this act, for periods not to exceed  
173 fifteen years and not in excess of five per cent of the load distributed  
174 by the state's electric distribution companies. If the commissioner finds  
175 such proposals to be in the interest of ratepayers, including, but not  
176 limited to, the delivered price of such sources, and consistent with the  
177 requirements to reduce greenhouse gas emissions in accordance with  
178 section 22a-200a of the general statutes, and in accordance with the  
179 policy goals outlined in the Comprehensive Energy Strategy, adopted  
180 pursuant to section 16a-3d of the general statutes and section 129 of  
181 public act 11-80, including, but not limited to, base load capacity, peak  
182 load shaving and promotion of wind, solar and other renewable and  
183 low carbon energy technologies, the commissioner may direct the

184 electric distribution companies to enter into power purchase  
185 agreements for energy, capacity and any environmental attributes, or  
186 any combination thereof, for periods of not more than fifteen years on  
187 behalf of all customers of electric distribution companies. Certificates  
188 issued by the New England Power Pool Generation Information  
189 System for any Class I renewable energy sources procured under this  
190 section shall be sold in the New England Power Pool Generation  
191 Information System renewable energy credit market to be used by any  
192 electric supplier or electric distribution company to meet the  
193 requirements of section 16-245a of the general statutes, as amended by  
194 this act. Any such agreement shall be subject to review and approval  
195 by the Public Utilities Regulatory Authority, which review shall be  
196 completed not later than sixty days after the date on which such  
197 agreement is filed with the authority. The net costs of any such  
198 agreement shall be recovered through a fully reconciling component of  
199 electric rates for all customers of electric distribution companies. Such  
200 costs may include the reasonable costs incurred by the electric  
201 distribution companies pursuant to this section.

202       Sec. 8. (NEW) (*Effective from passage*) On or after July 1, 2014, the  
203 Commissioner of Energy and Environmental Protection, in  
204 consultation with the procurement manager identified in subsection (l)  
205 of section 16-2 of the general statutes, the Office of the Consumer  
206 Counsel and the Attorney General, may solicit proposals, in one  
207 solicitation or multiple solicitations, from providers of run-of-the-river  
208 hydropower, landfill methane gas or biomass for a period not to  
209 exceed ten years, provided such source meets the definition of a Class I  
210 renewable energy source pursuant to section 16-1 of the general  
211 statutes, as amended by this act. If the commissioner finds such  
212 proposals to be in the interest of ratepayers, including, but not limited  
213 to, the delivered price of such sources, and consistent with  
214 requirements to reduce greenhouse gas emissions in accordance with  
215 section 22a-200a of the general statutes, and in accordance with the  
216 policy goals outlined in the Comprehensive Energy Strategy, adopted  
217 pursuant to section 16a-3d of the general statutes, the commissioner

218 may direct the electric distribution companies to enter into power  
219 purchase agreements for energy, capacity and environmental  
220 attributes, or any combination thereof, for periods of not more than ten  
221 years on behalf of all customers of the state's electric distribution  
222 companies. Certificates issued by the New England Power Pool  
223 Generation Information System for any Class I renewable energy  
224 sources procured under this section shall be sold in the New England  
225 Power Pool Generation Information System renewable energy credit  
226 market to be used by any electric supplier or electric distribution  
227 company to meet the requirements of section 16-245a of the general  
228 statutes, as amended by this act. Any such agreement shall be subject  
229 to review and approval by the Public Utilities Regulatory Authority,  
230 which review shall be completed not later than sixty days after the  
231 date on which such agreement is filed with the authority. The net costs  
232 of any such agreement shall be recovered through a fully reconciling  
233 component of electric rates for all customers of electric distribution  
234 companies. Such costs may include the reasonable costs incurred by  
235 the electric distribution companies pursuant to this section.

236 Sec. 9. (NEW) (*Effective from passage*) (a) During the calendar year  
237 commencing January 1, 2014, and continuing each calendar year  
238 thereafter, if alternative compliance payments pursuant to subsection  
239 (j) of section 16-244c of the general statutes, as amended by this act,  
240 and subsection (k) of section 16-245 of the general statutes, as amended  
241 by this act, are made for failure to meet the renewable portfolio  
242 standards, there shall be a presumption for the calendar year the  
243 alternative compliance payments are made that there is an insufficient  
244 supply of Class I renewable energy sources, as defined in section 16-1  
245 of the general statutes, as amended by this act, for electric suppliers or  
246 electric distribution companies to comply with the requirements of  
247 section 16-245a of the general statutes, as amended by this act.

248 (b) In the event there is a presumption of insufficient supply of  
249 Class I renewable energy sources pursuant to subsection (a) of this  
250 section for the calendar year the alternative compliance payments are



251 made, the Commissioner of Energy and Environmental Protection may  
252 determine whether such payments resulted from a material shortage of  
253 Class I renewable energy sources. In making this determination, the  
254 commissioner shall consider whether such payments resulted from  
255 intentional or negligent action by an electric supplier or electric  
256 distribution company to purchase renewable energy credits available  
257 in the New England Power Pool Generation Information System  
258 market.

259 (c) In the event there is such a presumption pursuant to subsection  
260 (a) of this section and the commissioner finds that the alternative  
261 compliance payments were due to a material shortage of Class I  
262 renewable energy sources pursuant to subsection (b) of this section, the  
263 commissioner shall determine the adequacy, or potential adequacy, of  
264 Class I renewable energy sources to meet the succeeding years'  
265 renewable portfolio standard. In making this determination, the  
266 commissioner may consider (1) future cost and availability of  
267 certificates issued by the New England Power Pool Generation  
268 Information System based on the status of projects under development  
269 in the region, (2) future requirements of certificates issued by the New  
270 England Power Pool Generation Information System in other states,  
271 and (3) the projected compliance costs of Class I renewable energy  
272 sources.

273 (d) Notwithstanding subsection (b) of section 16-245a of the general  
274 statutes, as amended by this act, in the event that, for any calendar  
275 year commencing on or after January 1, 2014, there is such a  
276 presumption pursuant to subsection (a) of this section and the  
277 commissioner finds material shortage of Class I renewable energy  
278 sources pursuant to subsection (b) of this section, and after concluding  
279 the determination of adequacy pursuant to subsection (c) of this  
280 section, commencing on or after January 1, 2016, the commissioner  
281 may allow not more than one percentage point of the Class I renewable  
282 portfolio standards established pursuant to section 16-245a of the  
283 general statutes, as amended by this act, effective for the succeeding

284 and subsequent calendar years to be satisfied by large-scale  
285 hydropower procured pursuant to section 7 of this act. The  
286 requirements applicable to electric suppliers and electric distribution  
287 companies pursuant to section 16-245a of the general statutes, as  
288 amended by this act, shall consequently be reduced by not more than  
289 one percentage point in proportion to the commissioner's action,  
290 provided (1) the commissioner shall not allow a total of more than five  
291 percentage points of the Class I renewable portfolio standard to be met  
292 by large-scale hydropower by December 31, 2020, and (2) no such  
293 large-scale hydropower shall be eligible to trade in the New England  
294 Power Pool Generation Information System renewable energy credit  
295 market.

296 Sec. 10. Subdivision (1) of subsection (j) of section 16-244c of the  
297 general statutes is repealed and the following is substituted in lieu  
298 thereof (*Effective from passage*):

299 (j) (1) Notwithstanding the provisions of subsection (d) of this  
300 section regarding an alternative transitional standard offer option or  
301 an alternative standard service option, an electric distribution  
302 company providing transitional standard offer service, standard  
303 service, supplier of last resort service or back-up electric generation  
304 service in accordance with this section shall contract with its wholesale  
305 suppliers to comply with the renewable portfolio standards. The  
306 Public Utilities Regulatory Authority shall annually conduct a  
307 contested case, in accordance with the provisions of chapter 54, in  
308 order to determine whether the electric distribution company's  
309 wholesale suppliers met the renewable portfolio standards during the  
310 preceding year. An electric distribution company shall include a  
311 provision in its contract with each wholesale supplier that requires the  
312 wholesale supplier to pay the electric distribution company an amount  
313 of five and one-half cents per kilowatt hour if the wholesale supplier  
314 fails to comply with the renewable portfolio standards during the  
315 subject annual period. The electric distribution company shall  
316 promptly transfer any payment received from the wholesale supplier

317 for the failure to meet the renewable portfolio standards to the Clean  
318 Energy Fund for the development of Class I renewable energy sources,  
319 [ Any payment made pursuant to this section shall not be considered  
320 revenue or income to the electric distribution company.] provided on  
321 and after January 1, 2014, any such payment shall be refunded to  
322 ratepayers by using such payment to offset the costs to all customers of  
323 electric distribution companies of the costs of contracts entered into  
324 pursuant to sections 16-244r and 16-244t. Any excess amount  
325 remaining from such payment shall be applied to reduce the costs of  
326 contracts entered into pursuant to subdivision (2) of subsection (j) of  
327 section 16-244c, and if any excess amount remains, such amount shall  
328 be applied to reduce costs collected through nonbypassable, federally-  
329 mandated congestion charges, as defined in section 16-1, as amended  
330 by this act.

331 Sec. 11. Subsection (k) of section 16-245 of the general statutes is  
332 repealed and the following is substituted in lieu thereof (*Effective from*  
333 *passage*):

334 (k) Any licensee who fails to comply with a license condition or who  
335 violates any provision of this section, except for the renewable  
336 portfolio standards contained in subsection (g) of this section, shall be  
337 subject to civil penalties by the Public Utilities Regulatory Authority in  
338 accordance with section 16-41, or the suspension or revocation of such  
339 license or a prohibition on accepting new customers following a  
340 hearing that is conducted as a contested case in accordance with  
341 chapter 54. Notwithstanding the provisions of subsection (d) of section  
342 16-244c regarding an alternative transitional standard offer option or  
343 an alternative standard service option, the authority shall require a  
344 payment by a licensee that fails to comply with the renewable portfolio  
345 standards in accordance with subdivision (4) of subsection (g) of this  
346 section in the amount of five and one-half cents per kilowatt hour. The  
347 authority shall allocate such payment to the Clean Energy Fund for the  
348 development of Class I renewable energy sources, provided on and  
349 after January 1, 2014, any such payment shall be refunded to

350 ratepayers by using such payment to offset the costs to all customers of  
 351 electric distribution companies of the costs of contracts entered into  
 352 pursuant to sections 16-244r and 16-244t. Any excess amount  
 353 remaining from such payment shall be applied to reduce the costs of  
 354 contracts entered into pursuant to subdivision (2) of subsection (j) of  
 355 section 16-244c, and if any excess amount remains, such amount shall  
 356 be applied to reduce costs collected through nonbypassable, federally-  
 357 mandated congestion charges, as defined in section 16-1, as amended  
 358 by this act."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-1(a)(26)
Sec. 2	<i>from passage</i>	16-1(a)(44)
Sec. 3	<i>from passage</i>	16-1(a)(45)
Sec. 4	<i>from passage</i>	16-1(a)
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>from passage</i>	16-244c(j)(1)
Sec. 11	<i>from passage</i>	16-245(k)