

FEATHER RIVER AIR QUALITY MANAGEMENT DISTRICT  
MEMORANDUM  
2/22/2021

TO: FRAQMD BOARD OF DIRECTORS

FROM: Christopher D. Brown AICP, APCO

SUBJECT: Consider sending a letter of support for H.R. 5899 (Garamendi) which directs the EPA Administrator to make Renewable Fuel Identification Numbers (R.I.N) available to facilities that generate Biomass and Biogas.

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**RECOMMENDATION:**

Direct the APCO to prepare a letter of support for signature by the Chair for H.R. 5899 "Biomass and Biogas for Electric Vehicles Act"

**BACKGROUND:**

On November 5<sup>th</sup> Congressman Garamendi introduced H.R. 5899. The Bill directs the EPA Administrator to make Renewable Fuel Identification Numbers (R.I.N.) available to facilities that generate electricity from Biomass and Biogas. Renewable Fuel Identification Numbers are used by renewable fuel generators (typically ethanol and biodiesel). Once generated RINs are sold on the open market to refineries who need them because they cannot reach renewable fuel standards on their own.

H.R. 5899 considers electricity to be a transportation fuel which will allow Biomass (forestry and ag waste) and Biogas (Landfill gas and others) facilities to generate RINs which could then be sold to refineries who are in need of them.

How RINs work - <https://growthenergy.org/2018/07/24/rins-101-the-basics-of-renewable-identification-numbers/>

**FISCAL IMPACT:** No costs beyond District staff time.

**Attachments:**

Press Release from Congressman Garamendi  
Copy of H.R. 5899

117TH CONGRESS  
1ST SESSION

# H. R. 5899

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.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 5, 2021

Mr. GARAMENDI introduced the following bill; which was referred to the Committee on Energy and Commerce

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## 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 and Biogas  
5 for Electric Vehicles Act”.

1 **SEC. 2. RENEWABLE ELECTRICITY UNDER THE RENEW-**  
2 **ABLE FUEL PROGRAM.**

3 (a) **IN GENERAL.**—The Administrator shall, with re-  
4 spect to electricity from renewable biomass used as a  
5 transportation fuel—

6 (1) provide for the generation of Renewable  
7 Identification Numbers under the renewable fuel  
8 program in accordance with the maximum quotas  
9 determined under subsection (b)(3) (except as pro-  
10 vided in subsection (c)); and

11 (2) allow only the operator of a registered facil-  
12 ity to generate Renewable Identification Numbers  
13 with respect to such electricity.

14 (b) **REQUIREMENTS.**—

15 (1) **ESTIMATE.**—In carrying out subsection (a),  
16 the Administrator shall estimate the total electricity  
17 usage attributable to transportation fuel for electric  
18 vehicles in the United States.

19 (2) **DATA SOURCES.**—In carrying out this sub-  
20 section, the Administrator shall use—

21 (A) data from the Energy Information Ad-  
22 ministration;

23 (B) data from the Department of Trans-  
24 portation;

25 (C) vehicle registration data from each  
26 State;

1 (D) Federal or State pilot programs for  
2 determining vehicle miles traveled or average  
3 fuel economy for electric vehicles;

4 (E) information on electric vehicle tax  
5 credits from the Internal Revenue Service; and

6 (F) other information the Administrator  
7 determines appropriate.

8 (3) QUOTA FOR REGISTERED FACILITIES.—In  
9 carrying out subsection (a), the Administrator shall,  
10 for each calendar year, set a maximum quota for the  
11 Renewable Identification Numbers that may be gen-  
12 erated by a registered facility that does not exceed  
13 lesser of—

14 (A) the maximum design capacity of such  
15 facility; or

16 (B) the quantity of electricity equal to—

17 (i) the share of electricity generated  
18 by the registered facility from renewable  
19 biomass relative to the total quantity of  
20 electricity generated by all registered facili-  
21 ties from renewable biomass during such  
22 calendar year; multiplied by

23 (ii) the estimate under paragraph (1)  
24 for such calendar year.

1           (4) RETIREMENT.—In carrying out this section,  
2           the Administrator shall, for each calendar year, re-  
3           quire a registered facility to retire any Renewable  
4           Identification Numbers generated in excess of the  
5           cumulative maximum quota for such registered facil-  
6           ity under paragraph (3) by a compliance deadline set  
7           annually by the Administrator.

8           (c) EXCEPTION.—The Administrator shall not apply  
9           the provisions of this section in the case of a registered  
10          facility that has a written contract or affidavit for the sale  
11          or use of a specific quantity of electricity from renewable  
12          biomass for use as a transportation fuel.

13          (d) TIMELY REVIEW OF PETITIONS AND REGISTRA-  
14          TIONS.—The Administrator shall review and make a de-  
15          termination for pathway petitions and registration re-  
16          quests—

17                 (1) in the case of a complete pathway petition  
18                 or registration request, by not later than the day  
19                 that is 365 days after the date of submission of such  
20                 petition or request (irrespective of whether the final  
21                 rule required by subsection (g) has been promul-  
22                 gated as of such day); and

23                 (2) in the case of other pathway petitions and  
24                 registration requests, in a timely and expeditious  
25                 manner.

1 (e) PUBLIC DISCLOSURE.—The Administrator shall  
2 publish on the public internet website of the Environ-  
3 mental Protection Agency, and update each calendar year  
4 on a quarterly basis, the following:

5 (1) With respect to each pathway petition that  
6 is pending, approved, or denied on or after the date  
7 of enactment of this Act:

8 (A) The date such pathway petition is sub-  
9 mitted to the Environmental Protection Agency.

10 (B) The date any fee assessed pursuant to  
11 subsection (f) is collected by the Environmental  
12 Protection Agency.

13 (C) The date the Administrator determines  
14 that such pathway petition is complete.

15 (D) The date such pathway petition is ap-  
16 proved or denied by the Administrator.

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

20 (A) The date such registration request is  
21 submitted to the Environmental Protection  
22 Agency.

23 (B) The date any fee assessed pursuant to  
24 subsection (f) is collected by the Environmental  
25 Protection Agency.

1 (C) The date the Administrator determines  
2 that such registration request is complete.

3 (D) The date such registration request is  
4 approved or denied by the Administrator.

5 (f) FEES.—

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

11 (A) a pathway petition; or

12 (B) a registration request.

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

17 (A) reviewing pathway petitions, including  
18 any associated costs for personnel;

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

21 (C) otherwise carrying out this Act.

22 (3) REFUND.—If the Administrator has not  
23 completed a review of a complete pathway petition or  
24 registration request for which a fee has been as-  
25 sessed and collected pursuant to paragraph (1) not

1 later than 12 months after the date of such collec-  
2 tion—

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

6 (B) not later than 90 days after receiving  
7 such request, the Administrator shall issue a  
8 full refund of such fee; and

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

13 (4) WAIVER.—The Administrator may, at the  
14 Administrator's discretion, waive the fee under para-  
15 graph (1)—

16 (A) for an electric utility that is wholly  
17 owned by a State, territorial, or Tribal govern-  
18 ment (including any political subdivision there-  
19 of); or

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

22 (g) RULE.—Not later than 2 years after the date of  
23 enactment of this Act, the Administrator shall, for pur-  
24 poses of carrying out this Act, promulgate a final rule re-



1 vising the regulations issued under section 211(o) of the  
2 Clean Air Act (42 U.S.C. 7545(o)).

3 (h) DEFINITIONS.—

4 (1) IN GENERAL.—In this Act:

5 (A) ADMINISTRATOR.—The term “Admin-  
6 istrator” means the Administrator of the Envi-  
7 ronmental Protection Agency.

8 (B) ELECTRIC UTILITY.—The term “elec-  
9 tric utility” has the meaning given such term in  
10 section 3(22) of the Federal Power Act (16  
11 U.S.C. 796(22)).

12 (C) PATHWAY PETITION.—The term  
13 “pathway petition” means a petition for ap-  
14 proval of a fuel pathway that has electricity  
15 from renewable biomass as a fuel type under  
16 the renewable fuel program.

17 (D) REGISTERED FACILITY.—The term  
18 “registered facility” means a facility that is  
19 registered under the renewable fuel program for  
20 a fuel pathway that has electricity from renew-  
21 able biomass as a fuel type under such pro-  
22 gram.

23 (E) REGISTRATION REQUEST.—The term  
24 “registration request” means a request for reg-  
25 istration of a facility producing electricity from

1 renewable biomass under an approved fuel  
2 pathway under the renewable fuel program.

3 (F) RENEWABLE BIOMASS.—The term “re-  
4 newable biomass” has the meaning given such  
5 term in section 211(o) of the Clean Air Act (42  
6 U.S.C. 7545(o)) and regulations thereunder (or  
7 any successor regulations).

8 (G) RENEWABLE FUEL PROGRAM.—The  
9 term “renewable fuel program” means the re-  
10 newable fuel program under section 211(o) of  
11 the Clean Air Act (42 U.S.C. 7545(o)).

12 (H) TRANSPORTATION FUEL.—The  
13 “transportation fuel” has the meaning given  
14 such term in section 211(o)(1) of the Clean Air  
15 Act (42 U.S.C. 7545(o)(1)) and regulations  
16 thereunder (or any successor regulations).

17 **SEC. 3. ELIMINATION OF RESTRICTION ON RENEWABLE**  
18 **BIOMASS FROM FEDERAL FORESTLANDS.**

19 Section 211(o)(1)(I) of the Clean Air Act (42 U.S.C.  
20 7545(o)(1)(I)) is amended—

21 (1) in clause (i), by striking “non-federal”; and

22 (2) in clause (ii), by striking “that are from  
23 non-federal forestlands, including forestlands” and  
24 inserting “from forestlands, including those on pub-  
25 lic lands and those”.

1 **SEC. 4. TECHNICAL CORRECTIONS.**

2 (a) Section 211(o)(1)(G) of the Clean Air Act (42  
3 U.S.C. 7545(o)(1)(G)) is amended by inserting “and” be-  
4 fore “sulfur hexafluoride”.

5 (b) Subparagraph (C) of section 211(o)(11) of the  
6 Clean Air Act (42 U.S.C. 7545(o)(11)) is amended to read  
7 as follows:

8 “(C) the impacts of the requirements de-  
9 scribed in subparagraph (B) of paragraph (2)  
10 on each individual and entity described in sub-  
11 paragraph (A)(iii)(I), (A)(iv), or (B)(ii)(V) of  
12 paragraph (2).”.

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# Rep. Garamendi Introduces "Biomass and Biogas for Electric Vehicles Act"



November 8, 2021 | Press Release

## ***Utility-scale incentive for renewable electricity supporting hazardous fuels reduction on forestlands and agricultural methane digesters***

**WASHINGTON, DC**—Congressman John Garamendi (D-CA) introduced the "Biomass and Biogas for Electric Vehicles Act." This legislation would allow biomass facilities generating renewable electricity to finally participate in the federal Renewable Fuel Standard (RFS) program.

"I have long supported a utility-scale subsidy for biomass electricity to incentivize proper forest management and much-needed hazardous fuels reduction in fire-prone states like California. As California and neighboring states face increasingly severe and year-round fire seasons, this will help to reduce the artificially high levels of biomass on our forestlands due to man-made climate change, drought, invasive species like bark beetle outbreaks, and years of mismanagement," **said Congressman Garamendi (D-CA)**. "Renewable electricity from biomass and biogas helps reduce our nation's greenhouse gas emission and transition to a clean energy economy. While these measures alone will not solve the climate crisis or prevent all catastrophic wildfires, they are undoubtedly part of the solution. That's why I'm introducing the 'Biomass and Biogas for Electric Vehicles Act.'"

"State foresters see the Renewable Fuel Standard as an underutilized but important tool for supporting forest products markets," **said Christopher Martin, president of the National Association of State Foresters and state forester of Connecticut**. "Forest markets, like those for biomass, are essential to maintaining healthy and resilient forests nationwide. Unfortunately, in the decade since the RFS was passed by Congress, the EPA has not developed a pathway to generate RINs on electricity produced from woody biomass. Representative Garamendi's *Biomass and Biogas for Electric Vehicles Act* would facilitate RFS biomass project development by lifting federal lands restrictions on multiple biomass feedstocks and clarifying the renewable biomass electricity pathway."

In passing the Energy Independence and Security Act of 2007 (Public Law 110-140), Congress made electricity from renewable biomass—including biogas and waste-to-energy from eligible feedstocks such as separated yard or food waste—eligible under the Renewable Fuel Standard (RFS). Despite years of Congressional urging, the U.S. Environmental Protection Agency (USEPA) has yet to approve a single biomass facility under the program. Some pending applications for biomass electricity—known as “pathway petitions” under the RFS program—have been pending now for more than 7 years.

Currently, the USEPA requires facilities to prove with perfect traceability that the electricity generated is used as a transportation fuel to participate in the RFS program. Most biomass facilities are simply selling electricity into the grid and, therefore, cannot prove definitively that each electron generated is used exclusively by electric vehicles.

The “Biomass and Biogas for Electric Vehicles Act” (H.R.5899) would:

- Direct the USEPA to extrapolate the percentage of total U.S. electricity generation used for charging electric vehicles. The USEPA would then set a quarterly quota for each biomass facility registered under the RFS program, limited by each facility’s maximum design capacity.
- Grandfather any renewable biomass, biogas, or waste-to-energy facilities that can prove definitively the electricity generated is used as transportation fuel, such those with on-site electric vehicle charging stations.
- Require that USEPA review all pending applications for renewable electricity under the RFS program in a timely manner and make a final decision. Some applications have been pending now for more than 7 years.
- Require that USEPA post the status of each pending application (for renewable electricity online, including the date submitted, reviewed, and decided).
- Allow USEPA to collect a reasonable fee from industry to cover the costs of reviewing any applications for renewable electricity submitted under the RFS program. In a 2016 “advance notice of proposed rulemaking,” USEPA mentioned inadequate staffing and agency resources as major impediments to approval of biomass electricity under the RFS program. This fee-for-service model is based off USEPA’s regulatory regime for the pesticide industry, which is widely regarded as successful and enjoys broad-based support in Congress.
- Incentivize USEPA to approve pending applications within 1 calendar year, or risk having the fee refunded at the request of the applicant. USEPA would still be required to process the application (pathway petitions and/or facility registration) even after the applicant’s fee is refunded.
- Allow USEPA to waive application fees for municipally-owned renewable electricity facilities.
- Make biomass from federal forestlands eligible under the Renewable Fuel Standard. Current law restricts biomass from the National Forest System and other forestlands administered by federal land management agencies from qualifying under the RFS program.

The following organizations have endorsed the “Biomass and Biogas for Electric Vehicles Act” (H.R.5899): RFS Power Coalition, Biomass Power Association, American Biogas Council, Energy Recovery Council, National Association of State Foresters

The full text of the legislation is available [here](#).

A section-by-section summary of the legislation is available upon request.