

NJDEP requirements that would apply to the facility if it were located in New Jersey, or meets equivalent environmental requirements.

(d) To obtain an NJDEP environmental compliance determination for a resource recovery facility, a supplier/provider or facility operator shall submit a request for the determination, including the documentation listed at (e) below, to the NJBPU Office of Clean Energy, PO Box 350, Trenton, New Jersey 08625. The supplier/provider or facility operator shall simultaneously provide a copy of the request to the NJDEP's Office of Innovative Technology, PO Box 409, Trenton, New Jersey 08625.

(e) A request for an environmental compliance determination regarding a resource recovery facility shall include all information required by NJDEP, including, but not limited to, the following:

1. The most recent stack test data reports, or summary reports, for all criteria pollutants emitted by the facility, including any stack test data for mercury emissions from the facility. If stack test data are available on a quarterly basis, the most recent four quarters shall be submitted. These data, if available, should provide, at a minimum, the mercury inlet and outlet concentration for each unit, in addition to the percent removal;

2. A description of the municipal solid waste (MSW) recycling program in the jurisdictions that provide solid waste to the facility, including any solid waste from an industry source. This description shall state the entities that administer the recycling program(s), the percentage of MSW provided through local government contracts and/or agreements, the company providing any industry source MSW, and the amount of solid waste purchased on the spot market, if any; and

3. Residual ash testing data from the most recent 12-month period, including data reports or summary reports for total metals, Toxicity Characteristic Leaching Procedure (TCLP), or other leveling tests performed, and the total amount of tetrachlorodibenzo-p-dioxins (TCDD) in the ash.

(f) If an environmental compliance determination is required for electricity to qualify as class II renewable energy, the determination shall be obtained prior to generating the electricity. If a supplier/provider delivers electricity generated at a facility that requires an NJDEP environmental compliance determination, but did not obtain such a determination prior to the generation of that electricity, the electricity shall not be counted towards the supplier/provider's compliance with this subchapter.

(g) A supplier/provider that uses electricity generated from a resource recovery facility to comply with this subchapter shall:

1. Maintain documentation showing that the facility meets the requirements of this section; and

2. If the supplier/provider or facility operator obtained an NJDEP environmental compliance determination, the supplier/provider or facility operator shall:

- i. Maintain the request submitted to NJDEP for the environmental compliance determination and all supporting documentation on file for five years;

- ii. Produce the request and documentation upon request by the Board or its designee; and

- iii. Annually provide to the Board an affidavit from the operator of the resource recovery facility, certifying that the facility has not violated its Federal or State environmental permits in the previous year, and continues to operate in conformity with the request and documentation originally provided to NJDEP.

(h) If there is a change in the operation of a resource recovery facility or in the composition of its fuel, the supplier/provider or facility operator shall submit the following information to the Board within 30 days after the change is made. Failure to submit the following shall disqualify the electricity produced by the facility from use as class II renewable energy as of the date of the change:

1. Documentation demonstrating that, after the change, the resource recovery facility continues to meet the requirements of this section for class II renewable energy; and

2. In the case of a facility covered by an NJDEP environmental compliance determination, a new determination shall be obtained from NJDEP and filed with the Board.

(i) In addition to the other types of energy that qualify as class II renewable energy under this section, any energy that qualifies as class I renewable energy under N.J.A.C. 14:8-2.4 may be used to satisfy the requirements for class II renewable energy.

Repeal and New Rule, R.2004 d.151, effective April 19, 2004.

See: 35 N.J.R. 4445(a), 36 N.J.R. 2053(b).

Section was "Recordkeeping and verification".

Recodified from N.J.A.C. 14:8-8.6 and amended by R.2006 d.178, effective May 15, 2006.

See: 37 N.J.R. 3911(a), 38 N.J.R. 2176(a).

Changed internal references to conform to the recodification of provisions in (c) and (i).

14:8-2.7 Requirements that apply to both class I and class II renewable energy

(a) To qualify as class I or class II renewable energy for the purposes of this subchapter, energy shall meet the requirements in N.J.A.C. 14:8-2.5 and 2.6, and in addition shall meet the requirements of this section.

(b) To qualify as class I or class II renewable energy for the purposes of this subchapter, energy shall be generated within or delivered into the PJM region, as defined in N.J.A.C. 14:4-1.2. Energy shall be considered delivered into the PJM region if it complies with the energy delivery rules established by PJM Interconnection.

(c) If class I or class II renewable energy is generated outside of the PJM region, but was delivered into the PJM region, the energy may be used to meet the requirements of this subchapter only if the energy was generated at a facility that commenced construction on or after January 1, 2003.

Repeal and New Rule, R.2004 d.151, effective April 19, 2004.

See: 35 N.J.R. 4445(a), 36 N.J.R. 2053(b).

Section was "Renewable energy trading program".

Recodified from N.J.A.C. 14:4-8.7 and amended by R.2006 d.178, effective May 15, 2006.

See: 37 N.J.R. 3911(a), 38 N.J.R. 2176(a).

Changed internal references to conform to the recodification of provisions in (a) and (b); and deleted (d).

14:8-2.8 Renewable Energy Certificates (RECs)

(a) A supplier/provider may submit one or more Renewable Energy Certificates, or RECs, as defined in N.J.A.C. 14:8-2.2, to meet the percentage of renewable energy required under Table A in N.J.A.C. 14:8-2.3. A supplier/provider that wishes to use RECs to comply with this subchapter shall meet the requirements of this section.

(b) All RECs used for compliance with this subchapter shall be based on energy that was generated during the reporting year for which the REC is submitted, in accordance with N.J.A.C. 14:8-2.9.

(c) A REC used for compliance with this subchapter shall be issued by the Board or its designee, or by PJM-EIS through GATS, as follows:

1. A class I REC that is based on electricity generated on a customer-generator's premises shall be issued by the Board or its designee in accordance with N.J.A.C. 14:8-2.9;

2. A solar REC shall be issued by the Board or its designee in accordance with N.J.A.C. 14:8-2.9;

3. A class I REC that is not based on electricity generated on a customer-generator's premises shall be issued by PJM-EIS through GATS; and

4. A class II REC shall be issued by PJM-EIS through GATS.

(d) A supplier/provider shall not use a REC that is based on electricity generated on a customer-generator's premises to comply with this subchapter unless the customer-generator facility is eligible for net metering under N.J.A.C. 14:8-3.

(e) Once a REC has been submitted for compliance with this subchapter, the REC shall be permanently retired and shall not be used again.

New Rule, R.2004 d.151, effective April 19, 2004.

See: 35 N.J.R. 4445(a), 36 N.J.R. 2053(b).

Former N.J.A.C. 14:4-8.8, Penalties, recodified to N.J.A.C. 14:4-8.12.

Amended by R.2005 d.87, effective March 7, 2005.

See: 36 N.J.R. 1892(a), 37 N.J.R. 787(a).

In (c), rewrote the second sentence.

Recodified from N.J.A.C. 14:4-8.8 and amended by R.2006 d.178, effective May 15, 2006.

See: 37 N.J.R. 3911(a), 38 N.J.R. 2176(a).

Changed internal references to conform to the recodification of provisions; rewrote (a), (b) and (c); inserted present (d); and recodified former (d) as (e).

Special amendment, R.2008 d.175, effective May 23, 2008 (to expire November 23, 2009).

See: 40 N.J.R. 3751(a).

In (c)1, deleted "solar REC or" preceding "class"; added new (c)2; and recodified former (c)2 and (c)3 as (c)3 and (c)4.

14:8-2.9 Board issuance of RECs

(a) The Board or its designee shall issue class I RECs in accordance with this section, for use in complying with the class I renewable portfolio standard in Table A of N.J.A.C. 14:8-2.3, based on electricity generated by a customer-generator on the customer-generator's premises. The Board or its designee shall issue solar RECs in accordance with this section, for use in complying with the renewable portfolio standard for solar electric generation in Table A of N.J.A.C. 14:8-2.3, based on electricity generated by a solar electric generation facility. The Board may, after public notice, issue an order discontinuing Board issuance of such RECs and/or approving use of such RECs issued by PJM Interconnection or another entity for compliance with this subchapter.

(b) In measuring generation in order to determine the number of RECs to issue, the Board or its designee shall accept either of the following measurement methods, as applicable:

1. Periodic readings of a meter that records megawatt-hour production of electrical energy. The readings may be taken or submitted by any person, but shall be verified by the Board or its designee; or

2. For a solar electricity system with a capacity of less than 10 kilowatts, annual engineering estimates and/or monitoring protocols approved by the Board. Acceptable estimation methodologies and monitoring protocols are located on the Board's website at www.njcleanenergy.com. This method is not applicable for class I RECs.

(c) The Board or its designee shall issue RECs in whole units, each representing the environmental attributes of one megawatt-hour of electric generation.

(d) To qualify for issuance of a REC, electric generation shall be produced by a generating facility that is interconnected with an electric distribution system, as defined at N.J.A.C. 14:8-2.2, that supplies New Jersey. The Board may waive this requirement by Board order if the Board adopts a joint or regional REC tracking system, and determines that such waiver would facilitate participation in the system.

(e) (Reserved)