

Recodified from N.J.A.C. 14:4-8.1 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.

Amended by R.2009 d.91, effective March 16, 2009.

See: 40 N.J.R. 3586(a), 41 N.J.R. 1261(a).

In (a), inserted “; and support the reliability of the supply of electricity in New Jersey”.

14:8-2.2 Definitions

The following words and terms, when used in this subchapter, shall have the meanings given below, unless the context clearly indicates otherwise:

“Alternative compliance payment” or “ACP” means a payment of a certain dollar amount per megawatt hour, which a supplier/provider may submit in lieu of supplying the class I or class II renewable energy required under Table A in N.J.A.C. 14:8-2.3.

“Attribute” means a characteristic associated with electricity generated using a particular renewable fuel, such as its generation date, facility geographic location, unit vintage, emissions output, fuel, State program eligibility, or other characteristic that can be identified, accounted, and tracked.

“Bioenergy crop” means plants cultivated and harvested specifically for use as fuel for the purpose of generating electricity.

“Biomass” has the same meaning as that assigned to this term in Executive Order No. 13134, published in the Federal Register on August 16, 1999. Executive Order No. 13134 defines biomass as “. . . any organic matter that is available on a renewable or recurring basis (excluding old-growth timber), including dedicated energy crops and trees, agricultural food and feed crop residues, aquatic plants, wood and wood residues, animal wastes, and other waste materials.”

“Black liquor” means a viscous liquid containing inorganic chemicals and organic material such as lignin and aliphatic acids, which is separated from wood during chemical pulping.

“Energy portfolio” means all of the electrical energy supplied by a particular electric power supplier or basic generation service provider to New Jersey retail customers.

“Fuel cell” means an electrochemical device that converts chemical energy in a hydrogen or hydrogen-rich fuel directly into electricity, without combustion.

“Generation Attribute Tracking System” or “GATS” means the environmental and emissions attributes tracking system for electric generation that is administered by PJM Environmental Information Services.

“Geothermal energy” means energy generated by a steam turbine, driven by hot water or steam extracted from geothermal reservoirs in the earth’s crust.

“Installed capacity obligation” means the requirement for an electric power supplier or basic generation service provider to obtain an amount of electrical generation capacity to meet load service obligations under the reliability rules of PJM Interconnection. Installed capacity includes the generation capacity which a company considers part of its own electric system, including wholly owned units, jointly-owned units, non-utility generation (NUGs), and purchases.

“Old-growth timber” means wood or plant matter taken from a forest in the late successional stage of forest development, including plant matter taken from the forest floor. Late successional forests contain live and dead trees of various sizes, species, composition, and age class structure. The age and structure of old-growth timber varies significantly by forest type and from one biogeoclimatic zone to another.

“Qualification life” means, for any solar electric generation facility, the period beginning on the date on which the facility was interconnected to the local electric distribution system; and ending on the first May 31 that is at least 15 years after the date of completion of the interconnection. For example, if a facility’s inspections required under N.J.A.C. 14:8-2.9(i) were completed on August 1, 2004, then the facility’s qualification life would begin August 1, 2004, and end on May 31, 2020.

“Qualified renewable energy” means electricity that may be used in complying with the minimum portfolio requirements set forth at N.J.A.C. 14:8-2.3 for class I renewable energy, including solar electric generation requirements, and/or class II renewable energy. Provisions governing the types of energy that qualify as class I renewable energy, solar electric generation, and class II renewable energy, are set forth at N.J.A.C. 14:8-2.4, 2.5, and 2.6 respectively.

“Renewable Energy Certificate” or “REC” means a certificate representing the environmental benefits or attributes of one megawatt-hour of generation from a generating facility that meets the requirements of this subchapter. Class I RECs represent the environmental benefits or attributes of one megawatt-hour of class I renewable energy generation; class II RECs represent the environmental benefits or attributes of one megawatt-hour of class II renewable energy generation; and solar RECs represent the environmental benefits or attributes of one megawatt-hour of solar electric generation.

“Renewable fuel” means a fuel that is naturally regenerated over a short time scale and is either derived from the sun (such as thermal, photochemical or photoelectric), or from other natural sources such as wind, hydropower, geothermal and tidal energy, or photosynthetic energy stored in biomass. This term does not include a fossil fuel, a waste product from a fossil source, or a waste product from an inorganic source.

“Reporting year” means the 12-month period from June 1st through May 31st. A reporting year shall be numbered according to the calendar year in which it ends, so that

reporting year 2005 runs from June 1, 2004 through May 31, 2005.

“Resource recovery facility” means a solid waste facility that incinerates solid waste for the purposes of producing energy and recovering metals and other materials for reuse.

“Solar alternative compliance payment” or “SACP” means a payment of a certain dollar amount per megawatt hour, which a supplier/provider may submit in lieu of complying with the solar electric generation requirements in Table A in N.J.A.C. 14:8-2.3.

“Solar REC” means a type of REC, as defined in this section, issued by the Board or its designee, which represents the environmental benefits or attributes of one megawatt-hour of solar electric generation, as defined in N.J.A.C. 14:8-1.2.

“Total cost of solar incentives” means the sum of the following for a reporting year, provided that any particular cost that is within more than one of the categories listed below shall not be counted twice:

1. The total amount of financial assistance for solar electric generation paid from:
 - i. The societal benefits charge established under N.J.S.A. 48:3-60;
 - ii. The retail margin on certain hourly-priced and larger non-residential customers pursuant to the Board’s continuing regulation of Basic Generation Service pursuant to N.J.S.A. 48:3-51 and 57;
 - iii. Other monies appropriated for such purposes; and
 - iv. Cost recovery for renewable energy programs approved by the Board under N.J.S.A. 48:3-98.1, after January 13, 2008, which is paid from any source other than i, ii or iii above;
2. The total cost incurred by all suppliers/providers selling electricity to retail customers in New Jersey for solar RECs used for compliance with the solar electric generation requirement under N.J.A.C. 14:8-2.3, Table A; and
3. The total revenue from the payment of solar alternative compliance payments.

“Total retail cost of electricity” means the total revenue from New Jersey electricity sales over a reporting year, as stated in “Revenue from Retail Sales of Electricity to Ultimate Customers, All Sectors” reported by the United States Energy Information Administration based on Form EIA-826, “Monthly Electric Sales and Revenue Report with State Distributions Report,” or the successor to such report and form designated by the United States Energy Information Administration.

“True-up period” means the period each year from the end of the reporting year until September 1.

“Voluntary clean electricity market” or “voluntary clean electricity program” means any program, system, market or procedure through which retail electric customers may elect to purchase a class I (including solar) or class II renewable energy product on a voluntary basis. New Jersey’s Voluntary Clean Power Choice Program is a voluntary clean electricity program.

Amended by R.2003 d.260, effective July 7, 2003.

See: 35 N.J.R. 94(a), 35 N.J.R. 2892(a).

Rewrote “Fuel Cell” and “PJM Interconnection, L.L.C.”.

Amended by R.2004 d.151, effective April 19, 2004.

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

Rewrote the section.

Recodified from N.J.A.C. 14:4-8.2 and amended by R.2006 d.178, effective May 15, 2006.

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

Deleted the definitions for “Aggregator”, “Basic generation service”, “Board”, “Broker”, “Class I renewable energy”, “Class II renewable energy”, “Electric power supplier”, “Energy”, “Energy agent”, “Marketer”, “Net metering”, “NJDEP”, “PJM Interconnection”, “PJM region”, “Retail choice” or “retail competition”, “Retail customer”, “Societal benefits charge”, “Solar electric generation” and “Supplier/provider”; inserted the definitions for “Resource recovery facility”, and “Voluntary clean electricity market” or “voluntary clean electricity program”; changed internal references to conform to the recodification of provisions in the definitions of “Alternative compliance payment”; “Qualified renewable energy”, “Solar alternative compliance payment”, and “Solar REC”; inserted “generated using a particular renewable fuel” in the definition of “Attribute”; and rewrote the definitions of “Generation Attribute Tracking System” or “GATS” and “Renewable Energy Certificate” or “REC”.

Amended by R.2009 d.91, effective March 16, 2009.

See: 40 N.J.R. 3586(a), 41 N.J.R. 1261(a).

Added definitions “Qualification life”, “Total cost of solar incentives”, and “Total retail cost of electricity”.

14:8-2.3 Minimum percentage of renewable energy required

(a) Each supplier/provider, as defined at N.J.A.C. 14:8-1.2, that sells electricity to retail customers in New Jersey, shall ensure that the electricity it sells each reporting year in New Jersey includes at least the minimum percentage of qualified renewable energy, as defined at N.J.A.C. 14:8-2.2, required for that reporting year from each category specified in Table A below, except as provided at (h), (j) or (k) below:

Table A
What Percentage Of Energy Supplied Must Be Renewable Energy?

Reporting Year	Solar Electric Generation (solar RECs)	Class I Renewable Energy	Class II Renewable Energy	Total Renewable Energy
June 1, 2004 – May 31, 2005	0.01%	.74%	2.5%	3.25%
June 1, 2005 – May 31, 2006	0.017%	0.983%	2.5%	3.5%
June 1, 2006 – May 31, 2007	0.0393%	2.037%	2.5%	4.5763%
June 1, 2007 – May 31, 2008	0.0817%	2.924%	2.5%	5.5057%

Reporting Year	Solar Electric Generation (solar RECs)	Class I Renewable Energy	Class II Renewable Energy	Total Renewable Energy
June 1, 2008 – May 31, 2009	0.16%	3.84%	2.5%	6.5%
June 1, 2009 – May 31, 2010	0.221%	4.685%	2.50%	7.406%
June 1, 2010 – May 31, 2011	0.305%	5.492%	2.50%	8.297%
June 1, 2011 – May 31, 2012	0.394%	6.320%	2.50%	9.214%
June 1, 2012 – May 31, 2013	0.497%	7.143%	2.50%	10.14%
June 1, 2013 – May 31, 2014	0.621%	7.977%	2.50%	11.098%
June 1, 2014 – May 31, 2015	0.765%	8.807%	2.50%	12.072%
June 1, 2015 – May 31, 2016	0.928%	9.649%	2.50%	13.077%
June 1, 2016 – May 31, 2017	1.118%	10.485%	2.50%	14.103%
June 1, 2017 – May 31, 2018	1.333%	12.325%	2.50%	16.158%
June 1, 2018 – May 31, 2019	1.572%	14.175%	2.50%	18.247%
June 1, 2019 – May 31, 2020	1.836%	16.029%	2.50%	20.365%
June 1, 2020 – May 31, 2021	2.120%	17.880%	2.50%	22.5%

(b) The Board shall adopt rules setting the minimum percentages of solar electric generation, class I renewable energy, and class II renewable energy required for reporting year 2022 and each subsequent reporting year. These minimum percentages shall be no lower than those required for reporting year 2021 in Table A above, except as may have been adjusted as provided in (j) and (k) below. Each of the rules setting such minimum percentage shall be adopted at least two years prior to the minimum percentage being required.

(c) A supplier/provider shall meet the requirements for solar electric generation in Table A above through submittal of solar RECs, or through submittal of one or more SACPs, as those terms are defined at N.J.A.C. 14:8-2.2.

(d) A supplier/provider may meet the class I and class II renewable energy requirements in Table A above by submitting RECs in accordance with N.J.A.C. 14:8-2.8.

(e) A supplier/provider may, in lieu of meeting the requirements in Table A above, comply with this subchapter by submitting the appropriate number of ACPs or SACPs, in accordance with N.J.A.C. 14:8-2.10.

(f) The following shall apply to the type of energy, and type of documentation, used for compliance with each of the requirements in Table A above:

1. Solar RECs may be used to meet any requirement in Table A, whether the requirement is for solar electric

generation, class I renewable energy, or class II renewable energy;

2. Class I RECs may be used to meet class I renewable energy requirements or class II renewable energy requirements, but shall not be used to meet solar electric generation requirements; and

3. Class II RECs shall be used only to meet class II renewable energy requirements, and shall not be used to meet solar electric generation requirements or class I renewable energy requirements.

(g) A supplier/provider shall not demonstrate compliance with this subchapter using direct supply of any type of renewable energy. All RPS compliance shall be submitted in the form of RECs.

(h) If a supplier/provider participated in the Board’s 2003 basic generation service (BGS) auction, and won the right to supply one or more 34-month tranches in that auction, the supplier/provider shall be subject to this subsection. For the portion of the supplier/provider’s energy portfolio that is supplied pursuant to a 2003 BGS 34-month tranche, the provisions of this subchapter that were in effect on the date of the 2003 BGS auction shall apply, and the supplier/provider’s RPS obligation shall not be determined under (a) above but instead shall be determined under Table B below. For all other energy in the supplier/provider’s energy portfolio, which is not supplied pursuant to a 2003 BGS tranche the supplier/provider shall meet the percentage requirements of (a) above and all other requirements of this subchapter.

Table B
What Percentage of Energy Supplied Pursuant to 2003 BGS Tranches Must Be Renewable Energy?

Time Period	Class I	Class I or II	Total
June 1, 2005 through May 31, 2006	1.0%	2.5%	3.5%
After May 31, 2006	See N.J.A.C. 14:8-2.3(a), Table A	See N.J.A.C. 14:8-2.3(a), Table A	See N.J.A.C. 14:8-2.3(a), Table A

(i) The same renewable energy shall not be used for more than one of the following:

1. Creation of a solar REC under N.J.A.C. 14:8-2.9;
2. Creation of a REC under N.J.A.C. 14:8-2.8 or 2.9; or
3. Creation of a REC, or of any other type of attribute or credit, under authority other than N.J.A.C. 14:8-2.9 such as another state’s renewable energy standards or any voluntary clean electricity market or voluntary clean electricity program.

(j) If the Board determines that the total cost of solar incentives for a reporting year exceeds two percent of the total retail cost of electricity for that reporting year, then the percentage of solar electric generation required under Table A for the reporting year in which the Board makes its

determination shall continue to be the percentage required in each subsequent reporting year, until the limitation ends under (k) below. For example, if the Board determines on December 1, 2018 that the cost limitation was triggered, the percentage of solar electric generation required shall remain at 1.572 percent until the limitation ends under (k) below. The Board may revise Table A accordingly by administrative correction pursuant to N.J.A.C. 1:30-2.7.

(k) If the limitation in (j) above was triggered, the limitation shall end after the Board determines that the total cost of solar incentives for a reporting year did not exceed two percent of the total retail cost of electricity for that reporting year.

1. For the next reporting year after the limitation ends under (k) above, the percentage of solar electric generation required shall be the percentage in Table A for the reporting year immediately following the reporting year in which the limitation in (j) above was triggered.

2. Thereafter, the percentage of solar generation shall continue to increase each reporting year in increments as set out in Table A above until it reaches 2.12 percent or, if a minimum percentage of solar electric generation has been adopted pursuant to (b) above for reporting year 2022 or after, then until it reaches the percentage for the last subsequent reporting year for which a minimum percentage has been adopted.

i. For example, if the limitation in (j) above is imposed in the reporting year ending May 31, 2019, and

the Board determines on December 1, 2020 that the two-percent threshold was not met in the reporting year ending May 31, 2020, then the percentage of solar electric generation required for the reporting year ending May 31, 2022 shall be 1.836 percent, and the percentage for the reporting year ending May 31, 2023 shall be 2.120 percent.

3. The Board may revise Table A accordingly by administrative correction pursuant to N.J.A.C. 1:30-2.7.

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 "Implementation schedule".

Administrative correction.

See: 36 N.J.R. 4155(a).

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

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

Rewrote (a); in (d), deleted "GATS system is operational and the" following "shall be used only after the"; added (j).

Recodified from N.J.A.C. 14:4-8.3 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 throughout; in (a), substituted "(i)" for "(j)" in the introductory paragraph and inserted entries for June 1, 2009 through May 31, 2021 in table A; in (b), substituted "2022" for "2009" and "2021" for "2008"; rewrote (c) and (d); deleted (e); recodified (f) and (g) as (e) and (f); rewrote (f); deleted (h); recodified (i) and (j) as (g) and (h); rewrote (g); updated Table B in (h); and inserted (i).

Amended by R.2009 d.91, effective March 16, 2009.

See: 40 N.J.R. 3586(a), 41 N.J.R. 1261(a).

In (a), substituted "(h), (j) or (k)" for "(i)"; in (b), inserted " , except as may have been adjusted as provided in (j) and (k) below"; and added (j) and (k).

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. 14:4-8.6 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) RECs may be used for compliance with this subchapter as follows:

1. For solar RECs based on energy generated on or after June 1, 2009, a solar REC used for compliance with this subchapter shall be based on energy that was generated either during the reporting year for which the REC is submitted, or during the reporting year immediately preceding the reporting year for which the REC is submitted.

2. For solar RECs based on energy generated before June 1, 2009, a solar REC used for compliance with this subchapter shall be based on energy that was generated during the reporting year for which the REC is submitted.

3. For all RECs other than solar RECs, 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.

4. For all types of RECs, fractional megawatt-hours may be carried over in accordance with N.J.A.C. 14:8-2.9(g).

(c) An 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.

Amended by R.2009 d.91, effective March 16, 2009.

See: 40 N.J.R. 3586(a), 41 N.J.R. 1261(a).

Rewrote (b); in the introductory paragraph of (c), substituted "An" for "A"; and incorporated the special amendments previously adopted as R.2008 d.175.

Case Notes

For existing long-term contracts involving purchase of electricity produced with renewable energy, the initial owner of the New Jersey Board of Public Utilities-created Renewable Energy Certificates is the purchasing utility rather than the selling renewable energy producer. In re Ownership of Renewable Energy Certificates, 389 N.J. Super. 481, 913 A.2d 825, 2007 N.J. Super. LEXIS 5 (App.Div. 2007).

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 an 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, determines that such waiver would facilitate participation in the system and determines that such a waiver would significantly advance the purposes expressed in N.J.A.C. 14:8-2.1(a).

(e) (Reserved)

(f) If a REC is to be used for RPS compliance for a reporting year, the application for the REC shall be submitted within the reporting year, or within the true-up period immediately following the reporting year.

(g) If a generator has accumulated a fraction of a megawatt hour by the end of a reporting year, the fraction may be carried over and combined with energy generated in one or more subsequent reporting years in order to make a full megawatt hour that is eligible for a REC. In such a case, the combined energy shall be eligible for issuance of a REC only during the reporting year in which accumulated generation reaches one full megawatt hour. Only a fraction of a megawatt hour shall be carried over. If a full megawatt hour is generated by the end of a reporting year and an application for a REC is not submitted by the end of the true-up period immediately following the reporting year, the megawatt hour shall not be eligible for a REC and shall not be usable for RPS compliance.

(h) Because each true-up period is also the first three months of a new reporting year, an REC based on energy generated during this three-month period shall be used only for RPS compliance for the new reporting year; provided however, that a solar REC generated during that three-month period can be used for compliance either in the new reporting year or the immediately subsequent reporting year.

(i) A request for issuance of a solar REC or class I RECs shall be submitted to the Board on a form posted on the Board's website at www.njcleanenergy.com. The Board shall require submittal of information and certifications needed to

enable the Board or its designee to verify the generation that forms the basis of the requested RECs. The Board shall require inspections of generation equipment, monitoring and metering equipment, and other facilities relevant to verifying electric generation. The Board shall impose application fees, inspection fees, and/or other charges for work required to verify electric generation and issue RECs.

(j) Each REC shall include the following:

1. The date upon which or period during which the electricity was generated;

2. The date upon which the REC was issued;

3. A unique tracking number, assigned by the issuer of the REC; and

4. An expiration date. The expiration date of a solar REC shall be the last day of the true-up period following the reporting year after the reporting year in which the energy that formed the basis for the solar REC was generated. The expiration date of an REC other than a solar REC shall be the last day of the true-up period following the reporting year in which the energy that formed the basis for the REC was generated.

(k) The Board or its designee shall not issue a REC based on electric generation that has previously been used for compliance with this subchapter, or that has been used to satisfy another state's renewable energy requirements or any voluntary clean electricity market or program.

(l) The Board or its designee shall not issue a solar REC based on electricity generated by a solar electric generation facility after the end of its qualification life. However, the Board or its designee may issue class I RECs based on electricity generated by the facility after the end of its qualification life; such class I RECs may be used for compliance with the requirements in N.J.A.C. 14:8-2.3, Table A, for class I renewable energy.

(m) A customer-generator that is eligible for net metering owns the renewable attributes of the energy it generates on or after October 4, 2004, unless there is a contract with an express provision that assigns ownership of the renewable attributes. The owner of a solar electric generation facility that is not eligible for net metering owns the renewable attributes of the energy it generates on or after March 16, 2009, unless there is a contract with an express provision that assigns ownership of the renewable attributes.

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

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

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

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

Rewrote (a) and (e).

Recodified from N.J.A.C. 14:4-8.9 and amended by R.2006 d.178, effective May 15, 2006.

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

Rewrote the section. Former N.J.A.C. 14:4-8.9 heading was "Board issuance of solar RECs".

Special amendment, R.2008 d.175, effective May 23, 2008 (to expire November 23, 2009).
See: 40 N.J.R. 3751(a).

Rewrote (a); deleted and reserved (e); in (i), deleted "based on electricity generated on a customer-generator's premises" following "class I RECs"; added new reserved (l); recodified former (l) as (m); and in (m), substituted "A" for "In accordance with N.J.A.C. 14:8-4.3, a" in the first sentence and inserted the second sentence.
Amended by R.2009 d.91, effective March 16, 2009.
See: 40 N.J.R. 3586(a), 41 N.J.R. 1261(a).

In (d), substituted "an" for "a" preceding the first occurrence of "REC", deleted "and" preceding the first occurrence of "determines" and inserted "and determines that such a waiver would significantly advance the purposes expressed in N.J.A.C. 14:8-2.1(a)"; rewrote (h); rewrote (j)4; added new (l); in (m), substituted "March 16, 2009" for "May 23, 2008"; and made permanent the special amendments previously adopted as R.2008 d.175.

14:8-2.10 Alternative compliance payments (ACPs and SACPs)

(a) A supplier/provider may choose to submit one or more alternative compliance payments (ACPs) or solar alternative compliance payments (SACPs), as those terms are defined in N.J.A.C. 14:8-2.2, in lieu of supplying 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 ACPs or SACPs to comply with this subchapter shall meet the requirements of this section.

(b) The President of the Board shall appoint an ACP advisory committee to provide recommendations to the Board regarding the appropriate cost of ACPs, as well as other characteristics of their use. The Board shall consider the advisory committee's recommendation and shall, through Board order, set prices for ACPs and SACPs. At a minimum, the price of an ACP or an SACP shall be higher than the estimated competitive market cost of the following:

1. The cost of meeting the requirement through purchase of a REC or solar REC; or
2. The cost of meeting the requirement through generating the required renewable energy.

(c) The Board shall review the amount of ACPs other than SACPs at least once per year, in consultation with the ACP advisory committee, and shall adjust these amounts as needed to comply with (b)1 and 2 above and to reflect changing conditions in the environment, the energy industry, and markets. The purposes of the review shall include providing the Board with supporting information to establish the amount of the SACP for the first reporting year for which no SACP has been established in Table C below, in consultation with the ACP advisory committee, based on the Board's determination of what will be needed to comply with (b)1 and 2 above in that reporting year.

(d) To comply with this subchapter using ACPs or SACPs, a supplier/provider shall submit the following to the Board, as applicable:

1. One ACP for each megawatt-hour of class I or class II renewable energy required; or
2. One SACP for each megawatt-hour of solar electric generation required.

(e) The Board shall use the ACP monies submitted to meet the requirements of this subchapter to fund renewable energy projects through the Clean Energy Program. The Board shall use SACP monies to fund solar energy projects through the New Jersey Clean Energy Program.

(f) Table C sets forth the SACP for each reporting year from reporting year 2009 through reporting year 2016:

Table C
SACP Schedule

<u>Reporting Year</u>	<u>SACP</u>
June 1, 2008 - May 31, 2009	\$711.00
June 1, 2009 - May 31, 2010	\$693.00
June 1, 2010 - May 31, 2011	\$675.00
June 1, 2011 - May 31, 2012	\$658.00
June 1, 2012 - May 31, 2013	\$641.00
June 1, 2013 - May 31, 2014	\$625.00
June 1, 2014 - May 31, 2015	\$609.00
June 1, 2015 - May 31, 2016	\$594.00

New Rule, R.2004 d.151, effective April 19, 2004.
See: 35 N.J.R. 4445(a), 36 N.J.R. 2053(b).
Recodified from N.J.A.C. 14:4-8.10 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 the first sentence of (a).
Amended by R.2009 d.91, effective March 16, 2009.
See: 40 N.J.R. 3586(a), 41 N.J.R. 1261(a).
In (c), substituted "other than" for "and" preceding "SACPs" and inserted the last sentence; and added (f).

14:8-2.11 Demonstrating compliance, reporting and recordkeeping

(a) By October 1st of each year, each supplier/provider shall file an annual report with the Board, demonstrating that the supplier/provider has met the requirements of this subchapter for the preceding reporting year (that is, for the reporting year ending May 31st of the same calendar year).

(b) If the annual report required under (a) above does not demonstrate that the supplier/provider has supplied the RECs or solar RECs required under Table A of N.J.A.C. 14:8-2.3 for the previous reporting year, the annual report shall be accompanied by ACPs and/or SACPs in sufficient quantities to make up the shortfall.

(c) The annual report shall contain the following basic information for the preceding reporting year:

1. The total number of megawatt-hours of electricity sold to retail customers in New Jersey;
2. The total number of megawatt hours of electricity sold to retail customers in New Jersey that qualify as class I renewable energy under N.J.A.C. 14:8-2.4;
3. The percentage of the supplier/provider's total New Jersey retail sales that the amount set forth under (c)2 above represents;
4. The total number of megawatt hours of electricity sold to retail customers in New Jersey that qualify as class II renewable energy under N.J.A.C. 14:8-2.5;
5. The percentage of the supplier/provider's total New Jersey retail sales that the amount set forth under (c)4 above represents;
6. The total number of megawatt hours of electricity sold to retail customers in New Jersey that qualify as solar electric generation under N.J.A.C. 14:8-2.4;
7. The percentage of the supplier/provider's total retail sales that the amount in (b)6 above represents;
8. The total amount of solar electric generation, class I renewable energy, and class II renewable energy represented by RECs submitted with the annual report;
9. The total number of ACPs and/or SACPs submitted with the annual report;
10. A summary demonstrating how compliance with the requirements in Table A has been achieved; and
11. An accounting issued by PJM-EIS that shows the number of RECs purchased and/or held by the supplier/provider.

(d) The documentation required under (c) above shall include the following:

1. Identification of each generating unit, including its location, fuel and technology type, and any unique State and/or Federal facility or plant identification number;
2. An affidavit from the operator of each generating unit that the specified amount of megawatt-hours from each renewable energy source was generated by and/or sold to the supplier/provider and that the supplier/provider has sole and exclusive title to the renewable energy and has not been used to meet the RPS energy requirements in any other state or jurisdiction;

3. An affidavit from the supplier/provider that the specified megawatt-hours were delivered into the PJM region and complied with PJM Interconnection energy delivery rules; and

4. For each solar REC submitted, certification of compliance with the requirement at N.J.A.C. 14:8-2.4(b) that the REC has not been used to satisfy another state's renewable energy requirements. The certification shall be in a form required by the Board, and available on the BPU website at www.njcleanenergy.com.

(e) Failure of a supplier/provider to demonstrate compliance with this subchapter in accordance with this section, within the deadlines set forth in this section, shall subject the supplier/provider to penalties under N.J.A.C. 14:8-2.12.

(f) Each supplier/provider shall keep all records pertaining to the requirements in this subchapter for a period of five years, including data on megawatt-hours resulting from owned generation, contracts, purchases from the wholesale market, and purchases of RECs. Each supplier/provider shall make all pertinent records available for review upon request by the Board or its designee.

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

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

Recodified from N.J.A.C. 14:4-8.11 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 (b), (c), (d) and (e); deleted the exception from the end of (a); in (b), substituted "RECs or solar RECs" for "energy" and deleted "RECs, solar RECs," preceding "ACPs"; in (c), substituted "; and" for a period at the end of 10. and inserted 11.; substituted "www.njcleanenergy.com" for "www.bpu.state.nj.us" in (d)4.; deleted (e); recodified (f) and (g) as (e) and (f); and deleted (h) through (j).

Amended by R.2009 d.91, effective March 16, 2009.

See: 40 N.J.R. 3586(a), 41 N.J.R. 1261(a).

In (a), substituted "October" for "September".

14:8-2.12 Enforcement

(a) Failure to comply with any provision of this subchapter shall subject the violator to the following penalties in accordance with the Board's regulatory and statutory authority:

1. Suspension or revocation of the electric power supplier's license;
2. Financial penalties;
3. Disallowance of recovery of costs in rates; and
4. Prohibition on accepting new customers.